

(2014) 07 MP CK 0307
In the Madhya Pradesh High Court
Case No : W.P. No. 780/2014

Ku. Ayushi Jain

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 15-07-2014

Acts Referred:

Citation : (2014) 07 MP CK 0307

Hon'ble Judges : S.K. Gangele, J;B.D. Rathi, J

Bench : Division Bench

Advocate : Anil Mishra, Advocate for the Appellant; Nidhi Patankar, Advocate for the Respondent

Judgement

1. Heard.
2. The petitioner has filed this petition against the order of suspension dt. 13.1.2014 (Annexure P/1). The petitioner also prayed a relief for quashment of FIR, however, the learned counsel appearing on behalf of the petitioner does not press the relief in regard to quashing of the FIR, however, he presses the relief for quashment of order dt. 13.1.2014 (Annexure P/1) in regard to suspension.
3. It is a fact that the petitioner was granted anticipatory bail vide order dt. 6.3.2014 passed in M.Cr.C. No. 1596/2014 (Ku. Ayushi Jain Vs. State of M.P.) and she is not apprehended in connection with any other offence.
4. Similar matter in regard to suspension of medical student has been decided by the main seat vide order dt. 27.3.2014 passed in W.P. No. 285/2014.
5. The aforesaid fact has not been disputed by the learned counsel for the respondent.
6. In the aforesaid Writ Petition, the court passed the following order:-

In this petition, suspension order passed by the Authority discontinuing the petitioner from pursuing the medical course to which he was admitted has been

challenged. The Authority has now received material indicating complicity of the petitioner having impersonated during the examination. The Authority intends to proceed against the petitioner, but has deferred the action because of the pendency of the present petition. It is submitted on behalf of the Authority that if the Court so permits, without conceding to the grounds of challenge to the suspension order, the Authority may be permitted to issue show cause notice to the petitioner and proceed against him in accordance with law. We have no difficulty in accepting this submission made on behalf of the Authority.

As a matter of fact, the Court had suggested to the Authority to consider that instead of keeping the issue raised in this petition pending, it would be appropriate for the Authority to proceed with the action against the petitioner and if the petitioner is to be exonerated in that enquiry he would be vindicated in his challenge to the suspension order passed by the Authority.

In response, the Authority has agreed to proceed in the matter against the petitioner on the above terms and in accordance with law.

In the circumstances, we would dispose of this petition on the following terms:-

- i) The authority is free to issue show cause notice to the petitioner within 15 days from today.
- ii) After receipt of the said show cause notice, the petitioner shall submit his response to the said show cause notice within 15 days. The petitioner shall extend complete cooperation for early completion of the enquiry.
- iii) After the response is received, the Authority may proceed with the enquiry by following due process and adhering to the principles of natural justice before taking any final decision, which ought to be taken not later than 15 days therefrom. In any case, the entire exercise must be completed within 2 months from today so that the issue will be put at rest one way or the other.
- iv) If the petitioner is aggrieved by the final decision taken by the Authority he can challenge the same by way of appropriate proceedings, which challenge can be considered on its own merits in accordance with law.
- v) Until the final decision is taken in the said enquiry, the petitioner shall be allowed to pursue his medical course. That will be subject to the outcome of the enquiry and no equity can be claimed by the petitioner at a later point of time.
- vi) In the said enquiry, all issues will have to be examined on its own merits without being influenced by the fact that this Court had stayed the order of suspension or the fact that it permitted the Authority to proceed against the petitioner by conducting enquiry.
- vii) Since the petitioner intends to take admission to Post Graduate course and has been asked to appear for counselling, the original papers/NOC pertaining to the petitioner be made over to him to enable him to participate in ensuing counselling for Post Graduate course. Admission to the P.G. course, however, will

be subject to the outcome of the enquiry and upon undertaking in writing to be given by the petitioner in the above terms before taking admission in the P.G. course as a condition precedent for grant of admission to the P.G. course, if he is found eligible.

Except the above, nothing more is required to be said in this petition.

Petition disposed of accordingly.

7. Hence, this Writ Petition is disposed of with the following directions:-

- i) The authority is free to issue show cause notice to the petitioner within 15 days from today.
- ii) After receipt of the said show cause notice, the petitioner shall submit his response to the said show cause notice within 15 days. The petitioner shall extend complete cooperation for early completion of the enquiry.
- iii) After the response is received, the Authority may proceed with the enquiry by following due process and adhering to the principles of natural justice before taking any final decision, which ought to be taken not later than 15 days therefrom. In any case, the entire exercise must be completed within 2 months from today so that the issue will be put at rest one way or the other.
- iv) If the petitioner is aggrieved by the final decision taken by the Authority he can challenge the same by way of appropriate proceedings, which challenge can be considered on its own merits in accordance with law.
- v) Until the final decision is taken in the said enquiry, the petitioner shall be allowed to pursue his medical course. That will be subject to the outcome of the enquiry and no equity can be claimed by the petitioner at a later point of time.
- vi) In the said enquiry, all issues will have to be examined on its own merits without being influenced by the fact that this Court had stayed the order of suspension or the fact that it permitted the Authority to proceed against the petitioner by conducting enquiry.

No order as to costs.