

(2022) 02 KAR CK 0018

In the Karnataka High Court

Case No : Writ Petition No. 35139 Of 2019 (EDN-MED-ADM)

Preeti Naik & Others

APPELLANT

Vs

State Of Karnataka & Others

RESPONDENT

Date of Decision : 04-02-2022

Acts Referred:

Citation : (2022) 02 KAR CK 0018

Hon'ble Judges : Alok Aradhe, J;M.G.S. Kamal, J

Bench : Division Bench

Advocate : D.R. Ravishankar, Bojegouda T. Koller, Adithya Bhat, Prakash K.M, Sumana Baliga

Final Decision : Allowed

Judgement

Alok Aradhe, J

1. In this writ petition, the petitioners seek a direction to Dental Council of India to approve the admission of the petitioners to the BDS Course in

Government Dental College, Bangalore for the academic session 2016-17. The petitioner seeks a writ of certiorari for quashment of order dated

10.04.2019, by which the Dental Council of India addressed a communication to the College, by which it has been apprised that petitioners were

admitted after the cut off date to the BDS Course for the academic session 2016-17, therefore, all the State Dental Councils / Tribunal have been

directed not to register the names of the petitioners. In order to appreciate the petitioner's challenge, few facts need mention, which are stated infra.

2. The petitioners were aspirants for admission to the BDS course and had appeared for counseling on 07.10.2016. An order of admission was

admittedly issued to the petitioners on 07.10.2016 and petitioner Nos.1 and 3

deposited the fee on 07.10.2016 whereas, petitioner No.2 deposited the fee on 08.10.2016. On 06.10.2006, the Director, Medical Education sent a communication to the Executive Director, Karnataka Examination Authority by which the Karnataka Examination Authority was informed that the candidates had to be admitted to the course on 07.10.2016 and in case, they failed to come on 07.10.2016, the admission should be offered to them on 08.10.2016 also. The Karnataka Examination Authority issued a Notification on 06.10.2018 by extending the date of admission from 07.10.2016 to 08.10.2016. The Supreme court on 06.10.2018 itself passed an orders on an interlocutory application pertaining to MBBS and BDS course and directed that the process of admission should be completed by 07.10.2016.

3. However, Dental Council of India by a communication dated 13.11.2017 required the Dental Government College and Research Institute to discharge the petitioners on the ground that they have been admitted to the BDS course beyond the cut off date i.e., 07.10.2016. Thereafter, a communication dated 10.04.2019 was sent by the Dental Council of India to the college informing that the Dental council has already directed all the State Dental Councils / tribunal not to register the names of the petitioners. In the aforesaid factual background, this petition has been filed.

4. Learned counsel for the petitioners submitted that the petitioners were allotted the seat on 07.10.2016 itself and therefore, the stand taken by the Dental Council of India that the petitioners have been admitted beyond the cut off date is factually incorrect. It is further submitted that the order of admission was issued to the petitioners on 07.10.2016 itself therefore, the petitioners should be treated to have been admitted on 07.10.2016 itself and only the petitioner No.2 has complied with the formality pertaining to admission on 08.10.2016. It is also pointed out that by virtue of an ad interim order dated 28.08.2019 , the petitioners have completed the course as well as the internship and their results have also been declared. In support of aforesaid submissions, reliance has been placed on decision of the Supreme Court in 'ASHA VS. PT.B.D.SHARMA UNIVERSITY OF HEALTH SCIENCES AND OTHERS', (2012) 7 SCC 389 and 'PRIYA GUPTA VS. STATE OF CHATTISGARH AND OTHERS', (2012) 7 SCC 433.

5. On the other hand, learned counsel for the Dental Council of India fairly submitted that petitioner Nos.1 and 3 had paid the fee for admission to the

BDS course on 07.10.2016. However, it is submitted that the petitioner No.2 had deposited the fee on 08.10.2016 therefore, her admission should be

treated to be beyond the cut off date prescribed by the Supreme Court in 'MRIDUL DHAR (MINOR) AND ANOTHER VS. UNION OF INDIA

AND OTHERS', (2005) 2 SCC 65. Learned counsel for Karnataka Examination Authority as well as College has supported the submissions made by

learned Senior counsel for the petitioners.

6. We have considered the submissions made on both sides and have perused the record. From perusal of the admission order issued to the petitioners,

it is evident that the petitioners have been admitted to Dental course in Government Dental College, Bangalore on 07.10.2016. The petitioner Nos.1

and 3 have even paid the fee on 07.10.2016 itself, whereas, the petitioner No.2 has paid the fee on 08.10.2016. However, the fact remains that

petitioners have been admitted to the course on 07.10.2016. From the communication dated 06.10.2016 sent by the Director, Medical Education to the

Executive Director, Karnataka Examination Authority, it is evident that only the students who were allotted the seats on 07.10.2016 were permitted to

pay the admission fee on 08.10.2016. In the instant case, the petitioners were admitted to the course on 07.10.2016. It is not in dispute that petitioners

have been admitted to the course as per their merit. It is also pertinent to note that the Director, Medical Education by a communication dated

09.01.2019 had also apprised the Dental Council of India that the petitioners were admitted to the course on 07.10.2016.

7. Thus, it is evident that the petitioners were admitted to the course within the prescribed time scheduled i.e., on 07.10.2016. Therefore, the decision

of the Supreme Court in MRIDUL DHAR supra has no application to the fact situation of the case as the time line prescribed therein has not been

violated. The Dental Council of India has issued the impugned communication on the assumption that the petitioners have been admitted beyond the

cut off date. The impugned communication issued dated 10.04.2019 issued by Dental Council of India is hereby quashed. Since, the petitioners have

already completed the course and their results have already been declared therefore, no further direction needs to be issued.

In the result, the writ petition is allowed.