

(1999) 03 GAU CK 0013

In the Gauhati High Court

Case No : Writ Appeal No's. 19, 21, 22, 23, 24, 25 and 26 of 1999

Surmila Khoirom and Others

APPELLANT

Vs

Sujata Devi Gurumayum and Others

RESPONDENT

Date of Decision : 01-03-1999

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 162, 226, 309

Indian Medical Council Regulations, 2000 — Regulation 12, 12(1)

Manipur Mbbs/Bds Entrance Examination (Selection of Candidates) Rules, 1993 — Rule 10, 11, 12, 13, 14

Citation : (2000) 2 GLT 27

Hon'ble Judges : P.K. Sarkar, J;H.K. Sema, J

Bench : Division Bench

Advocate : A. Nilamani Singh, H.S. Paonam, N.P.C. Singh and L. Nanda Kumar Singh, for the Appellant; T. Nandakumar Singh, A.G. and Ashok Potsangbam, for the Respondent

Final Decision : Dismissed

Judgement

H.K. Sema, J.—These bunch of writ appeals have been assigned to this bench specifically by Hon''ble Chief Justice by its order dated 18.2.99 passed on the administrative side, and this is how the matter has been placed before us for disposal. In fact three appeals numbered as Writ appeal No. 41, 42 and 43 have been filed before the Principal Seat, and by an order dated 18.2.99 passed by the Hon''ble Chief Justice, the record have been transmitted before this bench and re-numbered as Writ appeals No. 21, 22 and 23 of Imphal Bench. All the aforesaid appeals arises out of common Judgment and order dated 9.2.99 passed by the learned Single Judge in Civil Rule No. 62/99 and Civil Rule No. 67/92. By its common judgment, the learned Single Judge had quashed the nomination issued in favour of the Appellant/Respondent on the ground that the nomination issued in respect of the Appellant was done without following any procedure laid down in the rules, and action of the State Authority was by adopting pick and chose policy in exercise of arbitrary power. We propose to dispose of the appeals

by common Judgment, as the facts of the case and the points of law involves in this appeals are all common.

2. We have heard Mr. A. Nilmani Singh learned Sr. Counsel in Writ appeal No. 211.99 and 22/99, Mr. H.S. Paonam in Writ appeal No. 23/99, Mr. N.RC. Singh in Writ appeal No. 24/99, 25/99 and 26/99. Mr. L. Nandukumar in Writ Appeal No. 19, Mr. T. Nandakumar, learned Advocate General, on behalf of official Respondent in all Writ appeals, and Mr. Ashok Potsangbam representing the Respondents in all the appeals at length.

3. The perpetual litigation between the candidates for admission into MBBS/BDS course in various medical Colleges in the country has once more engaged the attention of This Court for some days.

4. The fact are most eloquent and unpleasant The undisputed facts common to all the appeals are these: The Appellants and the Respondents appears in the written test held on 5.7.98 for admission to MBBS/BDS for the session 1998-99. In the said written test, altogether about 1,947 candidates appeared. On 7.7.98, the Selection board prepared a merit list of 55 candidates category wise for selection of the existing vacancy of SS seats. The names of the Appellants and the Respondents were not included in the merit list consisting SS candidates declared on 7.7.98.

5. In the meantime, the Government of India, by its letter dated 3.8.98 addressed to all the Secretaries, Medical Health & Family Welfare Department in the North East States releasing the Central Pool for MBBS and BDS seats for the session 1998-99. The letter dated 3.8.98 has an important bearing and we shall refer to this letter at the appropriate time.

6. Finally pursuant to the aforesaid letter, the Government of India released 4(four) MBBS seats to the State of Manipur from the Central Pool. The selected candidates whose names appeared in serial No. 1 of the merit list from amongst 55 candidates under the General Category, and serial No. 1 & 6 under (ST) category did not avail of the seat allotted to them on merit. Therefore, total number of subsequent seats available for the Session 1998-99 comes to 7(Seven), 4(four) seats from the Central Pool released subsequently, and 3(three) seats whose names appeared in the select list on merit of 55 candidates, but did not avail of the seats allotted to them. However, the resultant subsequent 7(seven) seats for the Session 1998-99, the State Government nominated the 7(seven) Appellants without resorting to merit list prepared on the basis of competitive entrance test held on 5.7.98 for MBBS and BDS seats. It was therefore, alleged that the nomination of the 7(Seven) Appellants dehors the rules and in rampant exercise of arbitrary power by adopting pick and choose policy and back door method.

