
(2007) 09 MP CK 0020
In the Madhya Pradesh High Court
Case No : Writ Petition No. 1171 of 1999

Rajeev Dalela

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 19-09-2007

Acts Referred:

Citation : (2007) 2 MPJR 214

Hon'ble Judges : A.K. Patnaik, C.J.;Shravan Shanker Jha, J;A.M. Sapre, J

Bench : Full Bench

Advocate : Rajendra Tiwari, with Mr. A. Gupta, for the Appellant; Kumaresh Pathak, Dy. Advocate General, for the Respondent

Judgement

A.K. Patnaik, J.

This is a reference made by a Division Bench of this Court in the order dated 17.8.1999 passed in W.P. No.1171/99.

The background in which the reference is made is that Rule 3 (VI) (iv) of the Madhya Pradesh Medical and Dental Postgraduate Entrance Examination Rules, 1999 (for short "the Rules") inter alia provided that a person admitted to any postgraduate course in Madhya Pradesh in previous year who has not completed the post graduation course is not eligible to take the examination up to three years from the date of his previous admission. Candidates who had been admitted to postgraduate courses in Madhya Pradesh on the basis of the results of Pre-Postgraduate Examination in the year 1998 approached this Court in the writ petitions and thereafter Letters Patent Appeals for a direction to authorities to permit them to participate in the counseling on the basis of the results of the Pre-Postgraduate Examination, 1999 so that they may get a course or seat of their choice.

A Division Bench of the Principal Seat of this Court at Jabalpur held in L.P.A. No.196/99 (Dr. Naveen Kumar Dulhani vs. State of M.P. and others) in a judgment delivered on 20.7.1999 that such candidates who had appeared in the

1998 Pre-Postgraduate Examination and had been admitted to postgraduate courses cannot be allowed to participate in the counseling on the basis of the results in the Pre-Postgraduate Examination, 1999, but a Division Bench at Gwalior of this Court in L.P.A. No.62 of 1999 (Dr. Vaishali Govila vs. State of M.P. and others) directed the authorities to permit such candidates who had been admitted to postgraduate courses pursuant to the Pre-Postgraduate Entrance Examination, 1998 for counseling on the basis of their results in the Pre-post Graduate Entrance Examination, 1999 on filing affidavits that they will forego their admission on the basis of the 1998 Examination.

When the present writ petition came before a Division Bench of this Court, the Division Bench in the order dated 17.8.1999 took the view that if under Rule 3(VI)(iv) of the Rules, the incumbent already admitted to a postgraduate course is debarred from appearing in entrance examination for three years, the direction of the Gwalior Bench of this Court that the candidates will be allowed to participate in the counseling on the basis of the results of the 1999 examination, on filing affidavits by the candidates that they will forego their admission in the postgraduate course could not have been possible. In the order dated 17.8.1999 passed in the present case, the Division Bench also observed that the mode and approach adopted by the Gwalior Bench considered in the light of the interpretation given by the Court in L.P.A. No.196/99 (Dr. Naveen Dulhani vs. State) in the judgment dated 20.7.1999 was not at all correct.

After hearing Mr. Rajendra Tiwari, learned senior counsel for the petitioner and Mr. Kumares Pathak, learned Dy. Advocate General for the State, we have no doubt: in our mind that Rule 3(VI)(iv) of the Rules by its very language is clear that a person admitted to any postgraduate course in Madhya Pradesh in the previous year who has not (sic) the postgraduate course is not eligible to take examination upto three year, from the date of his previous admission. The object of this Rule is to ensure that the resources of the State spent on giving postgraduate education to students are not wasted by the students leaving the postgraduate course in the midstream and seeking admission in some other postgraduate course of his choice. Hence, the entire approach of the Gwalior Bench in L.P.A. No.62/99 (Dr. Miss Vaishali Govila vs. State of M.P. and others) as well as in L.P.A. No.52/99 (Dr. Miss Madhu Gupta vs. State of M.P. and others) in directing the authorities to permit candidates who had been admitted to the postgraduate courses on the basis of 1998 Pre-Postgraduate examination to participate in the counseling on the basis of the results of the 1999 Pre-Postgraduate examination on their filing affidavits that they will forego their admissions to the postgraduate courses on the basis of 1998 examination frustrates the object of the Rule 3(VI)(iv) of the Rules. In our considered opinion, therefore, the directions of the Gwalior Bench in the two cases were not tenable in law.

In the present case, however, we find that when the writ petition was taken up for consideration of interim prayer by a learned Single Judge of this Court on

13.4.1999, the learned Single Judge directed that as and when counseling based on the 1999 examination takes place, the petitioner shall also be allowed to participate in the counseling and until further orders and subject to the result of the writ petition, the seat, if any, allotted to him shall be kept reserved. We are informed by Mr. Rajendra Tiwari that pursuant to the said direction of the learned Single Judge in the present writ petition, the petitioner participated in the counseling based on the Pre-Postgraduate 1999 examination and was given admission in a seat in a Postgraduate course allotted to him. Thus, the petitioner in this case had been admitted to a Postgraduate course on the basis of his results in the Pre-Postgraduate 1998 examination but by virtue of the interim order passed by the learned Single Judge of this Court on 13.4.1999, he left the said course and participated in the counseling based on the 1999 examination and after being allotted a seat pursuant to said counseling, he was admitted to the seat and he must have in the meantime completed the course. On these peculiar facts, even though (sic) cases in directing the authorities to permit the candidates who had been admitted in the Postgraduate course on the basis of 1998 examination to participate in the counseling for the seats in the Postgraduate course on the basis of 1999 examination on filing affidavits that they will forego their seats was not tenable in law, the admission given to the petitioner pursuant to the interim order passed by the learned Single Judge on 13.4.1999 will not be disturbed.

The reference stands answered and the writ petition stands disposed of accordingly.