
(2019) 01 SC CK 0137

In the Supreme Court Of India

Case No : Writ Petition(S)(Civil) No(S). 571 Of 2018

Sourabh Brala & Ors.

APPELLANT

Vs

Union Of India & Ors.

RESPONDENT

Date of Decision : 23-01-2019

Acts Referred:

Citation : (2019) 5 Scale 271

Hon'ble Judges : Rohinton Fali Nariman, J;Navin Sinha, J

Bench : Division Bench

Advocate : Nidhesh Gupta, Akshat Shrivastava, Pooja Shrivastava, Ashok Kumar Sama, Tarun Gupta, A. Sharan, Shyam Divan, Vivek Singh, Chandra Bhushan Prasad, Vivek Singh, Swastik Dalai, Aprajita Mukherji, Jatinder Kumar Sethi, Ashutosh Kumar Sharma, Jatinder Kumar Bhatia, Vijay Prakash

Judgement

Heard the learned Senior Counsel/Counsel appearing for the parties.

Having perused the Status Report dated 04.01.2019 filed by the State of Uttarakhand and having been apprised of the fact that the Hemwati Nandan Bahuguna Medical University has refused to affiliate the State Government, which has now been put in charge of the Management of this Medical College dated 28.12.2018, it is obvious that the State Government, contrary to its assertion made before us, is now not able to take over or manage the Medical College.

We were told, at one point of time, that an Act of the State Legislature would be passed to take over the land as well as other buildings and other facilities so that the State Government could run the Medical College in question. But given the fact that the Hemwati Nandan Bahuguna Medical University has refused to affiliate them, this may not be possible.

We, therefore, direct the State Government to hand back to the erstwhile Management whatever has been taken over by them within a period of one week from today pursuant to this Court's earlier orders.

This leaves the problem of 150 students of the first year and an other 150 students of the second year in this institution. The State Government has indicated that there are three Government Medical Colleges and two private Medical Colleges in the State of Uttarakhand. The Status Report then says:

1.5.2 Presently there are 3 Government Medical Colleges and 2 Private Medical Colleges in the State of Uttarakhand. These are :-

Government Medical Colleges:

(1) Govt. Doon Medical College, Dehradun having existing annual intake MCI permission of 150 seats.

(2) Govt. Medical College, Srinagar having existing annual intake MCI permission of 100 seats.

(3) Govt. Medical College, Haldwani having existing annual intake MCI permission of 100 seats.

Private Medical Colleges:

(1) Sri Guru Ram Rai Institute of Medical & Health Sciences, Dehradun having existing annual intake MCI permission of 150 seats.

(2) Himalayan Institute of Medical Sciences, Dehradun having existing annual intake MCI permission of 100 seats.

1.5.3 While these Colleges presently do not have any vacancy to be able to adjust these 300 odd students at all, in this regard the only feasible solution appears to be that the Medical Council of India be requested to make provision for temporary ad hoc allotment of these 300 odd seats as a one time exercise to these 5 colleges and distribute these students for conduct of their examination and onward study.

1.5.4 It needs to be borne in mind that the Subharti Medical College had inducted 75 students in each of the two years from the Government Quota and 75 seats as their private (read management) quota.

Thus it is suggested that those admitted from the Government quota be adjusted in the 3 Government Colleges and those admitted from the Management quota be adjusted in the 2 private colleges.

1.5.5 Suggested distribution may be made as follows :

For Govt. Quota Students admitted by Subharti Medical College :

Name of College

Present Capacity

Ad-hoc seat allotment

1

Govt. Doon Medical College, Dehradun

150 seats

25 seats (1st Year) 25 seats (2nd Year)

2

Govt. Medical College, Srinagar

100 seats

25 seats (1st Year) 25 seats (2nd Year)

3

Govt. Medical College, Haldwani

100 seats

25 seats (1st Year) 25 seats (2nd Year)

For Management Quota Students admitted by Subharti Medical College :

Name of College

Present Capacity

Ad-hoc seat allotment

1

Sri Guru Ram Rai Institute of Medical & Health Sciences, Dehradun

150 seats

38 seats (1st Year) 38 seats (2nd Year)

2

Himalayan Institute of Medical Sciences, Dehradun

100 seats

37 seats (1st Year) 37 seats (2nd Year)

Mr. Nidesh Gupta, learned Senior Advocate for the petitioners, has suggested that this distribution among these five Medical Colleges would certainly be possible.

We, therefore, direct that, in accordance with the results obtained in the NEET Examination, these two batches of 150 students each will be accommodated, as stated in this Status Report, the most meritorious of the students being accommodated in the three Government Colleges first and thereafter in the two private Medical Colleges.

We direct the Medical Council of India to accord permission for the additional

seats that will have to be created in these institutions as a one-time measure, given the problems that have been faced by these students.¹

The learned Senior Advocate appearing for the Medical Council of India assures that the needful will be done within a period of one week from today. The students will then be allowed to join in these additional seats that have been created.

We make it clear that the 150 students, in their first year, will have to take the exam of the affiliating University or the institution in which they join. Insofar as the 150 students in the second year are concerned (2016-17 batch) they will also take the examination for the first year of the affiliating University as aforesaid. It is only on their clearing this examination, that they will then be allowed to take the classes of the second year in the College in which additional seats for them have been so created. The examinations for these students are also directed to be held within a period of 12 weeks from today.

We may make it clear that so far as the teaching and other staff are concerned, for the period of the State Government take over, their salary will be paid by the State Government. This will be done within a period of two weeks from today. So far as the teaching staff and other staff are concerned for the past period, the salary and other emoluments will be paid by the erstwhile Management.

A contention has been raised as to the return of Bank Guarantee of Rs.9.5 Crores. The erstwhile Management may apply to the Medical Council of India in this behalf by way of a written application, which will be made within a period of one week from today. The Medical Council of India will decide on this application within a period of two weeks thereafter.

By our order dated 06.12.2018, we had indicated that "we make it clear that any litigation qua this College, that may arise in future, can only be made before this court and no other." This part of the said order stands recalled.

For the future, we are of the view that the State Government must attempt to solve the impasse that has been created as a result of the State Government's not taking over Management of the College as originally proposed.

We, therefore, direct that a Committee be set up under the auspices of the Chief Secretary of the State to look into the future employment of the persons who have been part of the teaching staff and other staff of the erstwhile Management. This Committee will deliberate on where these persons are to be employed and come back to us with a report in this behalf within a period of three weeks.

List after three weeks.