
(2015) 01 RAJ CK 0253

In the Rajasthan High Court

Case No : Special Appeal (Writ) No. 662 of 2014

Gopesh Tiwari

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 06-01-2015

Acts Referred:

Indian Medical Council Act, 1956 — Section 13(3)

Citation : (2015) 2 CDR 923

Hon'ble Judges : Ajay Rastogi, J;Prakash Gupta, J

Bench : Division Bench

Advocate : Vinay Saxena, Counsel, for the Appellant

Final Decision : Dismissed

Judgement

1. Instant intra-Court appeal has been directed against order of the Id. Single Judge dt. 07.03.2014. The appellant-petitioner obtained certificate of Senior Higher Secondary from the Board of Secondary Education, Ajmer by qualifying it in third division by grace in the year 1991 but to take further qualification of MBBS and to meet the requisite requirement of 50% marks in the qualifying examination, indisputably a forged marksheet was obtained by the appellant-petitioner to treat himself to be qualified in joining the medical course, which he pass out from Russia and thereafter applied for registration u/S.13(3) of the Indian Medical Council Act, 1956 and at this stage it revealed that the marksheet of Senior Secondary furnished by the appellant-petitioner of more than 50% marks in the qualifying examination was forged one, the Indian Medical Council rejected his application for registration and at the same time instituted a criminal case against him.

2. In the criminal case, instituted against the present appellant-petitioner pleaded guilty and accepted the charge of furnishing forged marksheet and taking note thereof, the Committee declined to grant registration to the appellant-petitioner u/S.13(3) of the Act, 1956, which is impugned by him by filing writ petition before this Court.

3. The grievance of the petitioner is that apart from the marksheet which he furnished treating himself to be qualified by obtaining minimum qualifying marks in joining the medical course, even if that was considered to be forged, as once he pleaded guilty, he cannot resile from the statement but still the marksheet issued to him of qualifying Senior Secondary by the Board of Secondary Education, Ajmer which he might have qualified in third division by grace but such of the students took admission in the MBBS Course in Russia and at later point of time, they all were permitted to qualify the screening test and such of the students were considered to be eligible by the Committee for registration and at least apart from his conduct with regard to obtaining forged marksheet that may be a separate issue but he could not be deprived of his registration u/S.13(3) of the Act, 1956.

4. The submission made is wholly bereft of merit for the simple reason that once this fact stands established that the appellant-petitioner has obtained a forged marksheet, which he knowing fully well furnished to the Medical Council of India for placing reliance to consider his eligibility for grant of registration u/S.13(3) of the Act, 1956 which later on appeared to be forged, we do not find any error being committed by the statutory authority in declining to grant registration, as prayed for by the appellant-petitioner.

5. At the same time, the submission made that such of the students who failed to qualify with 50% marks in the qualifying examination were permitted to participate in the screening test and were found eligible for grant of registration, in our considered view, what is being stated before the Court he cannot claim any parity for the reason that he furnished forged marksheet before the Medical Council of India and against him a criminal case was instituted in which he pleaded guilty and, therefore, he is not entitled to seek indulgence of this Court under extra-ordinary jurisdiction and we do not find any error being committed by the Id. Single Judge in passing the order impugned which may require any interference in the instant intra-Court appeal.

6. It is brought to our notice that the Id. Single Judge has referred that the appellant-petitioner offered bribe of Rs. 10,000/- to officers of the Medical Council of India. Counsel submits that this fact appears to be factually incorrect whereas in fact, it was a bond which the appellant-petitioner furnished of Rs. 10,000/- which appears to be considered as bribe by the Id. Single Judge from the available record. We do find that the fact recorded by the Id. Single Judge of offering bribe of Rs. 10,000/- appears to be factually incorrect and it was in fact a bond of Rs. 10,000/- which the appellant-petitioner furnished at the stage when he pleaded guilty and granted the benefit of probation in the criminal case instituted against him. Consequently, the instant intra-Court appeal is devoid of merit, accordingly stands dismissed.