

(1999) 09 MP CK 0079
In the Madhya Pradesh High Court
Case No : Writ Petition No. 1432/98

Dushyant Singh and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 14-09-1999

Acts Referred:

Citation : (2000) 1 MPHT 588

Hon'ble Judges : J.G. Chitre, J

Bench : Single Bench

Advocate : Umesh Maheshwari, for the Appellant; Shailendra Mukati, Dy. G.A., S.C. Bagdia and A.K. Sethi and Chabda, for the Respondent

Judgement

J.G. Chitre, J.—The petitioners Dushyant Singh, Zahid Khan and Pallavi Shah are hereby knocking the door of High Court for the purpose of getting a solace in the nature of relief for the purpose of giving certainty to their future so far as their desire to complete the course of Physio Therapy for obtaining Bachelor's degree in it. The petitioners have been admitted in an institution named Maharaja Ranjit Singh College of Professional Science, Khandwa Road, Indore - Res. 4 for first year. They studied there though said institution was not affiliated to Devi Ahilya Vishwa Vidhyalaya - Res. 3 (hereinafter referred to as University for convenience) and, therefore, they could not appear for the concerned examination when it was held in July, 99 and when by the intervention of the Court which passed an order asking M.G.M. Medical College, Indore to accommodate them and to allow them to appear for the examination for the said year and directing Res. 3 to permit them to appear for the said examination. In view of said order as Resps. 3 and 5, the Dean, M.G.M. Medical College, Indore obeyed the order of this Court in 100% spirit, the petitioners and other students could appear for the said examination. However, as this Court has been informed by the learned counsel appearing for the petitioners, their results have not been declared yet. Thus, the petitioners and other students prima facie have been caught in the domain of uncertainty so far as their future is concerned and they

are now required to come to this Court for the purpose of getting a proper relief in the nature of a proper writ.

2. Shri Umesh Maheshwari, counsel appearing for the petitioners submitted that for no fault of the petitioners, petitioners have been deprived of the opportunity of the appearing for the examination meant for getting the degree of Bachelor's course of Physio Therapy as their future has been left totally uncertain. He submitted that though they have appeared for examination for first year in the said course, their results have not been declared and they do not know as to what would be their future. With this question mark, the petitioners have come before this Court and, their grievance has been submitted before this Court by Shri Umesh Maheshwari in number of words, but the core of his submission is this way synchronised.

3. Shri Shailendra Mukati, Dy. G.A. counsel appearing for Res. 1, the State of M.P. submitted that the permission to open the Institution was initially granted to Res. 4 and in view of that, it appears that Res. 4 has permitted the petitioners and other students for the purpose of getting the education and completing the course for obtaining the degree of Bachelor in Physio Therapy. He submitted that on account of short comings and non-compliance of requisite necessary things, the said permission has been withdrawn. He pointed out that the said institution has not been affiliated to Res. 3, the University. Shri S.C. Bagdia, Sr. Counsel instructed by Shri Chabda, appearing for University, submitted that to start a medical college there always requires some necessary things to be done and unless some technical facilities are available, no institution can be affiliated to University and can be permitted to teach the course in Bachelor of Physio Therapy and no students appearing through non-affiliated institution can be permitted to appear for the examination for the course of Bachelor of Physio Therapy. He submitted that on account of interim order passed by this Court, Res. 3 allowed some students to appear for the examination which was held in July, 99 but their results have not been declared on account of non-affiliation of Res. 4 to the University. Shri Bagdia, submitted that firstly the respondent No. 4 was bound in duty to get the affiliation to the University and thereafter it should have started imparting the education for the said examination and degree course. He pointed out that twice experts of University visited the said Institution for the purpose of inspection and as depicted by their report, there were number of short comings and insufficiencies which could not have permitted the University to grant affiliation to Res. 4. He submitted that the University can not go against the provisions of law and cannot accept the petitioners and other students as lawful students entitling them to appear for said examination unless Res. 4 complies with the necessary requirements as pointed out by expert's report. He submitted that all these compliances are to be done and then only the University can consider the request of Res. 4 for affiliating it to it. Shri Bagdia further submitted that if this Court is pleased to order, the respondent No. 3 is ready and willing to declare the results of those students.

4. Shri A.K. Sethi, counsel appearing for Res. 4 submitted that the institution started imparting education in a degree of Bachelors of Physio Therapy in anticipation of affiliation but unfortunately, the University did not grant the affiliation and, therefore, Res. 4 was totally helpless. He submitted that initially a permission was granted by State of M.P. to start the said institution and, therefore, in anticipation of affiliation, those students have been admitted in the institution and, therefore, institution has done no wrong.

