
(1994) 01 P&H CK 0021
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 11379 of 1993

Rajneesh Sobti

APPELLANT

Vs

Haryana State Pharmacy Council

RESPONDENT

Date of Decision : 27-01-1994

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1994) 107 PLR 472

Hon'ble Judges : S.K. Jain, J;G.R. Majithia, J

Bench : Division Bench

Advocate : Ravi Kant, for the Appellant; Kamal Sharma, Addl. A.G., for the Respondent

Final Decision : Allowed

Judgement

G.R. Majithia and S.K. Jain, JJ.—The petitioner has sought a mandate to the Haryana State Pharmacy Council, Chandigarh to issue him Licence (Certificate of Enrollment as registered Pharmacist) in this petition under Articles 226/227 of the Constitution of India.

2. The petitioner passed the 10 + 2 (Science Group) Examination held by the Central Board of Secondary Education (Open School) in May, 1990 and the result was declared on August 23, 1990. He got admission to Diploma Course in Pharmacy in Gandhi College of Pharmacy, Karnal in 1990 for the Session 1990-91. The duration of the said Course for the students who had completed 10 + 2 (Science Group) examination in one year. The examination for the Final Year Diploma Course in Pharmacy was conducted by the Haryana State Board of Technical Education (for short, the Board) in September, 1991. The petitioner got re-appear in three papers. The result of the Pharmacy Course Diploma examination was declared on November 15, 1991. The petitioner re-appeared in those papers in December, 1991 and the result was declared on April 16, 1992. He cleared two papers, i.e. Theory Paper-II and Practical Paper-IV. As such one Theory Paper-V remained to be passed by him. The petitioner appeared in

Theory Paper-V held in October/November, 1992. The result was declared on February 17, 1993 and the petitioner was declared successful. Sarvshri Sandeep Kumar and Amit Chopra, who had passed the Diploma Course in Pharmacy likewise were issued the Licence/Registration Certificate as Pharmacists by the respondent. The petitioner was, however, not issued the Certificate of Enrollment as Registered Pharmacist and this led to the filing of this writ petition.

3. In response to the notice of motion issued by this Court, written statement dated November 30, 1993 was filed by the Registrar, Haryana State Pharmacy Council, Chandigarh. The only defence taken in the written statement is that the petitioner had not completed the Final Year Diploma Course in Pharmacy by 1990-91 session. The Pharmacy Council of India vide its Resolution dated December 3, 1992 had given approval to the Diploma Course in Pharmacy when completed it by 1990-91 session. It is further stated that the case of Amit Chopra is distinguishable as he cleared the final examination held in December, 1991. Sandeep Kumar had also completed the Diploma Course by 1990-91 session. The petitioner appeared in the Final Year Diploma Examination of Pharmacy Course held in September, 1991, but he got re-appear in three papers, out of which two were of Theory and one was of Practical. He cleared two papers, viz. Theory and Practical papers in the examination conducted by the Board in December, 1991, the result of which was declared on April 16, 1992. The third paper of Theory was cleared by him in the examination held by the Board in October/November, 1992, the result of which was declared on February 17, 1993.

4. The Rules provide for re-appearing in paper/papers of the Diploma Course in Pharmacy in which the student, has failed. On successful passing out in all the papers, the result will relate back to the date when the student first appeared in the examination. The petitioner availed the benefit of re-appearing in the papers in which he had failed under the Regulations. Once he had been allowed to avail the benefit, his result will obviously relate back to the date when he first took the examination. Consequently, the petitioner will be deemed to have passed the final examination of the Diploma Course in Pharmacy in the Session 1990-91. Even otherwise, once the Diploma Examination-in Pharmacy Course conducted by the Board has been approved by the Pharmacy Council of India for the Session 1990-91, there appears to be no logic for refusing recognition for passing the examination in the subsequent session.

5. It has not been disputed that there is no other impediment for the petitioner to get the Certificate of Enrollment as a Registered Pharmacist except the ground that he had not passed the Final Year Diploma Examination of Pharmacy Course in the session 1990-91. As observed earlier, the petitioner will be deemed to have passed the Final Year Diploma Examination in Pharmacy Course in the session 1990-91.

6. For the reasons stated above, the writ petition succeeds. The respondent is directed to issue the requisite licence (Certificate of Enrollment as a registered Pharmacist) to the petitioner within one month from date of receipt of a copy of

this judgment.