

(1998) 04 DEL CK 0034

In the Delhi High Court

Case No : Civil Writ Petition No"s. 4743 and 4591 of 1996

Meenakshi

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 22-04-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Indian Medical Council Act, 1956 — Section 13(3), 25(1)

Citation : (1998) 3 AD 767 : AIR 1998 Delhi 344 : (1998) 73 DLT 141 : (1998) 45 DRJ 472

Hon'ble Judges : Dalveer Bhandari, J

Bench : Single Bench

Advocate : Dr. Sushil Balwada and Ms. Diva Singh, for the Appellant; Mr. B.K. Aggarwal, for the Respondent

Judgement

Dalveer Bhandari, J.—The petitioner, Dr. Meenakshi, is aggrieved by the order dated 19.11.1996 (Annexure-E), by which the Medical Council of India declined to grant registration u/s 25(1) of the Indian Medical Council Act, 1956, on the ground that she does not meet the eligibility criteria for admission to the M.B.B.S. Course.

2. The other petitioner (Dr. Nitya Nand Ghosh) is aggrieved by the order dated 1st August, 1996 of the Medical Council of India, by which he was also denied registration on the ground that he also does not meet the eligibility criteria for admission into the MBBS Course as stipulated by the Council.

3. Since the issue involved in these petitions is identical, Therefore, these petitions are disposed of by a common judgment. Admittedly, both the petitioners got admission in the recognised medical institution after successfully completing the pre-medical examination by those institutions in the then U.S.S.R. The further case of the petitioners is that they had medical education all through from a recognised institution. These petitioners pray that after obtaining the medical education through out from a recognised institution and after

successfully completing the course and obtaining degrees from those recognised institutions, they are now legitimately entitled to be enrolled by the Medical Council of India. The Medical Council cannot decline registration to the petitioners. This is the central issue involved in both these petitions.

4. The petitioner, Dr. Meenakshi, after successfully completing the premedical examination got admission in the medicine course in the USSR in the year 1989 on the recommendation of the Embassy of India, Moscow. The said recommendation was pursuant to a Treaty signed between India and the USSR. The petitioner successfully completed six years course in Medicine from Second Tashkent State Medical Institute and was awarded a degree of Doctor of Medicine by the said university which is admittedly a recognised institute.

5. Similarly, Dr. Nitya Nand Ghosh after completing pre-medical test successfully completed the six years' medical education from Tashkent Medical Institute, USSR. He is also in possession of a medical degree from a recognised Institute. The contention of the petitioners is that they are entitled to be granted professional registration with the Indian Medical Council. The principal submission on behalf of the petitioners is that before any Medical Institute of the USSR or any other country is recognised, it is assumed that this recognition is granted to any foreign institution after the respondents are fully satisfied with that institution in all respects particularly with regard to its criteria's for eligibility test for admission, and quality of teaching, general instructions and subsequent practical internship. There are certainly no compulsions of granting recognition to any foreign institute. The respondents have to be extremely careful and cautious before granting recognition to any institution but once recognition is granted to any particular institution in that event all concerned would be fully justified in assuming that the degree of that recognised institution will receive complete acceptance by the Indian Medical Council.

6. The learned Counsel appearing for the petitioner placed reliance on Section 13(3) of the Indian Medical Council Act, 1956. The relevant portion of the Section reads as under:

"13. Recognition of medical qualifications granted by certain medical institutions whose qualifications are not included in the First or Second Schedule-

(1)

(2)

(3) The medical qualifications granted by medical institutions outside India which are included in Part II of the Third Schedule shall also be recognised medical qualifications for the purposes of this Act, but no person possessing any such qualification shall be entitled to enrolment on any State Medical Register unless he is a citizen of India and has undergone such practical training after obtaining that qualification as may be required by the rules or regulations in force in the country granting the qualification, or if he has not undergone any practical

training in that country, he has undergone such practical training as may be prescribed."

7. The requirement according to the Indian Medical Council Act is that the conditions of enrolment are:

(1) The candidate must be a citizen of India;

(2) The Medical qualification granted by the medical institution outside India which are included in Part-11 of Schedule III should also be recognised medical qualifications for the purpose of this Act.

8. These are the twin requirements for getting registration with the Indian Medical Council. The petitioners admittedly fulfilled both the said conditions. Apart from being the citizens of India, they have also completed the entire medical qualification from the recognised medical institutes which are included in Part-II of the Third Schedule of the Act. Therefore, they cannot be denied registration by the respondent Indian Medical Council. According to the petitioners, the impugned orders by which the Medical Council declined registration on the ground that these petitioners do not fulfill the eligibility for admission, are liable to be quashed being arbitrary and contrary to the provisions and the legislative intention and the spirit of the Indian Medical Council Act.

9. The learned Counsel appearing for the petitioners submitted that all these medical institutions which have been included in Part II of the Third Schedule of the Act are recognised institutions and it is presumed that recognition is granted to a medical institution only when it meets all the criteria's and requirements of the Indian Medical Council including the eligibility criteria of admission.

10. Admittedly, these petitioners have taken the pre-medical test and after passing the test, they were given admission in these institution which are admittedly recognised by the Indian Medical Council.

11. The respondents, now cannot be permitted to decline registration to these petitioners on the ground that the eligibility criteria of these institutions is not satisfactory. Therefore, now, after they have obtained the entire medical education successfully, they cannot be debarred from registration on the ground that they did not fulfill the initial criteria for admission into the Indian MBBS course. The learned Counsel for the Petitioners also submitted that once a medical institution is recognised, and included in Part II of the Third Schedule, it has to be presumed that all the criteria's including the eligibility criteria of those institutions have been approved by the respondent Medical Council of India.

