

(2015) 09 RAJ CK 0069

In the Rajasthan High Court

Case No : SB Civil Writ Petition Nos. 13977, 14061, 14064, 14068 and 14123 of 2015

Rohan Katta and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 23-09-2015

Acts Referred:

Citation : (2015) 09 RAJ CK 0069

Hon'ble Judges : M.N. Bhandari, J

Bench : Single Bench

Advocate : Mahesh Gupta, R.P. Garg, Shubham Jain, Ajatshatru Mina, Peush Nag and Arisal Singh Nathawat, for the Appellant; M.A. Khan, Advocates for the Respondent

Judgement

M.N. Bhandari, J—With consent of the parties, all the writ petitions, involving common controversy regarding admission in the MBBS course against the seats meant for NRI quota, have been heard together and are decided by this common order.

2. The petitioners applied for admission and, after the Common Entrance Test (CET), list of 60 eligible candidates was issued against 30 seats meant for NRI quota. Names of the petitioners find place in the list. The respondents denied admission to the petitioners during the course of counselling as they failed to produce original documents. It was by rejecting the justification given by them. In few petitions, original certificate issued by the Consular (officer) was lost in transit or at the time of counselling thus could not be produced. However, the petitioner/s called another certificate of the Consular (officer) though it is having different date to the original certificate, however, substitute certificate is also original.

3. In one case, the certificate was to be brought by the guardian of the petitioner, who would now coming to India along with the certificate thus could not be produced in original at the time of counselling though, scanned copy

thereof was produced before the Counselling Board.

4. In the light of the aforesaid, though, the petitioners have submitted their applications forms complete in all respect and duly supported by the documents, one documents could not be produced in original as was referred in the application form. The prayer is accordingly made to allow the petitioners to produce the original documents at the time of reporting to the allotted college. It would be as per the terms and conditions given in the Information Booklet.

5. It is also submitted that since the original certificate was lost in transit or at the time of counselling, the substituted certificate may be accepted in the facts and circumstances.

6. Learned counsel for the respondent - Rajasthan University of Health Sciences and the Chairman of the CET-2015 (NRI Quota) Counselling Board submit that original documents were required to be produced at the time of counselling. It is in view of the Notification issued on 11.9.2015, asking the candidates to bring original documents at the time of counselling. The petitioners failed to submit original documents at the time of counselling. It is, however, admitted that as per the Information Booklet, original documents were to be submitted in the college so allotted after the counselling. Looking to the facts above, it was submitted that if the court directs to adhere to the condition of Information Booklet, petitioners may produce original documents in the college so allotted after counselling. Five petitioners have filed these writ petitions and, now, the left out seats are only four in number. It may thus be directed that the left out seats may be filled in the order of merit from and amongst the petitioners. With the aforesaid directions, writ petitions may be decided and the non-petitioners would carry out the directions.

7. I have considered rival submissions of the parties and perused the record.

8. As per the condition given in the Information Booklet issued by the non-petitioners, all the requisite documents were required to be submitted along with the application form. Herein, all the petitioners had submitted their application forms duly supported by the required documents thus they were found to be eligible for admission in the MBBS course against 30 seats meant for NRI quota. The petitioners have been ousted as they could not produce original documents at the time of counselling.

9. If the Information Booklet is taken into consideration, original documents are required to be submitted at the time of reporting at the allotted college. Relevant para of the Information Booklet under the heading "Selection of Students" is quoted hereasunder for ready reference -

"After allotment of college and course, candidates will be informed about their allotment at RUHS website. Candidate is required to take a printout of the allotment sheet and report at the allotted college with this allotment sheet along with requisite documents, affidavit, undertaking, in original, and prescribed fee,

by the notified date.

The selected candidates must also carry all requisite certificates/undertakings/affidavits/documents in original along (with attested copies of the same) for verification, at the time of reporting at the allotted college, failing which their admission shall stand cancelled. These original documents may be kept with the institution till completion of the course."

10. The perusal of the para quoted above shows that after allotment of the college and the course, candidate would be informed about their allotment at RUHS website. After taking printout of the allotment sheet, the candidate would report to the allotted college along with requisite certificates/undertakings/affidavits/documents in original.

