
(2018) 03 JH CK 0054
In the Jharkhand High Court
Case No : W.P.(C) No. 4059 of 2011

LOVELY KUMAR AND OTHER	Vs	APPELLANT
THE STATE OF JHARKHAND		RESPONDENT

Date of Decision : 06-03-2018

Acts Referred:

Citation : (2018) 03 JH CK 0054

Hon'ble Judges : ANUBHA RAWAT CHOUDHARY, J

Bench : Single Bench

Advocate : Pandey Niraj Rai, Rakesh Kr. Shahi, Mithilesh Singh

Final Decision : Dismissed

Judgement

1. Heard Mr. Pandey Niraj Rai, counsel appearing for the petitioners, Mr. Rakesh Kr. Shahi, counsel appears for the respondent nos. 1 to 3, Mr.

Mithilesh Singh, counsel appears for the respondent nos. 4, 5 and 6.

2. Nobody appears for the respondent nos. 7 and 8.

3. This writ petition has been filed seeking mandamus upon the respondent college and the University to conduct the examination for the academic

session 2009-10 and also for direction upon the respondents to hold regular classes for the course of B.Sc. Nursing for the students taken admission in

the respondent college i.e. Shri Shri Laxmi Narayan Trust College.Â The petitioners are also seeking direction upon the respondent College and

University as well as upon the Government to ensure that regulations and guidelines issued by the Indian Nursing Council under Indian Nursing

Council Act of 1947 for obtaining the recognition of said B.SC. (H) NursingÂ Course in respondent College, Dhanbad for academic session 2009-14

are adequately fulfilled and also for a consequent direction upon the council to

take decision within a time frame as per law.

4. Counsel for the petitioners submits that the petitioners had taken admission in four years B.Sc. (H) Nursing Course pursuant to the advertisement

issued by the respondents College for the session 2009-14. The petitioners after taking admission attended the classes but no examination was

conducted for the first academic year 2009-10 on account of the fact that the respondent College was not granted recognition under the regulations

and guidelines issued by the Indian Nursing Council Act, 1947. It is submitted that the petitioners had no idea that such recognition has not been

granted to the respondent College and they have suffered on account of laches on the part of the respondents. The counsel for the petitioners submits

that the respondents be directed to take appropriate steps for the purpose of recognition of the course so that the petitioners may complete their

course.

5. Counsel for the respondents, on the other hand, have filed counter-affidavit and submit that the respondent College had advertised for the course on

the basis of consent given by the respondent University and the State Government in anticipation of recognition which might be granted to them by the

Nursing Council. However, the fact remains that the the respondent College has not been granted the required recognition, and, accordingly, no relief

can be granted to the petitioners.

6. Counsel for the respondents also submits that the entire period of the nursing course i.e. 2009-2014 has already been passed and no relief can be

granted to the petitioners in view of the fact that for academic session 2009-2010, the petitioners could not appear for the examination as the

examination itself was not held and accordingly, they did not pursue the course.

7. Respondent nos. 6 and 7 are not appearing today but a counteraffidavit has been filed on behalf of the respondent no. 7 wherein it has been stated

in paragraph 8 that the respondent College has not obtained the recognition from the respondent no. 7 and therefore, the course cannot be

recognised and as such no direction can be issued for taking examination for the unrecognized College and any certificate which may be granted by

the respondent College, will not be valid in the eye of law. It has been further stated in the said counter-affidavit that the said authority has been time

and again cautioning the parents and students to get admissions only in

recognized nursing institutions duly recognized by Indian Nursing Council and for this purpose the said respondent in their official website duly displays the list of recognized nursing institutions in various States of the Country including Jharkhand. In spite of all precautions taken it is not understood as to why the petitioners chose to get themselves admitted in unrecognized institutions.

8. After hearing counsel for the parties, this Court is not inclined to grant any relief to the petitioners particularly in view of the following facts and reasons:

a) It appears from the counter-affidavit filed by the respondent no. 7 that steps were taken cautioning the parents and the various persons seeking admission in any of the institution, which are not duly recognized. In spite of that the petitioners have not been careful and had taken admissions in an un-recognised institution.

b) The respondent college has not yet been granted recognition by the Nursing Council under the Indian Nursing Council Act, 1947 which is the competent authority for the purpose and in such circumstances no direction can be issued for holding examination for the course particularly in view of the fact that if such degrees are granted by the respondent-College the same will not be valid in the eye of law, in absence of appropriate recognition.

c) So far as the relief in connection with direction upon the respondents College, University and State for taking appropriate steps for recognition of the nursing course in respondent College and also relief regarding a direction upon the respondent Indian Nursing Council to grant recognition to the respondent College are concerned, this Court is of the view that it is for the respondents to take steps as per their policy decision. However, it would be suffice to say that unless such recognition is granted to them it is not proper for the respondent college to admit any student for nursing course.

9. With the aforesaid observations, the writ petition is dismissed.