

(2019) 08 UK CK 0143

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1579, 1580, 1581, 1582, 1583, 1584, 1586, 1587, 1589, 1591, 1593, 1594, 1595, 1598, 1600, 1611, 1613, 1615, 1616, 1617, 1623, 1624, 1626, 1636 Of 2019

Mahak Mehta & Others

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 20-08-2019

Acts Referred:

Citation : (2019) 08 UK CK 0143

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Kartikey Hari Gupta, Yogesh Pandey, S.C. Dhumka, Monika Pant, Manoj Kumar, Rajesh Sharma, Saurav Adhikari

Final Decision : Disposed Of

Judgement

Sudhanshu Dhulia, J

1. In all these cases, a common question of law arises and hence all these writ petitions are being taken up together and decided by this common order.
2. The petitioners in all these writ petitions are presently undergoing post-graduate medical course from Government Medical College, Haldwani, Uttarakhand. All the petitioners claimed that they have secured their seats in the Government Medical College, Haldwani, Uttarakhand after being successful in the All-India Competition. Many of these petitioners have already undergone their under-graduate course from Medical Colleges in the State of Uttarakhand, where most of them were allotted seats against All India Quota.
3. All the petitioners have admittedly completed their studies, or are on the verge of completing their post-graduation studies on a highly concessional fee of the Government of Uttarakhand and for which they have executed bonds stating that they will serve the State of Uttarakhand for a period of five years as Medical Officers. After having executed the bond and having availed the medical

education on a highly concessional fee where admittedly the fee paid by the petitioners is barely 10 per cent of the usual fee, the petitioners have now filed the writ petitions claiming that since they are from All India Quota, they cannot be compelled to serve the State of Uttarakhand for a period of five years.

4. In this regard, the learned counsel for the petitioners has relied upon the decision of a learned Single Judge of this Court passed in Writ Petition (M/S) No. 1058 of 2016 and other connected matters and decided on 13.11.2018, where the learned Single Judge of this Court has allowed the similar writ petitions of the petitioners on ground that they are from All India Quota and also because there was an earlier judgment of this Court in their favour, which was never challenged by the State.

5. The said judgment on which such a heavy reliance was being placed by the present petitioners was challenged in Special Appeal No.224 of 2019, and other connected matters, by the State Government. The special appeals of the State Government have been allowed by the Division Bench of this Court vide judgment and order dated 31.07.2019 and it has been held that each of the petitioner is liable to serve the State of Uttarakhand for a period of five years and the fact that they are from All India Quota would not matter as in the prospectus given to the students, it has been clearly written that each State will have their different fee structure depending upon the conditions imposed by such States with which all the petitioners were fully aware (as they are in the present case).

6. The fact that there was an earlier decision of the learned Single Judge which was never challenged before this Court will also not come to the rescue of the petitioners for the reason that the Division Bench had said that in a subsequent matter in case of a different judgment, that can always be challenged by the State in an appeal. It has been held by the Division Bench that there was absolutely no illegality in the Government Orders dated 23.07.2008, 04.08.2008, 09.09.2009, 23.05.2013, 20.01.2017 and 15.07.2017 prescribing the concessional fee for those who are willing to serve hilly or rural areas in the State of Uttarakhand for a period of five years after completing their medical studies, but at the same time, those who are not willing to serve or are not willing to give such bond, a regular fee shall be charged from them. The Division Bench has also held that this much of concession has been given that in case they want to get free from the bond, they have to pay the enhanced fee but with 18 percent interest.

7. Learned counsel for the petitioners as well as the learned counsels for the respondents very fairly submitted that these matters stand squarely covered by the decision of the Division Bench of this Court passed in Special Appeal No. 224 of 2019 and other connected matters decided on 31.07.2019.

8. In view of the above, the present writ petitions are also disposed in terms of the judgment and order dated 31.07.2019 passed by the Division Bench of this Court in Special Appeal No. 224 of 2019 and other connected matters.

9. It is, however, made clear that the operative portion of the judgment and order dated 31.07.2019 passed in Special Appeal No. 224 of 2019 and other connected matters so far as the statement of the State Counsel was concerned that it shall be giving the appointment within two months, will not apply in the present case strictly speaking, but would apply as and when each of the petitioner would be completing their post-graduation course.