12. The learned Counsel for the petitioners submitted that in case, at any point of time, the respondents were not satisfied with the eligibility criteria of these medical institutions, then they ought to have derecognised those institutions, but now it would be extremely unfair and unjust to insist that though the candidates who had taken their entire medical education from the recognised institutions and fulfilled the eligibility criteria's, according to those institutions, are now

debarred from registering with the Indian Medical Council on the ground that they do not meet the eligibility criteria for the Indian MBBS Course. This aspect of the matter had to be considered by the Medical Council before granting recognition. Admittedly, these institutions have not been derecognised till date.

13. The learned Counsel appearing for the petitioners gave an illustration that for example, minimum eligibility criteria for getting admission in the LL.B. course in University of Delhi, is that the applicant should have at least 50 per cent marks in graduation and he has to take an entrance examination. A student who has secured less than 50 per cent marks in graduation is not entitled to get admission in LL.B. in Delhi University. At the same time, students getting less than 50 per cent marks can get admission in some other Universities recognised by the Bar Council of India. Once the Bar Council has recognised these Universities or Law Colleges, now the Bar Council cannot be permitted to refuse enrolment on the ground that since the student did not possess requisite qualification for getting admission in Delhi University.

14. These petitioners approached this Court by filing a writ petitions when the Medical Council declined to register them. This Court issued show cause notices. In pursuance to the notices, a detailed Affidavit has been filed on behalf of the Indian Medical Council. The respondents have totally failed to give any plausible reply to the threshold submissions of the learned Counsel for the petitioners that once an institution is recognised then, the eligibility criteria for admission has to be of that institution or the Medical Council is under an obligation to register those students. If the Medical Council recognises an institute in the U.S.S.R. then, even the eligibility criteria has to be of that institution of the U.S.S.R. and not of India. The Indian Medical Council is not justified in recognizing a medical institution and placing that institution in Part II of the Third Schedule of the Act, and then insisting on eligibility criteria of the Indian MBBS. In case the eligibility criteria is not up to the mark, then the Medical Council ought not to have granted recognition to that institution and if the criteria of admission has been relaxed or changed after that institution got recognition then immediately that institution must be derecognised by the Medical Council. Admittedly, these institutions in question have not been derecognised till that date.

15. Both the petitioners after completing the entire medical education from a recognised institutions have also completed the requisite internship.

16. I have heard the learned Counsel for the parties at length and perused all the relevant documents. According to Section 13(3) of the Indian Medical Council, the medical qualification granted by the Medical Institutions outside India, which are included in Part II of the Third Schedule are recognized medical qualification for the purpose of this Act meaning thereby, that any one who successfully fulfills the eligibility criteria of that institution and completes Medical education from the recognised institution and thereafter completes the requisite internship is entitled to registration with the Indian Medical Council. In the instant case, both these petitioners after clearing the eligibility test (entrance test) have successfully

completed the entire medical education from the recognised institutions. They have also completed the requisite internship from the recognised institutions and are certainly entitled to registration with the Indian Medical Council particularly when both the petitioners are citizens of India. These petitioners fulfill all requisite criteria's for registration with the Indian Medical Council. Once a medical qualification of a particular medical institution outside India is included in Part II of the Third Schedule, in that event, the eligibility criteria also has to be of that institution. Admittedly, these petitioners have successfully completed the eligibility criteria i.e. pre-medical test before getting admission to those recognised institutions and thereafter complete medical education and requisite internship.

17. These petitioners in my considered opinion, fulfill all the basic requirements of Section 13(3) of the Act and are accordingly entitled to registration with the Indian Medical Council. Consequently, the respondents are directed to grant registration to the petitioners forthwith. These writ petitions are accordingly allowed and disposed of with the aforesaid directions. In the peculiar facts and circumstances of this case, I direct the parties to bear their own costs.

18. Before parting with this case, this Court would like to express its deep concern regarding frequent experiments which are carried out in educational policy in general and in medical education in particular in this country. The anxiety of the Court is that there should be no compromise with the quality of education imparted to the professional students. The Medical Council must be slow in granting recognition to the medical institutions. The Council must take into consideration all the relevant factors and criteria's such as admission or entrance criteria, quality of education and institutions, exposure to all branches and subjects etc., etc. before granting recognition. The Medical Council is also expected to keep constant vigil on these instructions and in case there is; a change in criteria's or a rapid decline in the quality of teaching or instructions, then those institutions must be derecognised with proper notice to all concerned in the larger public interest without loss of any time. The students are entitled to know about the recognised and non-recognised institutions and their fate. But once a medical institute, is recognised, then it has to be presumed and accepted by all concerned that an institution placed in Part II of the Third Schedule of the Act, is a recognised institute and those who successfully complete medical education and requisite internship from those recognised institutions are entitled to registration with the Indian Medical Council forthwith.

19. The students who have studied for seven years or so in a recognised institution cannot be told thereafter that they do not meet the eligibility criteria for admission to the MBBS Course and all those years of education is a sheer waste and if they are interested in becoming doctors they must de novo start their studies take entrance examination to meet the eligibility criteria for admission to the Indian MBBS course. The apex professional bodies like the Medical Council of India, before taking such a drastic step must consider its

consequences and repercussions carefully. It is the duty and the obligation of the Council to ensure and insist upon the highest educational standards, instructions and training. It is also the duty of the Council to give complete guidance and information to its students so that their careers are not ruined. In fact, they ought to play the role of their guardians and protectors of their careers once they acquire education and training from a recognised institution. The Council must ensure that the task of recognition and derecognition must be carried out in a manner so that the students careers are not put at a peril and public interest does not suffer in any manner.

Petition allowed.