
(2009) 06 AHC CK 0080
In the Allahabad High Court

Shruti Shekhar And Others	Vs	APPELLANT
State of U.P.And Others		RESPONDENT

Date of Decision : 08-06-2009

Acts Referred:

Citation : (2009) 06 AHC CK 0080

Hon'ble Judges : Sunil Ambwani, J

Final Decision : Allowed

Judgement

Sunil Ambwani, J.

Shri M.C. Chaturvedi, Chief Standing Counsel and learned standing counsel appear for respondent nos. 1 and 5. Shri Dinesh Kumar, holding brief of Shri Anurag Khanna, appears for Ch. Charan Singh University, Meerut respondent nos. 2. Ms. Pallavi holding brief of Shri Pankaj Naqvi appears for Dental Council of India respondent no. 3. Issue notice to respondent no.4. Steps within a week.

Let counter affidavits be filed by all the respondents within four weeks. The petitioners will have one week thereafter to file rejoinder affidavit. List on 14th July, 2009 before the appropriate bench.

All the petitioners are students of B.D.S. Course in Maharaja Ji Educational Trust, Pratap Vihar, District Ghaziabad. They failed in two or more subjects in first professional B.D.S. Examination and were not allowed to appear in the next year examinations until they complete the back papers. It is alleged that now they passed the back papers in December 2008 and as the established practice in the past they are not being allowed to appear in the second year professional final year examination going to start tomorrow.

Ms. Pallavi, learned counsel appearing for Dental Council of India has relied upon Dental Council of India B.D.S. Course Regulations, 1996 Content V (3) in submitting that any candidate who fails in one subject in an examination is permitted to go to the next higher class and appear for the subject and complete it successfully before he/she can appear for the next higher examination. If

semester system is followed, the candidate can carry one subject from one semester to the next semester only, and appear for both semester examinations simultaneously. She submits that the petitioners failed in two subjects and will have to wait for next final examinations which will take place in 2010. She also states that the petitioners had given undertakings to that effect to the University.

Learned counsel for the petitioners states that the petitioners were permitted to appear in second year B.D.S. Course and had completed one year. If they are not allowed to appear in the examinations tomorrow, they will have to wait for one year i.e almost two years for appearing in the second year B.D.S. Examinations. She has denied that the petitioners had given any undertaking to that effect.

As an interim measure, it is provided that all the petitioners shall be allowed to appear in the second professional final B.D.S. Examinations going to commence tomorrow. Their results, however, shall not be declared and will be subject to the result of the writ petition. If the matter is not decided at an early date, they will be allowed to take B.D.S. 3rd Professional Course which also will be subject to the result of the writ petition. The petitioners shall not be required to take permission from the University to appear in the examination. The Chief Standing Counsel and Shri Dinesh Kumar will inform the State Government and the University today with the order. A copy of the order be given today by 5.00 PM.