5. Thus, in view of this submission and the record placed before this Court, this petition will have to be decided with a direction to regulate the fate of such students who are often required to run pillar to post for the purpose of getting certainty of their future. The petitioners and other students seem to have been caught in a train which may not take them to the aimed destination. The students can not be permitted to see the nightmare of frustration so far as their future is concerned. Therefore, while deciding this writ petition this Court intends to give guidelines to government, universities and institutions like Res. 4 and also the students and their parents to avoid all possibilities of repetition of such instances in future.

6. As it has been submitted by the Dean of M.G.M. Medical College, Indore there is a system of admitting the students for various medical courses entitling the students to obtain requisite degrees and permitting them to expose themselves for practising medical sciences in the service of the society keeping in view, of course, hippocratic oath. As this Court can gather from the submission made by the Dean, M.G.M. Medical College, Indore, Res. 5, that there is a definite system channelising the students right from the moment of admission to their final examination in Bachelors Degree course and thereafter in Masters Degree course and thereafter super specialisation also if such facilities are available. The criteria to give the admissions to the students is well regulated, well channelised and chalked out. The admissions are given strictly on merits to only 32 students per year as informed by the Dean. Thereafter, a waiting list is prepared and whenever a selected candidate (student) strikes out, next in waiting list gets berth and admission for his desired course in medical education. It has been submitted by him that facilities like anatomy, museum, dissection halls, mortuary etc. etc., are systematically checked out and they are well equipped for the purpose of accommodating a particular number of students who are permitted to be admitted as "seats". He submitted that every medical college is having all necessary equipments for the purpose of imparting the education to those students only and nothing more and for that purpose, every medical college is equipped with financial grants. He informed this Court that the present medical college is having limited numbers of professors, lecturers, instructors and they are already burdened and they can not shoulder the burden of imparting education to these professionals if at all they are foisted on Res. 5.

7. I find substance in his submissions. Medical education and other technical education of high class, are totally regularised education and the admissions are

granted to limited numbers of students only and specific arrangement is made for the purpose of seeing that they continue the course steadily and continuously without any obstruction and achieve the final aim of securing the graduation, post-graduation and more if taught and permitted. Thus, these students are channelised right from first year to final year and thereafter also they are taught the practicals in their jobs as house men. Thus, the system, thus channelising, does not allow any foreigners to have a dent and create disorderliness in this channelised system. It impliedly indicates that the Courts should not foist such persons on them on account of sympathy. This Court finds supported by the judgment of Supreme Court in the matter of C.B.S.E. and Another Vs. P. Sunil Kumar and Others, wherein Supreme Court held--

"We in several cases deprecated the practice of allowing the students to appear provisionally in examinations of the Board or the University and then ultimately regularising the same by taking a sympathetic view of the matter."

By placing reliance on the observations of the Supreme Court, Shri Mukati submitted that it is not proper to ask Res. 1 to regularise these students on account of mere sympathy. Same is the attitude adopted by Res. 3, the University. It seems that on humanitarian ground and for the purpose of protecting the future of the petitioners and other students, an interim order might have been passed by the Court for the purpose of permitting these petitioners and other students to appear for the examination of first year so as to see that their study of one year should not be wasted out. But, main question has not been solved and again the petitioners have come to this Court by finding themselves in miserable condition requiring to run pillar to post for the purpose of getting sure of their future and education.

8. Keeping in view the maximum capacity of government medical colleges to accommodate the students for education as submitted by Dean, Dr. D.K. Taneja, for imparting education in medical faculties, it has become necessary to have private medical colleges but they should be duly affiliated and they should be duly permitted by the appropriate governments to admit students and impart education to them well in advance. It is high time now that government should think very seriously in this matter, because every year such petitions are filed in the High Court and High Court is required to hear the grievances of such hapless and helpless students who have been caught in the middle stream in a cracked boat on no fault of theirs. It is necessary for every State government to see that no permission is granted to private institutions who do not have a channelised programme of imparting education to the students whom such institutions are giving admissions or taking them for complete four years training in medical or other technical faculties. If at all the government desires to grant permission to such institutions to open private medical, engineering colleges or other specialised technical colleges, the government should ensure in the beginning before granting the permission that such institutions are equipped already with all necessary departments and allied facilities. The government should see that