7. In the aforesaid circumstances, learned Single Judge has called the Tabulation sheets and perused the marks recorded in Tabulation sheets in respect of all the 1,947 candidates who appeared in the common entrance test held on 5.7.98 and

declared result on 7.7.98. It is a shocking revelation that the learned Single Judge found the following markets are obtained by the writ Petitioner and Respondents in Civil Rule 62/99. The learned Single Judge considered the marks secured 100 and above in respect of the Petitioners;

Petitioner No. 1 T. Noren Singh secured 163,
Petitioner No. 2, Soibam Victor Dev secured 162,
Petitioner No. 4, Gayatri Chanambam secured 148,
Petitioner No. 6, Ch. Dipu Singh secured 234,
Petitioner No. 10, Nelly Angom secured 136,
Petitioner No. 11, Athokpam Banita secured 120,
Petitioner No. 12, Mangangcha Keisham Leingakemba secured 124,
Petitioner No. 16, Kh. Trusty secured 162,
Petitioner No. 18, Bharati Phuritsabam secured 156,
Petitioner No. 20, W. Sophia secured 118,
Petitioner No. 21, Jelina Laishram secured 134,
Petitioner No. 22, Konika Lourempam secured 134
Petitioner No. 24, Phalguni Kangjam secured, 126 and
Petitioner No. 33, Bigen Chingangbam secured 100.

8. On the other hand, Respondent No. 5 Miss Julie Leishangthem secured-148,
Respondent No. 6 Miss Momita Lairenlakpam-082,
Respondent No. 7. Miss Thamphamani secured-056,
Respondent No. 8 Miss Tingiahath Hanshing-082.

In civil rule No 67/99

Petitioner No. 4, Nelfy Angom secured 136,
Petitioner No. 5, A. Ranita Devi secured 120,
Petitioner No. 6, Mangangcha Keisham
Leingaklemba secured-124, and
Petitioner No. 10, L. Lakabmikanta Sharma-100

9. As against this, Respondent No. 4, K.M. Surmila Khoirom secured-144
Respondent No. 5, K.M. Okram Shailaja Devi-032,
Respondent No. 6, Shri Satyakumar Singh-092.

10. The Appellants did not deny the allegations that they were nominated without resorting to the merit list. The only contention of the Appellants and the Government is that, there was an urgency, and therefore, the Government resorted to Rule 20 of the rules which we shall be dealing at the appropriate time.

11. Before we advert to the points urged by the respective counsels, to appreciate the controversy, a brief glance of several sets of rules framed for the purpose is necessary.

12. The Government of Manipur, by its notification published in Manipur Gazette Extra Ordinary in its publication on 6th July, 1993, framed the rules called, THE MANIPUR MBBS/BDS ENTRANCE EXAMINATION (SELECTION OF CANDIDATES) Rules, 1993 (here-in-after the rules)."Rule 3 of the rules provides for the constitution of Selection Board consisting of 3(three) members with the Secretary (Health) Government of Manipur as Chairman, Director of Health Services, Member Secretary, and a Gazetted Officer to be nominated by the Government of Manipur as Member. Rule 4 deals with the method of nomination, and provides that the nomination of candidates to the available seats shall be by selection in accordance with the provision of the Rules. Rule 5 deals with the selection and provides that the selection of candidates for nomination, the Selection Board shall hold and conduct a written competitive test, on such date and such place and at such time as specified in the Notification by the Government in this behalf Rules, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 deals with the eligibility and qualification and the procedure to be followed for competitive examination and disqualification etc. which we are not at all concerned for disposal of the present appeals.

13. Rules 16 and 17 of the rules are relevant, and it is extracted:

16. The Selection Board shall prepare a select list, in order of merit based on the competitive test separately for General and ST/SC candidates proportionate to the expected number of seats available and declare the results immediately. The Board shall submit the select list to the Government for nomination and further necessary action.

17. Subject to the provisions of Rule 8, 16 and 18 candidates will be considered by the Government for nomination to the available seats in order of merit in which their names appear in the select list.

(Underline is ours)

14. Rules 16 and 17 quoted above visualises preparation of select list in order of merit and nomination by the Government shall be considered to the available seats in order of merit in which their names appeared in the select list.

15. "Available Seats" has been defined in Rules 2A of the rules, to mean and seats available in a year for nomination by the Government in the first MBBS Course in Medical Colleges in India. The meaning of "Available Seats" will be relevant when we develop our decision at the later stage. These are the sums

and substance of the rules which are relevant for resolving the present controversy.

