

(2023) 07 RAJ CK 0017

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4174, 4175, 4322, 4348 Of 2023

Kumbha Ram And Others

APPELLANT

Vs

Dr. Sarvepalli Radhakrishana Rajasthan Ayurvedic University
(Dr. S.R.A.U.), University College Of Ayurved And Others

RESPONDENT

Date of Decision : 10-07-2023

Acts Referred:

Indian Medicine Central Council (Minimum Standards Of Education In Indian Medicine)
Regulations, 1986 — Regulation 10(5)

Citation : (2023) 07 RAJ CK 0017

Hon'ble Judges : Dr. Pushpendra Singh Bhati, J

Bench : Single Bench

Advocate : Nitin Goklani, Chatur Bhuj, Suneil Purohit

Final Decision : Dismissed

Judgement

Dr. Pushpendra Singh Bhati, J

1. Since all the instant petitions involve a common controversy, though with marginal variation in the contextual facts, therefore, for the purposes of the present analogous adjudication, the facts and the prayer clauses are being taken from the above-numbered S.B. Civil Writ Petition No.4174/2023, while treating the same as a lead case.

2. The prayer clauses read as under:-

"It is, therefore, respectfully prayed that this petition for writ may kindly be allowed and:

A] By an appropriate writ, order or direction, the conduct and action of the respondents of not allowing the petitioners to undertake the IIIrd Professional B.A.M.S. Examination may kindly be declared as arbitrary and illegal and may kindly be set aside.

B] By an appropriate writ, order or direction, the respondents may kindly be

directed to allow and permit the petitioners to undertake the BAMS IIIrd professional year examinations for the upcoming subjects as per the schedule of the examination and to reconduct the BAMS IIIrd Professional examination for the subjects that the petitioners could not undertake due to the arbitrary and illegal conduct of the respondents and further declare the results and issue the mark sheets.

C] That, heavy costs may be imposed upon the respondents in favour of the petitioners for manhandling and prejudicing the career of the petitioners, who are the students of medical science.

D] Any other appropriate order which is deemed just and proper in the facts and circumstances of the case may kindly be also passed in favour of the petitioner.”

3. At the outset, learned counsel for the petitioners did not press the above-numbered, S.B. Civil Writ Petition No.4175/2023 to the extent of petitioner No.9 only.

4. As the pleaded facts would reveal, petitioners are the students of the respondent college/university pursuing the Bachelor of Ayurveda Medicine and Surgery (B.A.M.S.) Course which at present is governed by National Commission for Indian System of Medicine (Minimum Standards of Undergraduate Ayurveda Education) Regulations, 2022 (hereinafter referred to as 'Regulations of 2022'); though the petitioners were enrolled in the Course in question under the Indian Medicine Central Council (Minimum Standards of Education in Indian Science) Regulations, 1986.

4.1. The petitioners were enrolled with the respondent university for the B.A.M.S. Course in the year 2019, and entered into their respective Professional Year in April 2022. An intimation was issued by the respondents on 15/02/2023 regarding conducting of examination from 16/03/2023. In pursuance of the said intimation, the petitioners filled their examination form for their respective year B.A.M.S. Professional Examination and proceeded to download their admit card; however the same was not generated for any of the students in the college; on approaching the respondent authorities, the reason given therefor was that the attendance of the students, including the present petitioners, in the college was less than the prescribed attendance; hence would not be allowed to sit in the examination. Consequently, the petitioners, alongwith other students, organized a mass protest in the Campus against the action of the respondents, as according to the online portal, attendance of the students, including the present petitioners, was well above the prescribed attendance.

4.2 In a subsequent development, the respondents demanded payment of penalty for lack of due attendance, and only on payment of the same, the students were to be allowed to undertake the said examination. Thereafter, the petitioners again approached the respondent authorities on the date of the examination itself to allow them to undertake the examination; however they were restricted from doing so. Aggrieved by the action of the respondent

authorities in not allowing the petitioners to undertake the respective Professional Year Examination of the Course in question, the present petitions have been preferred claiming the afore-quoted reliefs.

4.3. In the above-numbered SBCWP No.4174/2023 and SBCWP No.4175/2023, this Court on 29.03.2023, while issuing notices, directed the respondents to provisionally allow the petitioners to participate and undertake the respective B.A.M.S. Examination for rest of the examination; with liberty to the respondents to move an application for vacation of the said interim order.

5. Learned counsel for the petitioners submitted that the attendance of the petitioners was complete as shown on the online portal/website of the respondent college and that it was much above the prescribed minimum attendance, yet the petitioners were restricted from undertaking the aforesaid exams. It was further submitted that the petitioners, alongwith other students, had even gone on protest against the arbitrary action taken by the respondent authorities, yet their cries fell on deaf ears.

5.1. It was further submitted that while the protest was ongoing, the respondent college in an arbitrary manner demanded money from the students in the name of penalty for the lack of due attendance and came to the decision to allow only those students, who paid the penalty, to undertake the said examination and closed the online portal where the attendance of the students was available. In furtherance, it was submitted that no such provision for penalty exists in the Regulations and the students were informed that in the event of failure on the part of the concerned students to deposit the penalty amount as demanded, the entire fees, of those students, for the respective Professional Year would have to be deposited again.

5.2. Learned counsel also submitted that the admit cards of only those students were issued who had paid the demanded amount and were thus allowed to sit in the said examination, whereas the petitioners were not allowed to do so.

6. On the other hand learned counsel for the respondents, while opposing the aforesaid submissions made on behalf of the petitioners, submitted that as per the provision of Regulation 10

(5) of the Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Regulations, 1986 applicable upon the petitioners, minimum attendance to be maintained in each subject was 75% for appearing in the examination.

6.1 It was further submitted that the respondent college maintained attendance card of each of the student for different Subjects and the said record of attendance was to be communicated to the respondent university to certify the attendance of the students to make them eligible to undertake the exam.

6.2 It was also submitted that as per the aforementioned Regulation, the petitioners were not falling within the 75% attendance criteria, and thus, they

were not allowed to appear in the examination in question.

6.3. Learned counsel also submitted that extra classes were conducted for the students so that they may fulfill the minimum 75% attendance criteria, yet the students, including the present petitioners, did not attend those extra classes either.

7. Heard the learned counsel for both the parties as well as perused the record of the case.

8. This Court observes that petitioners are the students of the respondent college/university pursuing the B.A.M.S. Course, by enrolling themselves accordingly; an intimation was received by the petitioners and other students on 15.02.2023 with regard to conducting of examination from 16/03/2023; however after filling of the examination forms, the petitioners were not issued admit cards due to lack of attendance (minimum 75% attendance in every subject), and thus, were not allowed to sit in the respective examination.

9. This Court further observes that the students of B.A.M.S. Course were required to fulfill minimum attendance criteria i.e. in each subject minimum attendance should have been 75%; yet the attendance of the petitioners, as furnished by the respondents' counsel clearly shows that the petitioners were barely even having not more than 12% of attendance.

10. This Court also observes that due to non issuance of admit cards, the petitioners and other students went on strike and when the respondent college conducted extra classes to help the students fulfill the minimum attendance criteria, even then petitioners did not attend the extra classes.

11. Thus, in light of the aforesaid observations and looking into the factual matrix of the present case, more particularly, the fact that the attendance of the petitioners is so short, this Court does not find it a fit case so as to grant any relief to the petitioners in the present petitions.

13. Consequently, the present petitions are dismissed. All pending applications stand disposed of.