
(2014) 06 MP CK 0042
In the Madhya Pradesh High Court
Case No : W.P. No. 7853/14

Pradeep Kumar Sahu

APPELLANT

Vs

Barkatullah University

RESPONDENT

Date of Decision : 23-06-2014

Acts Referred:

Citation : (2014) 06 MP CK 0042

Hon'ble Judges : S.K. Gupta, J;Rajendra Menon, J

Bench : Division Bench

Advocate : Kamlesh Dwivedi, Learned Counsel, Advocate for the Appellant

Final Decision : Disposed Off

Judgement

1. Petitioners herein are students who were granted provisional admission in the IInd B.H.M.S. examination. Petitioners were initially admitted to the Ist B.H.M.S. Examination, they appeared in the examination and when the results of the petitioners were declared, it seems that they failed in one or few of the subjects in the Ist B.H.M.S. examination.

2. However, they were granted provisional admission in the IInd B.H.M.S. examination and they now seek a mandamus from this Court directing the University to permit them to appear in the IInd B.H.M.S. examination.

3. It is the grievance of the petitioners that the respondent University is not permitting the students to appear in the IInd B.H.M.S. examination on the ground that they have not passed in all the subjects of 1st B.H.M.S. examination.

4. Placing reliance on the order passed by a Co-ordinate Bench of this Court in W.P. No. 8340/11 Harihar Singh and others Vs. Barkatullah University, Bhopal and others, Shri Kamlesh Dwivedi submits that petitioners are entitled to appear in the IInd B.H.M.S. examination and in support thereof, he invites our attention to the directions issued in para 9 of the order passed on 24.11.11 in W.P. No. 8340/11. It is also pointed out by Shri Kamlesh Dwivedi that after filing of this

writ petition on 15th May 2014, on a subsequent date, results of the 1st B.H.M.S. examinations (supplementary) have been declared and many of the petitioners have passed the said examination.

5. Shri Brijesh Choubey, learned counsel for the University submits that in the directions issued by a Co-ordinate Bench of this Court on 24.11.11 in W.P. No. 8340/11, it is clearly stipulated that a candidate who have failed in the First B.H.M.S. examination can be granted provisional admission in the second B.H.M.S. examination but his appearing in the Second B.H.M.S. examination is subject to fulfilling the attendance criteria and having passed all the subjects of the First B.H.M.S. examination. That apart, such of the candidates who have failed in the First B.H.M.S. examination cannot be permitted to appear in the Second B.H.M.S. examination.

6. The directions issued in W.P. No. 8340/11 reads as under:-

From the reading of the above quoted Clause 6 of Ordinance no. 71 it is clear that no candidate can be admitted to second BHMS examination unless he has passed first BHMS examination and also has required attendance to the satisfaction of the Head of Homeopathic Medical College. This clause also clearly states that the second BHMS examination must be held at the 30th month of admission to first BHMS. The clause does not prohibits the students of first BHMS course, having failed in some of the subjects of that course, from getting provisional admission in the second BHMS course and attending the classes of second BHMS. The clause only makes such students not eligible for admission in the second BHMS examination till they pass all the subjects of first BHMS examination and have the required attendance of second BHMS course to the satisfaction of the Head of the Homeopathic Medical College. We, therefore, find that en bloc cancellation of petitioners' second BHMS examination by respondent no. 1 is improper and illegal. We accordingly quash the order dated 22.7.2011, Annexure P-6, and direct respondent no. 1 to declare the result of petitioners if they are found to have passed first BHMS examination (all subjects) and have required attendance to the satisfaction of the Head of the Homeopathic Medical College.

(Emphasis supplied)

7. It is clear from the aforesaid directions that if a candidate had failed in the Ist BHMS examination, he may be granted provisional admission in the IInd BHMS examination and he can be allowed to prosecute the course but his appearance in the IInd BHMS examination is subject to fulfilling the attendance criteria and passing all the subjects of the Ist BHMS examination. Only such of the candidates are eligible to appear in the IInd BHMS examination who have passed the Supplementary examination undertaken by them and the results have been declared.

8. Accordingly, we issue the following directions:-

Such of the candidates (petitioners) who have passed the Ist BHMS

supplementary examination as on date and who fulfil the attendance criteria with regard to attending the classes in the IInd BHMS course shall be permitted to appear in the Second BHMS examination. However, such of the candidates who have failed in the supplementary examination, we see no reason to grant any benefit to them.

9. With the aforesaid, this petition stands disposed of.

10. C.C. as per rules.