16. The submission of the counsel of the Appellants are common, and we shall be dealing with them at the appropriate time, but before we advert to the other points, we may, at this stage dispose of the arguments of Mr. L. Nandakumar, learned Counsel for the Appellant in Writ Appeal No. 19/99, and Mr. NPC. Singh, learned Counsel for the Appellant in Writ Appeal No. 26/99. The grievance of the Appellants are that, Appellant in Writ Appeal 19/99 was impleaded as Respondent No. 4 in Writ Petition No. 67/99 and the Appellant in Writ appeal No. 26/99 was impleaded as party Respondent No. 8 in Writ petition No. 62, but no notice was issued to them, and the judgment and order dated 9.2.99 rendered by the learned single judge in writ petition No. 62/99 and 67/99 was in violation of principle of natural justice, and it is void abinitio in respect of Appellants.

17. The rule of natural justice is embodied rule. It cannot be put in a strait jacket. Its application depends upon the facts and circumstances of each case. To sustain the complaint of non-observance of the Principle of natural justice, one must establish that prejudice has been caused to him for non-observance of the rule.

18. Let us now examine whether prejudice has been caused to the Appellants for not hearing them. As already said, the grievances raised by the Appellants are common. In Writ petition 67/99, as many as three candidates were impleaded as Respondents. Appellant in Writ appeal No. 19/99 was impleaded as party Respondent No. 4. Although, no counsel represented the Respondent No. 4 (Writ Appellant in Writ appeal No. 19/99), Respondent No. 6 was adequately represented by battery of Lawyers including Mr. NPC. Singh, and they were heard at length by the learned Single Judge as reflected in the Judgment. So also in Writ Appeal 26/99, as many as 4(four) candidates were impleaded as private Respondents. It is true that the writ Appellant in writ Appeal No. 26/99 was impleaded as party Respondent No. 8, and though she was not represented by a counsel. The other Respondents, namely, Respondent No. 5 and 6 were adequately represented by Mr. A. Nilamani Singh, Sr. Advocate, and the Respondent No. 7 was represented by Mr. H.S. Paonam. We are therefore, of the view that the interest of the Appellants in Writ Appeal No. 19/99 and 26/99 were adequately taken care of by the other competent counsels inasmuch as the issues raised are common to all the Appellants. This apart, their interests were also adequately taken care of by the learned Advocate General who has been heard at length before the learned Single Judge. We are therefore, of the clear view that no prejudice whatsoever has been caused to the Appellants.

19. Mr. Ashok Potsangbam, learned Counsel for the Respondents contended that, when the nomination of the Appellants was not in accordance with rules, it is violative of Articles 14 and 16 of the Constitution, and no notice to person affected is required. In this connection, he referred to us the Judgment of the Supreme Court in Biswa Ranjan Sahoo and others Vs. Sushanta Kumar Dinda

and Others, In the said decision it was held by the Apex Court that, when the enormity of mal practices in the selection process is evident, such selection is violative of Articles 14 and 16 of the Constitution, and in such a situation, nothing would become fruitful by issuing notice. In the instant case as pointed out by us, the Appellants were nominated by adapting mal practices in the nomination process and in flagrant violation of the rules framed for the purpose. In such a situation, no useful purpose would be served by issuance of notice.

20. Next, it is contended by Mr. Nandakumar that the case of the Appellant was not covered by the joint entrance examination conducted on 5.7.98, because in the letter dated 3.8.98, releasing Central pool for MBBS and BDS seats, it was stipulated that the children of all India Services Officer posted in the States would also be eligible to participate in the said merit system. According to Mr. Nandakumar that the Central pool MBBS and BDS seats released by the aforesaid letter would come outside the purview of the common entrance test conducted on 5.7.98, because in the test no children of India Service Officer posted in the State was eligible to participate in the said merit system. There is no substance in this submission at all. Rule 8(2) of the rules provides that, the children whose parents have been in the service of the Government of Manipur, University or Regional Medical College of Imphal are eligible to sit for the test examination. This apart, as stated earlier the Central pool so released under letter dated 3.8.98 is for the Session 1998-99 for which the entrance test was held on 5.7.98.

21. We shall not consider the common submission made by the counsel for the Appellants. The following contentions have been raised by counsel for the Appellants:

(a) 1993 Rules have not been framed under Article 309, but it is framed under Article 162 of the Constitution, and therefore, it is not a statutory rule and cannot be enforced.