11. In view of above, the direction to produce original documents at the time of counselling by issuing Notification on 11.9.2015 goes contrary to the Information Booklet.

12. It is also to be noticed that now the university has issued final list of 25 candidates for allotment of the college against 30 seats but, therein also, three candidates did not submit application form with all the documents given in the list in the Information Booklet. For ready reference, para "Application procedure" is reproduced hereasunder-

"Print copy of the application form

Print and preserve 2 copies of the application form filled on-line along with the following documents compulsorily with you:

1. Receipt issued by eMitra/CSC kiosk containing the Token number
2. Certificate of passing 10 + 2 (senior secondary or an equivalent examination)
3. Mark sheet 10 + 2 (senior secondary or an equivalent examination)
4. SC, ST, OBC, SBC Caste certificate, as applicable
5. Certificate of matriculation (Class 10) examination as proof of Date of Birth/ any other proof of date of birth
6. Certificate in the prescribed proforma (available on the website) on non-judicial stamp paper of Rs. 100/- by Father/Mother/Guardian (in case father/ mother not surviving) certifying the contents of the application form
7. Duly notarized Undertaking in the prescribed proforma (available on the website) by Notary or equivalent of the country, by NRI father/mother/guardian, on stamp paper/equivalent paper of the NRI country OR Certificate from the Consular (Officer) of NRI embassy/Indian embassy
8. Address of parents and local (Indian) guardian
9. Migration certificate of the Board/University

10. 4 Passport size photo same as affixed on application form

11. Photo Identity card certified by the Principal/Dean of Senior Secondary School or College last attended.

12. Any other relevant certificate(s)"

13. The directions therein is to fill the application form on-line along with the documents compulsorily with the candidate. Non-petitioners have given relaxation to three candidates who did not submit all the requisite documents. A justification has been given as those documents do not pertain to NRI certification for which quota is meant. The perusal of the list shows that one candidate failed to submit translated copy of the Consular (officer) and that has been ignored by the respondents. There is nothing illegal in it because Information Booklet does not provide for submission of translated copy of the certificate to be issued by the Consular (officer) but two other candidates failed to submit documents though it is not related to NRI. In fact, their candidature should have been rejected but as no prayer to this effect has been made thus I am not passing an order for it. It is more so when they are not before this court. If the relaxation to that extent has been given by the respondents, they were expected to look into hardship of the petitioners and, if find justification in their reasons, then, going with the object for falling in the NRI quota, consideration should have been made. It is more so when petitioners submitted applications complete in all respect but subsequently lost one original document for the reasons beyond their control.

14. For example, in the given case, original documents to be submitted by the candidates are lost followed by FIR, in that eventuality, respondents should have taken into consideration the fact aforesaid. The Information Booklet provides for submission of original documents at the time of reporting to the allotted college thus debarration of the petitioners from allotment of the college at the time of counselling cannot be said to be proper. The non-petitioners are expected to adhere to the terms and conditions of the Information Booklet issued by them. They were even expected not to issue any Notification/order or circular contrary to the Information Booklet. In view of above, action of the respondents to debar the petitioners at the time of counseling cannot be said to be justified. The original documents need to be submitted after allotment of the college.

15. Accordingly, a decision should be taken for allotment of the college and the course to the petitioners. It would obviously be to the extent of the seats now available for them as this court would not direct to disturb the admissions already given as those candidates are not even before this court.

16. The original documents be submitted in the college so allotted. The substituted certificate/s would be considered by the respondents and, if reasons are found to be justified, obviously, non-petitioners would accept the documents and fill the vacant seats.

17. In any case, the process should be completed on or before 30.9.2015.

18. For complying with the directions, learned counsel for the respondents and the Chairman, CET submitted that the petitioners would be allotted college and the course to the extent seats are vacant with a direction to them to report to the allotted college on 28.9.2015 and information about the allotment of the college would be given on 24.9.2015 to the extent of the vacant seats. For one petitioner, if any of the candidates earlier allotted college, did not join the course, then he would be informed about allotment of the college on 25.9.2015 on the website of the CET-2015. That candidate would also report to the allotted college by 28.9.2015.

19. With the aforesaid directions, all the writ petitions so as the stay applications are allowed.