

(2021) 07 UK CK 0247

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1121 Of 2021

Ritesh Kumar

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 30-07-2021

Acts Referred:

Indian Medical Degrees Act, 1916 — Section 3

Citation : (2021) 07 UK CK 0247

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : Vinay Kumar, T.S. Phartiyal, G.S. Negi, Atul Bahuguna

Final Decision : Dismissed

Judgement

Manoj Kumar Tiwari, J

1. Petitioner has pursued Radiology Technician Course from National Industrial Training Centre, New Delhi. By means of present writ petition,

petitioner has sought a direction to Uttarakhand State Medical Faculty (Respondent No. 3) to register the Radiology Technician qualification

possessed by him, so that he may be employed in Government Hospital in State of Uttarakhand.

2. Mr. Atul Bahuguna, learned counsel appearing for respondent no. 3 has placed reliance upon Indian Medical Degrees Act, 1916. The said Act was

enacted to regulate the grant of titles implying qualifications in Western Medical Science. Section 3 of the said Act confers the right of conferring on

issuing degrees, diplomas, licences, certificates etc. only to the authorities specified in the schedule or to such other authority as the State Government

by notification authorize. Grant of degrees, certificates etc. by any other person is thus barred.

3. In exercise of power under Section 3 of the aforesaid Act, the Governor-General in Council authorized U.P. State Medical Faculty to confer, grant or issue, diplomas, license, certificates etc. in Western Medical Science, vide notification dated 16.12.1926.

4. Mr. Atul Bahuguna has also referred to the Rules under which U.P. State Medical Faculty was established. Rule 13 of the said Rules is reproduced below:-

B. A recognized institution for the purpose of the rules framed under these rules will be an institution recognized by the Uttar Pradesh State Medical Faculty.

5. Mr. Atul Bahuguna, learned counsel appearing for respondent no. 3 submits that the aforesaid Rules of 1926 have been made applicable in State of

Uttarakhand by Adaptation & Modification order dated 07.11.2002. He has also placed reliance upon another notification dated 07.11.2002 [page

no.32 of the counter affidavit filed by respondent no.3] particularly paragraph no. 6 (4) thereof, which provides that instructions/training to students

admitted in Radiography (X-Ray Technician), Radiological Technician and Laboratory Technician Courses shall be given in recognized Medical

Colleges of the State in conjunction with Government Hospital, Dehradun/Base Hospital, Haldwani. Based on the aforesaid documents, which are part

of record, learned counsel for respondent no. 3 submits that since the institution, from which petitioner has obtained Radiology Technician Certificate,

is not recognized by Uttarakhand State Medical Faculty, therefore, the petitioner's qualification cannot be registered by respondent no. 3.

6. Learned counsel for respondent no. 3 has further referred to the Policy issued by Uttarakhand Government on 12.03.2003 for grant of Diploma in

Para Medical Courses. Paragraph no. 2(2) of the said Policy provides that No Objection Certificate would be issued to an institution for

imparting instructions in Para Medical Courses only when such institution fulfills the norms regarding land, building, financial management, hospital etc.

laid down by State Medical Faculty. He further submits that institution, from which petitioner has obtained Certificate in Radiology Technician, has

neither obtained No Objection Certificate from Uttarakhand State Medical Faculty for running the course nor Uttarakhand Medical Faculty

has recognized the said course, therefore, the qualification obtained by the

petitioner cannot be registered by Uttarakhand State Medical Faculty.

7. Learned counsel for the petitioner has referred to one advertisement issued by Uttarakhand Medical Service Selection Board on 13.05.2021, which

is Annexure No. 1 to the writ petition. He has drawn attention of this Court to Clause 5 (2) of the advertisement, which provides that, for direct

recruitment to the post of X-Ray Technician, one should have Diploma or Degree in X-Ray Technician/ Technology, which would be registerable with

State Medical Faculty or Uttarakhand Para Medical Council. Based on the said Clause of the advertisement, learned counsel for the petitioner submits

that since petitioner has a Certificate, which is registrable with Uttarakhand State Medical Faculty, therefore, petitioner cannot be declined the right to

be considered for appointment as X-Ray Technician in State of Uttarakhand. Thus, according to the petitioner, respondent no. 3 is under a legal

obligation to register petitioner's qualification in its records.

8. This submission made on behalf of the petitioner is bereft of merit. Since petitioner has not obtained diploma/certificate from a recognized institution,

therefore, respondent no. 3 is under no obligation to register petitioner's qualification. Even otherwise also, Clause 5(3) of the advertisement

makes it clear that only such candidates, who are registered with Uttarakhand State Medical Faculty or Uttarakhand Para Medical Council, shall be

eligible.

9. Learned counsel for the petitioner further submits that the institution, from which petitioner has obtained Radiology Technician Certificate, is

recognized by National Council for Vocational Education & Training and the said institution is run by the Central Government, therefore, respondent

no. 3 is bound to register petitioner's qualification.

10. The said submission made on behalf of the petitioner also cannot be accepted. National Council for Vocational Education & Training deals with

technical courses; while, recognition to Para Medical Courses is dealt with by the Authorities created under Indian Medical Degrees Act, 1916 and

the Rules framed thereunder. Thus, merely because the course pursued by petitioner is recognized by National Council for Vocational Education &

Training will not entitle him to get registration with Uttarakhand State Medical Faculty, which has been established under the Rules framed under

Indian Medical Degrees Act, 1916.

11. Since the institution, from where petitioner obtained Radiology Technician Certificate, was neither given "No Objection Certificate" by

Uttarakhand State Medical Faculty nor it is recognized by Uttarakhand State Medical Faculty, therefore, no mandamus can be issued to Uttarakhand

State Medical Faculty to register the qualification of the petitioner.

12. Accordingly, the writ petition fails and is dismissed.

13. There will be no order as to costs.