(b) The approval of the Government of India was received only on 15.12.98 releasing the Central pool and the last date of admission in RIMS was 16.12.98, and therefore, due to emerging situation the 7(Seven) Appellants were nominated on the basis of the applications submitted by them by resorting to Rule 20 of the rules.

(c) There is no provision under the rules for maintaining second merit list or waiting list, and in such a situation the Government decides to resort the Rule 20.

(d) There was necessity of taking immediate decision without resorting to merit list, as the Chairman of the board was out of station at that time.

(e) The seven Appellants are all admitted in the various medical Colleges and the classes started from 17th December, 1998 and the first Semester is almost completed and the examination would be held sometime in the middle of March, therefore, even if writ of mandamus is issued, it will be infructuous as no admission of a new students is permissible at this stage.

22. Let us now examine the validity of the aforesaid submissions one by one. In fact, all these contentions have been raised before the learned Single Judge, and rejected by the learned Single Judge as legally not sustainable.

Point(a): It is absurd to suggest that 1993 rules as quoted above framed aimed at securing best available candidate for admission into MBBS/BDS by holding selection test is not enforceable under the law. Such rules are framed in order to select a better candidate and has the force of statutory rules. The Apex Court as well as This Court emphasized and re-emphasizes the necessity of framing the rules. Rules are framed to be followed and not to be flouted. If such argument is accepted, "Rule of thumb" will prevail over the "Rule of law", and democracy will be throttled. We are clearly of the view that 1993 rules have the force of statutory rules and non-observance of the rules would produce perilous results. This contention is accordingly failed.

Point (b): From the contention raised in point(b), it is abundantly clear that the Appellants were nominated on the basis of the applications filed by them without resorting to a selection list prepared by the Selection board as visualises under Rule 16. We have already stated that the subsequent seats which become available after the written test was conducted for the session 1998-99 for which the entrance test was conducted. When the subsequent seats have been made available to the State, they had the select list prepared by the Selection board, and there was no difficulties at all to consider the candidates next below 55 merit candidates already selected in the order of merit. Therefore, we do not see any difficulties faced by the State Government for making nomination without resorting to select list prepared by the Selection board. This apart, Rule 20 has no application in the facts of the present case. Rule 20 reads:

20. If any difficulty arises in giving effect to these rules, the Government may, by order, do anything not inconsistent with the purpose of these rules, as it may deem-necessary or expedient for removing the difficulty.

Rule 20 provides residuary power to the Government for removing any difficulties in giving effect to the provision of the rules. Rule 20 prohibits the Government not to do anything which is inconsistent with the purpose of the rules. In the case at hand, assuming Government has taken a decision under Rule 20, it is inconsistent with the purpose of the rules and void abinitio.

Point (c): It is true that there is no provision for keeping second merit list or waiting list under the Rules, but in our view, such is not at all necessary. The language employed in Rule 16 of the rules as quoted earlier is very clear.

Rule 16 visualises that Selection board shall prepared a select list in order of merit based on the competitive test separately for General and ST/SC candidates proportionate to the expected number of seats available. Rule 16 also enjoins that the board shall submits, the select list to the Government for nomination and further necessary action. Therefore, the only source of nomination is the select list and not other method is permissible. If the select list prepared by the

Selection board in order of merit is not acted upon, it is a mockery of Selection process resulting to enormity arbitrariness, total lack of fair procedure, mal practices, nepotism, favouritism and pick and chose policy. If such situation is allowed, unmeritorious candidates would be nominated for the highly technical course like MBBS/BDS and meritorious would be deprived of their due share and there will be chaos in the society and instead of solving problems would create more problems. In law, what is unsaid is an important as what is said. It is true that the rule is silent about the maintaining waiting list or second merit list. But Rule 16 visualises the preparation of select list in order of merit, and in fact once a select list is maintained and acted upon in order of merit, there was no necessity of preparing second merit list or waiting list

23. This apart, This Court had an occasion to deal similarly situated case in C.R. No. 780/97 disposed on 14.10.97. In that case, joint entrance examination was conducted for undergoing MBBS/BDS course for the Session 1997-98. There also no waiting list or second merit list was maintained. The Petitioner apprehends that in the absence of waiting list or second merit list the Government shall adopt pick and chose policy while nominating candidates for such course by ignoring the candidates who may be found in the merit list just after the first merit list There the Petitioner prayed for a direction for preparing of the second merit list. The C.R. 780/97 was disposed by This Court with the following directions:

The Respondents are directed to announce the result of 25 candidates by preparing the list who may be found in the merit list just after the first merit list as in annexure-A/4 to the writ petition. This shall be done within a period of a week from today.

