
(1999) 03 SHI CK 0003
In the High Court Of Himachal Pradesh
Case No : CWP No. 57 of 1999

Sweta Sharma and Another	Vs	APPELLANT
State of H.P. and Others		RESPONDENT

Date of Decision : 08-03-1999

Acts Referred:

Citation : (1999) 2 ShimLC 342

Hon'ble Judges : D. Raju, C.J.; L.S. Panta, J

Bench : Division Bench

Advocate : K.D. Sood, for the Appellant; Sanjay, Karol, General for Respondents 1 and 2 and S.S. Mittal, for Respondent 4, for the Respondent

Final Decision : Dismissed

Judgement

D. Raju, C.J.—The above writ petition has been filed seeking for the following relief:

(i) Direct the Respondents to fill the 50 seats of the First Year MBBS Course 1998-99 in the Dr. Rajendra Prashad Government Medical College, Kangra as advertised and admit the Petitioners on the basis of merit list published on the basis of Entrance Examination conducted by the HP. University on 28.6.1998.

The Petitioners claim that pursuant to the prospectus issued inviting applications for conducting of combined Entrance Test by the University of Himachal Pradesh for admission to the MBBS/BDS Course in Indira Gandhi Medical College, Shimla, Dr. Rajendra Prashad Government Medical College, Kangra and Himachal Pradesh Government Dental College, Shimla, the Petitioners among others participated in the examination held for the Session 1998-99 and that their names figured in the merit list, Petitioner No. 1 having secured 219 out of 300 marks and Petitioner No. 2 having secured 217 out of 300 marks. The grievance of the Petitioners is that the Respondents are not admitting any candidates for the session in question in Dr. Rajendra Prashad Government Medical College, Kangra which, it is also otherwise stated to be popularly known as Medical College, Tanda. As could

be seen from the particulars disclosed in the writ petition filed in this case itself, for the session in question there was no sanction as on the date of prospectus or the date of declaration results for the course from the authorities concerned like the Medical Council of India and the Union of India and reliance is placed on a news item published in the newspaper with 14th January, 1999 as a date attributable to one Rakesh Lohumi/Tribune news service that the Central Government "today granted permission" for opening a Medical College at Tanda, clearing the decks for its recognition which had been hanging fire for the past over two years. Obviously, though the Central Government was stated to have cleared the decks, it is not known as to whether formal orders of such sanction has been passed and officially communicated and whether the Government has made all the required arrangements to fulfil the stipulated and prescribed norms and facilities and is keen on commencing the course for which sanction has been given in the said academic session itself or they would make all the necessary preparations and provisions in terms of the requirements to be satisfied for commencing and running a Medical College or the course in such College in any subsequent year. Be that as it may the grievance of the Petitioners is mainly based on the ground that the Combined Entrance Test having been conducted proposing to admit the students for this College also and despite the sanction having been stated to have been accorded by the Competent authorities including the Government of India, it is not given to the Respondents not to commence the course for the session/the year in question and their conduct in not commencing the same by admitting the students for the institution under consideration is arbitrary and unreasonable and the Respondents are estopped from going back on the representation made by them while holding the Combined Entrance Examination. It is also contended that the Petitioners had legitimate expectation and, therefore, this Court should intervene to compel the Respondents to commence the course in the Medical College for the session in question and consequently direct the Respondents to admit the Petitioners and others to the said course.

2. Heard Mr. K.D. Sood, learned Counsel appearing for the Petitioners. We have carefully considered the submissions of the learned Counsel, reiterated at the time of the arguments on the basis of the above claims made in the affidavit filed in support of the writ petition. In our view, there are no merits whatsoever in the said claim. Obtaining of sanction for establishing a College, and administering the same or actually commencing a College by making it fully and effectively functional or commencing a course in such a College already functioning and as to the date from which such College or course must be effectively made functional are all matters of policy within the exclusive provenance of the Respondent-State and it would depend upon ever so many other requirements and considerations to be satisfied and it is not merely by grant or accord of sanction by the Competent authority alone that would entitle the Petitioners to claim or assert their rights to compel the Respondents to commence a College or commence a course in the College in any particular session and admit them to

such courses. The permission and sanction, at best is only a step in aid of such establishment or commencement. The claim of the Petitioners is also based on merely some news item and as to the credence to be placed upon it, apart, the terms and conditions subject to which it would have been granted and compliance with and fulfilment of those conditions, if any, have to be seen through, and the Petitioners cannot be allowed to claim or assert for any of their rights on such news item alone and seek for any relief in this writ petition, at this stage. The choice in this regard as also to the discretion should vest with the Respondents, having regard to the financial and other commitments and obligations involved in the matter.

We are unable to appreciate or agree with the claim sought to be projected for the Petitioners on the basis of any principle of estoppel or on the basis of any claim of legitimate expectations. The representation, if any, in the prospectus could be in respect of seats lawfully available for being filled up then and not of those to arise later and long after. In our view, there are absolutely no factual or legal basis for either basing or asserting any such claim on the facts and circumstances of the case. The Petitioners cannot claim to have any fundamental rights or legally protected rights in respect of a study of the nature and bald assertions in this regard cannot be a basis for countenancing their claims in this writ petition. It is not the case of the Petitioners that the seats which were available as on the date of the declaration of the results have not been filled up, nor is it the case of the Petitioners that anybody else alone has been preferred for admission against the newly sanctioned seats and that the Petitioners alone have been discriminated and denied such admission. In the absence of any such grievance, there is hardly any scope for this Court to interfere in the matter.

3. For all the reasons stated above, the writ petition fails and shall stand dismissed. It is still open to the Petitioners, if they so desire to approach the Respondent-State and its authorities seeking for appropriate relief, and the dismissal of this writ petition shall not stand in the way of the Respondents to decide to commence the courses, if otherwise permissible in law and without violating the criteria, conditions and regulations to be adhered to and complied with in this regard.

CMP No. 123/99

In view of the dismissal of the writ petition, this application is also dismissed.