

(2019) 09 RAJ CK 0082
In the Rajasthan High Court
Case No : Civil Writ Petition No. 7789 Of 2019

Govind Soni

APPELLANT

Vs

Registrar, Dr. Sarvepalli Radhakrishnana Rajasthan Ayurvedic
University (Dr. S.R.A.U.) And Ors

RESPONDENT

Date of Decision : 11-09-2019

Acts Referred:

Indian Medicine Central Council (Minimum Standard Of Education In Indian Medicine)
Amendment Regulations, 2016 — Regulation 6

Citation : (2019) 09 RAJ CK 0082

Hon'ble Judges : Sangeet Lodha, J

Bench : Single Bench

Advocate : Surendra Singh Rathore, Sandeep Bhandawat

Final Decision : Allowed

Judgement

1. By way of this writ petition, the petitioner is seeking directions to the respondents to allow him to appear in Fourth Year BAMS Course conducted by the respondent-Dr. Sarvepalli Radhakrishnana Rajasthan Ayurvedic University ('the University').

2. On 11.6.19, this court while issuing notices to the respondents, passed an interim order in favour of the petitioner in the following terms:

"In the meanwhile, respondents are directed to provisionally allow the petitioner to take up his B.A.M.S. Fourth Year examination along with his Third Year B.A.M.S. papers upon depositing requisite fee for examination.

However, it is made clear that the interim order shall not create any right or equity in favour of petitioner at the time of final disposal. The respondents are also directed not to declare result of petitioner without leave of the Court."

3. Precisely, the case of the petitioner is that he was admitted to B.A.M.S. course in the year 2015. He has already passed First Year and Second Year Professional Examination. He has completed the course of studies of Fourth Year B.A.M.S.,

however, he is not permitted to appear in the examination of Fourth Year B.A.M.S. inasmuch as, he has not cleared Third Year Professional Examination.

4. Learned counsel appearing for the petitioner contended that as per Indian Medicine Central Council (Minimum Standard of Education in Indian Medicine) Amendment Regulations, 2016 ('Amendment Regulations, 2016'), a student who has failed in Third Year Profession Examination but has passed all the subjects of First Year and Second Year Professional Examination, is entitled to appear in Final Professional Examination and he will be given maximum four chances to pass Third Year Professional Examination within a period of three years and thus, notwithstanding that the petitioner has not cleared Third Year Examination, he cannot be deprived from appearing in Final Professional Examination.

5. On the other hand, counsel appearing for the respondent-University submitted that as per the Regulations prevalent at the time when the petitioner was admitted to B.A.M.S. Course, a student failing in Third Year Examination, is not entitled to appear in B.A.M.S. Final Professional Examination and thus, the petitioner has rightly been not permitted to appear in Final Professional Examination.

6. Indisputably, the Regulations governing education in Indian Medicine framed by the Central Council of Indian Medicine with the previous sanction of the Central Government, stands amended vide Amendment Regulations, 2016 and the Regulation putting restriction on appearance of the students pursuing B.A.M.S. Course in Final Professional Examination unless they have passed First, Second and Third Year Professional Examinations does not survive, and thus, the scheme of the Examination as provided for under Regulation 6 of Amendment Regulations, 2016, shall operate even for the students who though admitted prior to Amendment Regulations, 2016 coming into force but have not passed out the course as yet. Merely because, the petitioner was admitted to the course prior to coming into force of the Amendment Regulations, 2016, the benefit of the provision incorporated therein, which permits him to appear in Final Professional Examination even before passing the Third Professional Examination, cannot be denied to him.

7. In this view of the matter, the writ petition deserves to be allowed.

8. Accordingly, the writ petition is allowed. The interim order dated 11.6.19 is made absolute. The respondent-University is directed to declare the result of the petitioner of B.A.M.S. Final Year Examination in accordance with the Regulations. Needless to say that the degree shall not be awarded to the petitioner unless he passes out Third Year Professional Year Examination and completes Compulsory Rotatory Internship of twelve months as provided for under the Regulations. No order as to costs.