24. It is stated at the bar that pursuant to the aforesaid submission, second merit list was prepared for the Session 1997-98, and the candidates whose name appeared in the second merit list was accommodated in the subsequent available seats in order of merit. Despite of the aforesaid direction of This Court and acted upon by the Respondents, what prevented the Respondents from publishing the second merit list/waiting list or acted on the basis of select list prepared by Selection board in order of merit as visualises under Rule 16. Amazing? Further Rule 17 visualizes that a candidate would be considered for nomination to the "Available seats" in order of merit in which their names appeared in the select list. "Available seats" have been defined in Rule 2A means the seats available in a year for nomination by the Government in the MBBS/BDS course in the Medical Colleges in India Therefore, it is amply clear from the language of "Available seats" that entrance test conducted on 5.7.98 for the Session 1998-99 was for the seats available in a year for nomination by the Government including the seats released from Central Pool.

Further, the Government of India in its letter dated 3rd August, 1998 releasing Central Pool MBBS/BDS seats for the year 1998-99, clearly laid down the conditions as to how the candidates should be nominated. Relevant paragraph is

extracted:

2(ii) The selection of candidates for the seats may kindly be made in accordance with the objective consideration of merit only. In this regard instructions issued vide this Ministry's letter No. U. 14014/8486-ME(UG) dtd. 9th Dec. 1986(copy enclosed) may be followed Lakshdweep Administration may follow reservation percentage as prescribed by the Deptt. of Personnel & Training for recruitment made on the local or regional basis i.e. Nil for S.Cs and 45% for STs.

3. It is requested that the States/UTs should nominated their candidates on the basis of merit system devised by them keeping in view the Board guidelines contained in this Ministry's letter dated 9.12.1986 referred to above. The children of all India Service Officers posted in these States/UTs would also be eligible to participate in the said merit system.(Underline is ours).

The merit system devised by the Government of Manipur is by conducting written test and preparation of Select list as visualises under 1993, Rules.

Point(d): As would appear from the contention raised by the Appellants as noted above, the Appellants are shifting stand from one to Anr. playing hide and seek game. It is contended by Mr. Nilamani Singh that the necessity of nominating the 7(seven) Appellants who has filed applications, without resorting select list has become eminent as the last date of admission was 17.12.98, and at that time, the chairman of Selection Board was out of the station. Save and except, this bald statement, when the Chairman (if at all out of station) had left the station and for how many days and when the Chairman was expected to come back to the station, nothing has been mentioned, whatever the case may be such circumstance would not prevent the Respondent from acting from the select list prepared by the Selection Board in order of merit

Point(e): This contention is rather sentimental, but sentiment has no place in the rule of law. While it is true that it will be painful to dislodge the Appellant at this stage, such unpleasant situation is their own making. At the same time, it will not be difficult for any eligible persons to be nominated in their place, because from the statement of the Appellant they were admitted in the Regional Institute of Medical Sciences only on 17.12.98, and they have been in the college only about 2? months or so. In this connection, Mr. Nilamani has referred to the regulations called, The Medical Council of India Regulation of graduate medical education, 1997(in short the regulation). Mr. Nilamani particularly referred to Regulation 12(1) and submits that for appearing in the examination in Post-Graduate medical education, 75% of attendance is compulsory, and according to him even if the nomination of the Appellant are cancelled, and the Respondents are ordered to be admitted, they cannot get admission, because they would not be able to secure 75% of attendance. It is further submitted that, even if a writ of mandamus is issued, it would be infructuous writ because the medical Council of India would not accept such candidate who is likely to secure less than 75% of attendance compulsorily required by Regulation 12. Such submission cannot

deter us from exercising our extra ordinary jurisdiction under Article 226 of the Constitution, firstly, we have already said that the Appellants have been in College for about 27 months, that means almost whole year of the academic career is at the disposal of any selected candidates are there will be no difficulties in making up 75% of the attendance. Secondly, it is absurdity to suggest that, writ of mandamus issued by This Court would become infructuous as in would be impossible to implement There cannot be any right without a remedy, when there is a right there is a remedy. "UBI JUS, IBI REMEDIUM" Once a writ of mandamus is issued by This Court, it should be implemented even the hell should bar the way.

