
(1981) 05 RAJ CK 0007
In the Rajasthan High Court
Case No : Civil Writ Petition No. 501 of 1979

Hari Prakash Sahni

APPELLANT

Vs

Principal Dr. S.N. Medical College and Others

RESPONDENT

Date of Decision : 06-05-1981

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1981) WLN 118

Hon'ble Judges : K.D. Sharma, C.J

Bench : Single Bench

Final Decision : Allowed

Judgement

K.D. Sharma, C.J.—This is a writ petition filed by Hari Prakash Sahni under Article 226 of the Constitution of India for issuance of a writ of mandamus to the Principal Dr. S.N. Medical College, Jodhpur, to the State of Rajasthan and to the University of Rajasthan to deliver the degree of M.B.B.S. and internship and character certificates to the petitioner.

2. The brief facts giving rise to this writ petition may be narrated as follows : Hari Prakash Sahni petitioner was admitted to the MBBS Course at Dr. S.N. Medical College Jodhpur, against one of the seats reserved for the scheduled caste candidates. He completed course of studies prescribed by the University of Rajasthan Jaipur and appeared in the M.B.B.S. final Examination in December, 1975 and was declared successful. The University of Rajasthan therefore issued a provisional certificate marked Annexure 2 to the petitioner. After passing his M.B.B.S. final Examination the petitioner underwent compulsory Rotating Housemanship for a period of 12 months as required by Order 268D of the Rajasthan University Orders. Thereafter, the University conferred the M.B.B.S. degree on the petitioner. As the petitioner could not attend the convocation address held by the University his M.B.B.S. degree was not delivered to him at the time of Convocation address and it was sent to the Principal Dr. S.N. Medical College Jodhpur for delivery to the Petitioner vide University-office letter No.

Examinations VI/Degree-75/1757 dated 5-2-77. The Principal Dr. S.N. Medical College Jodhpur, however, refused to deliver the M.B.B.S. degree to the petitioner on the ground that the Police has submitted a charge sheet against the petitioner in a criminal Court for obtaining admission to the Medical College by misrepresentation and that the degree and the certificates cannot be delivered to the petitioner during the pendency of the criminal case. The petitioner approached the Health Minister of the State of Rajasthan and requested him to issue necessary directions to the Principal to deliver the character certificate, internship completion certificate and the M.B.B.S. original degree to the petitioner, and the Health Minister was pleased to pass an order on 22nd July 1977 directing the Medical and Health Secretary to arrange for delivery of the said documents to the petitioner. Despite the order of the Health Minister and despite requests and representations made to the Principal, Dr. S.N. Medical College Jodhpur in this behalf, the petitioner could not get his degree and certificates from the Principal. Hence the petitioner had no other option but to invoke the extra-ordinary jurisdiction of this Court by way of this writ petition. In support of the writ petition the petitioner put in his own affidavit. The writ petition was admitted by this Court on 19-3-79 and notices were issued to the non-petitioners. On behalf of the non-petitioners Nos. 1 and 2 Mr. M.D. Purohit Additional Government Advocate has put in his appearance while Mr. N.N. Mathur has appeared on behalf of the University of Rajasthan. Today Mr. Bhagwati Prasad has filed an application on behalf of one Vijay Raj that he may be impleaded as an intervenor in the writ petition and may be awarded an opportunity of being heard. The application was rejected because it was not shown how Vijayraj was interested in the subject-matter of the writ petition. Hence no question of affording Vijayraj an opportunity of being heard does arise. It will not be out of place to mention that Mr. M.D. Purohit appearing on behalf of non-petitioners Nos. 1 and 2 and Mr. N.N. Mathur learned Counsel for the University of Rajasthan Jaipur have not filed any reply to the writ petition. Hence I heard the learned Counsel for the parties and perused the record.

3. The short question that arises for determination in this writ petition is whether the Principal Dr. S.N. Medical College Jodhpur has any authority in law to withhold the certificates and the MBBS degree of the petitioner when these documents were sent to him by the University of Jaipur for delivery to the petitioner. Before dealing with this question of law I may observe that on the recommendation of the Syndicate the Senate of the University of Jaipur has not passed any resolution with the concurrence of not less than 2/3 of the members voting for withdrawal of the MBBS degree conferred by the said University on the petitioner. u/s 15 of the Statutes of the University of Rajasthan the Senate could take such action against the petitioner but it was not open to the Principal Dr. S.N. Medical College Jodhpur or any other authority to say that the petitioner has obtained MBBS degree by fraud on the basis of a false certificate of being a member of the scheduled caste. It is pertinent to note that the petitioner is no longer a student of Dr. S.N. Medical College after graduation from that College.

He has undergone internship also and served as a Civil Assistant Surgeon in a hospital just after graduation from the Medical College. Hence in my opinion no action can be taken against the petitioner after he has passed his MBBS final examination and obtained a degree of MBBS and has completed the internship training even if he got admission to the said medical college on the strength of a false certificate. In support of my above view reliance may be placed on an authority of Punjab and Hariyona High Court in *Ranbirsingh v. State of Punjab and Ors.* reported in AIR 1978 Punj. & Hariyana page 109. Reference in this connection may be made to an authority of the Supreme Court also in *Shri Krishnan Vs. The Kurukshetra University, Kurukshetra*, wherein it was observed that "one? the appellant was allowed to take the examination rightly or wrongly the Statute which empowers the University to withdraw the candidature of the applicant has worked itself out and the applicant cannot be refused admission subsequently for any infirmity which should have been looked into before giving the applicant permission to appear. Mr. M.D. Purohit and Mr. N.N Mathur appearing on behalf of the Respondents could not show any law, order, rule, authority or notification which empower the Principal Dr. S.N. Medical College i.e. non-petitioner No. 1 to with-hold the MBBS degree and the certificates of the petitioner who was no longer a student of the Medical College having already passed his final MBBS examination and completed the intership training. Hence for the reasons recorded above the writ petition filed by Hari Prakash Sahni is allowed and a writ of mandamus is issued to the Respondents to deliver the MBBS degree and the certificates of character and internship to the petitioner. In the circumstances of the case there shall be no order as to costs.