at the time of granting permission to private institutions where facilities for imparting education in medical faculties have been not fully provided by such institutions, the practice of granting permissions to those institutions in piecemeal and orderwise should be stopped. The students should not be left to uncertainties of getting admission in such institutions for next years and they should not be left to be hanging, looking haplessly at the sky for their uncertain future. What fault those students do commit while getting the admissions in such institutions for the first year without knowing whether they would be permitted to appear for examinations of further years of the said course and for that purpose the help of experts should be also obtained. It should be ascertained whether the institution which desires to impart education of such specialised course is having adequate funds, adequate staff, adequate accommodation, adequate facilities in the nature of hostels, laboratories, mortuaries, dissection halls etc.. If such facilities are not available in that institution, government should not grant permission for the purpose of starting the institution and starting course in the education of particular faculties. The government has to think very seriously that by granting a permission to such institution for opening the training of education in a particular faculty for only one year, innocent students, their parents and the concerned universities are put to difficult situations who are bound to act as per rules. As there is always rush for admissions in Medical, Engineering colleges and other such colleges, the students run madly for admissions by going to various colleges and institutions. After running here and there, they get admission in some institution run privately. They should feel fully assured that once getting admission for first year they would be in the train which would be running to the last destination of completing the course in graduation. It is to be kept in mind seriously that it becomes very difficult for the university to grant affiliation to such private institutions if they are not properly equipped with necessary facilities and the requirements for the purpose of imparting such specialised education or for high quality examinations. University can not be forced to change their bye-laws, regulations and system. Medical colleges run by government grants can not be asked to shoulder such unlimited burden when they are having specific facilities for the purpose of imparting education to a particular quota of students who are to be admitted strictly on merit basis and as per rules and regulations. The students who get admission for private institutions which have affiliation only for one year, find themselves caught in very difficult corners. They can not go forward, they can not go backward also, because they have crossed some distances by remaining in first year. Some days have been already lost for taking the education of a particular course. If they are refused further travelling and left in the middle, and required to alight from such train, what would be their plight ? They can not be also left to get ruined by uncertainty; their parents can not be also left to repent and worry for the acts done by them in getting the admission in private institutions for first year. Private institutions cannot be totally discarded, deprecated, because government colleges working at present are totally insufficient to accommodate incoming flow of students in medical,

engineering and other specialised faculties in growing population. Something has to be done and that has to be done by government for the purpose of ensuring a good future of such students who are left to look to the sky and run pillars to post for the purpose of safeguarding their future, once caught in the middle of the voyage. Therefore, this Court feels that if at all permission is granted to such private institutions it should be granted for four and half years or it should be refused.

9. It being specialised course and requires well equipped facilities, the university can not be also asked to have goby to necessary requirements for imparting education for the purpose of granting affiliation. There is a system, there are rules and regulations required for the purpose of affiliating a particular institution for the purpose of recognising it as authorised institution imparting a particular education and enabling students admitted by those institutions for appearing for necessary examinations which are deciding the merits and demerits of the students appearing for that. The society can not be left to tolerate such experts who are not well taught of knowledge of specialised faculties as required by necessity of such specialised professions.

10. Something has to be done for these petitioners and other students, who have been already admitted by Res. 4 without getting assured of permission to impart the education for full course of 4 1/2 years. Shri Bagdia submitted that the Dy. Registrar of University has informed him that some private medical colleges are functioning imparting such training in Bachelor course of Physio Therapy. Mata Gujari is an Institution exclusively for the girls, as submitted by the Dean of M.G.M. Medical College, but it must be having its own full load. Therefore, now the Res. 4 and the parents of the students and petitioners should think of getting the admission in such an institution for the purpose of completing their course, which are well affiliated to University. In the interest of justice and in the interest of petitioners and other students, Res. 1 and Res. 3, the university are hereby directed to take necessary steps, of course lawfully, for the purpose of counting this year of training taken by the petitioners and other students who have appeared for the examination and passed as first year completed. The results of those students be declared, if university can do it lawfully by keeping it within four corners of laws, rules and regulations. Resps. 1 and 3 should permit the petitioners and other students to continue their education. Those who have been declared as passed, should be permitted to appear for further years examination if they get admission in such private affiliated colleges and they should be permitted to appear for further years, after completing necessary course and passing examination or getting qualified for appearing in such examination. These petitioners and other students should not be left to uncertainty. They should be permitted to carry their further education in such private institutions duly affiliated.

11. Keeping in view the social aspect of the matter this Court allows these petitions as indicated above and imposes no costs on respondents.

12. By this order, W.P. 1113/98 and W.P. 1163/98 are also disposed of keeping in view the order passed by the Division Bench.