25. In this connection, Mr. Nilamani referred us to the decision of the Supreme Court rendered in T.M.A. Pai Foundation and Others Vs. State of Karnataka and Another, The aforesaid ruling is relating to the payment of capitation fees, and whether the Institution is minority educational Institution or not, and in that sense when the college admitted to the extent of 50% of the capacity from amongst the minority communities, the Supreme Court did not disturb the admission. The facts of this case is not applicable in the case at hand, because in the present case, we are concerned with the nomination of students. Admission is preceded by nomination and if nomination is illegal, it is automatic that admission is illegal.

26. Mr. Nilamani also referred to the decision of the Supreme Court rendered in K.Sujatha Vs . Marathwada University and Others . In that case, the Appellant was admitted to the course in the discretionary quota. Although the Appellant qualified in the examination in two attempts and not eligible for admission, the Supreme Court did not disturb the admission of the Appellant, because he was admitted to the course in discretionary quota of the management. This was not the situation in the case at hand. He also referred to the decision of the Supreme Court rendered in State of Uttar Pradesh and others Vs. Dr. Anupam Gupta, etc., In that case, the Apex Court had deprecated the direction to admit the candidate in the midstream as it would disturb the courses already imparted. This situation does not arise in the case at hand, as the Classes started only on 17th December, 1998.

27. Lastly, it is contended by counsel of all the Appellants that, This Court may shower mercy on the Appellants because if the Appellants are dislodged at this stage they will be no where to go, and the interest of justice so demand that their nomination should not be disturbed since they have already admitted in various Colleges and attending Classes for about 27 months. We are not at all persuaded by this submission. This is a case where the rule of law is pitted against the rule of thumb, and the public interest is pitted against the private interest. Public interest would not be allowed to be jeopardised at the cost of private interest. Justice cannot be one sided. Justice to one group at the cost of injustice to Anr. group is a perpetuation of injustice. Allowing such illegal nomination to be continued would amount to a perpetuation of illegality. At the

same time, mercy cannot be extended to the parties at the cost of justice. This unfortunate circumstances is their own making, and they must accept it with courage. The Appellants got their nomination from the back door in rampant violation of the rules and they must go back from the door. The Appellant secured their nomination by playing fraud on the public, and such nomination is a nullity.

28. Having said so, we are tempted to quote the observation made by the Apex Court in *Gurdeep Singh Vs. State of Jammu and Kashmir and others*, This is what the Apex Court had said in Para 12 of its judgment.

12 What remains to be considered is whether the selection of Respondent 6 should be quashed. We are afraid, unduly lenient view of the courts on the basis of human consideration in regard to such excesses on the part of the authorities, has served to create an impression that even where an advantage is secured by stratagem and trickery, it could be rationalised in courts of law. Courts do and should take human and sympathetic view of matters. That is very essence of justice. But considerations of judicial policy also dictate that a tendency of this kind where advantage gained by illegal means is permitted to be retained will jeopardise the purity of selection process itself, engender cynical disrespect towards the judicial process and in the last analysis embolden errant authorities and candidates into a sense of complacency and impunity that gains achieved by such wrongs could be retained by an appeal to the sympathy of the Court. Such instances reduce the jurisdiction and discretion of courts into private benevolence. This tendency should be stopped. The selection of Respondent 6 in the category was, on the material placed before us, thoroughly unjustified. He was not eligible in the sports category. He would not be entitled on the basis of his marks, to a seat in general merit category Attribution of eligibility long after the selection process was over, in our opinion, is misuse of power. While we have sympathy for the predicament of Respondent 6, it should not lose sight of the fact that the situation is the result of his own making. We think in order to uphold the purity of academic process, we should quash the selection and admission of Respondent 6. We do so, though, however reluctantly.

29. The argument of these bunch of appeals was concluded on 23.2.99. But the Government of Manipur has also filed appeal on 24.2.99 registered as Writ Appeal No. 28/99. A bare perusal of the appeal, what has been contended as referred to in our decision is being repeated in this writ appeal. It is contended inter alia that, if the nomination of the Appellants are cancelled at this stage, it will cause harm to their medical education without any benefit and gain to the writ Petitioners/Respondents, as at this belated stage, there would be no scope for fresh admission of the other candidates. This contention has already been answered.

30. We are told at the bar that, despite the direction given by the learned Single Judge, cancelling the nomination of 7(seven) Appellants, and they are being allowed to continue in the Colleges by the College authority. It must be grasped

that no authority is above the law, however, so high he may be. If anybody dares to do so, would do at their own risk.

In view of what has been stated above, there is no merit in these appeals, and they are accordingly dismissed.