

(2004) 03 AHC CK 0018
In the Allahabad High Court
Case No : Special Appeal No. 293 of 2004

Prakhar Srivastava

APPELLANT

Vs

Chairman , C.P.M.T. Examination-2002 and Others

RESPONDENT

Date of Decision : 19-03-2004

Acts Referred:

Dentists Act, 1948 — Section 10A, 10B(3)

Citation : (2004) 5 AWC 4273

Hon'ble Judges : D.P. Gupta, J;B.S. Chauhan, J

Bench : Division Bench

Advocate : B.S. Yadav, for the Appellant; A.G.A., for the Respondent

Final Decision : Dismissed

Judgement

B.S. Chauhan, J.—This special appeal has been filed against the judgment and order of the learned single Judge dated 27.2.2004, by which the petition has been dismissed being infructuous.

2. Learned Counsel for the Petitioner-Appellant has submitted that the petition had not become infructuous and the learned single Judge has wrongly dismissed the same.

3. Matter relates to the admission in Medical College where the course had started in July and admission cannot be given at such a belated stage.

4. In Dr. Subodh Nautiyal Vs. State of U.P. and others, , the Hon"ble Apex Court held that in a technical course, it is not permissible to admit the students four months after the commencement of the course.

5. In Medical Council of India v. Madhu Singh (2000) 7 SCC 258, the Hon"ble Supreme Court reiterated the same view observing that it is not permissible for the Court to issue direction for fresh admission in mid-academic session in a technical course. Time schedule is to be fixed for duration of the course and the period during which admission can take place. In this regard, as the Medical

Council of India Regulations had to be enforced, the Court could not issue a direction in violation thereof.

6. Similar view has been reiterated in *Dr Pramod Kumar Joshi Vs. Medical Council of India and Others*, ; *State of U.P. v. Dr. Anupam Gupta* 1992 (3) AWC 1804 (SC): 1993 (Supp) 1 SCC 594. Their Lordships had given the reason that such admission would disturb the course and also work as a handicap to the candidates to achieve the excellence. It was observed that in such cases, the Court must take pragmatic view of the fact in such a matter and in order to maintain excellence in the courses which had commenced long ago and schedule is likely to be completed and students did not have opportunity of completing the full course, such direction should not be issued.

7. In *State of Punjab and others Vs. Renuka Singla and others*, , the Hon''ble Supreme Court deprecated the practice adopted by High Courts issuing direction or mid academic admission observing as under:

The admission in medical course throughout India is governed by different statutory provisions, including regulations framed under different Acts. During last several years efforts have been made to regulate the admissions to the different medical institutions, in order to achieve academic excellence. But, at the same time, a counter-attempt is also apparently discernible, by which the candidates, who are not able to get admissions against the seats fixed by different statutory authorities, file writ applications and interim or final directions are given to admit such Petitioners. We fail to appreciate as to how the High Court or this Court can be generous or liberal in issuing such directions which in substance amount to directing the authorities concerned to violate their own statutory rules and regulations, in respect of admissions of students. It cannot be disputed that technical education, including medical education, requires infrastructure to cope with the requirement of giving proper education to the students, who are admitted. Taking into consideration the infrastructure, equipment, staff, the limit of the number of admissions is fixed either by the Medical Council of India or Dental Council of India. The High Court cannot disturb that balance between the capacity of the institution and number of admissions, on "compassionate ground". The High Court should be conscious of the fact that in this process they are affecting the education of the students who have already been admitted, against the fixed seats, after a very tough competitive examination. According to us, there does not appear to be any justification on the part of the High Court, in the present case, to direct admission of Respondent No. 1 on "compassionate ground" and to issue a fiat to create an additional seat which amounts to a direction to violate Section 10A and Section 10B(3) of the Dentists Act referred to above.

8. Thus, in view of the above, as admission in mid-academic session is not permissible and for the next year, there is no possibility to issue a direction for admission to the such students even if the petition has not become infructuous, no useful order could be passed. Thus, the order passed by the learned single

Judge does not require any interference.

9. Appeal is accordingly dismissed.