
(1986) 03 AHC CK 0033
In the Allahabad High Court
Case No : Writ Petition No. 18926 of 1985

Vinod Kumar and Others

APPELLANT

Vs

Principal, G.S.V.M. Medical College, Kanpur

RESPONDENT

Date of Decision : 03-03-1986

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1987 All 124

Hon'ble Judges : H.N. Seth, Acting C.J.; B.L. Loomba, J

Bench : Division Bench

Advocate : M. Katju, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

B.L. Loomba, J.—The petitioner 21 in number are students of G.S.V.M. Medical College, Kanpur. They were admitted in M.B.B.S. course in the year 1982, they appeared in the first professional examination in October, 1984 but unfortunately they failed "in some papers and had to appear in the supplementary examination held six months later, that is, in April 1985 and were successful. Since June, 1985 they have been attending the second professional course classes along with their batchmates who had passed the first professional examination held in October, 1984. The petitioners' case is that the second professional examination is likely to be held in June, 1986 and that the petitioners may also be permitted to appear in this examination along with their batchmates. The petitioners are said to have approached the Principal of the said Medical College requesting him to arrange special classes to enable the petitioners to complete the requisite number of 75% attendance of the total number of teaching classes so as to become qualified for appearing at the said examination. Their grievance is that the Principal has refused to accede to their request while similar request was accepted by the Principal of the King George Medical College Lucknow. Copy of the order of the Principal of the Lucknow Medical College has been appended as Annexure to the writ petition. The writ of mandamus has been sought against the

Principal of Medical College, Kanpur directing him to arrange special classes for the petitioners and to permit them to appear in the second professional examination along with their original batchmates.

2. Writ Petition has been contested by the respondents and in the counter-affidavit filed on their behalf it has been stated that according to the recommendations of the Medical Council of India the duration of the M.B.B.S. course is of 4½ years, divided in three professional examinations to be conducted by the University at an interval of 1½ years. And after passing the first professional examination a student has to undergo three years training in the para-clinical and clinical subjects. It has also been stated that in pursuance of the recommendations of the Medical Council of India the ordinance has been framed by the Kanpur University expressly laying down that the second professional examination shall be held at the end of the instructions in the para-clinical subjects which will be imparted from 18 months after passing the first professional examination collaterally with the instructions in the clinical subjects ordinarily in the month of June or July on the completion of the period of 18 months. It is also mentioned that 75% attendance in theory and 80% attendance in demonstrations and practical is necessary for making a candidate eligible to appear at the professional examination. It has as such been pleaded that in view of the statutory requirement it is not open to the Principal to permit the petitioners to appear at the second professional examination proposed to be held in the month of June, 1986, and that the petitioners can lawfully be eligible to appear at the second professional examination which will be held sometime in December, 1986 because it is fully in November, 1986 that they shall have completed the duration of instructions for the period of 18 months after passing the first professional examination.

3. In the rejoinder affidavit it has been contended on behalf of the petitioners that the only statutory requirement for eligibility for appearance at the second professional examination is that of attendance of the prescribed minimum number of classes and practicals while there is no fixed term of instructions of 18 months. This plea raised on behalf of the petitioners is obviously untenable in the face of the recommendations on the subject of the Indian Medical Council reproduced in the counter-affidavit filed on behalf of the respondent fortified by the statutory provision in the form of statutes of the Kanpur University, relevant portion whereof is extracted below.

"The second professional examination shall be held at the end of the instruction in the para-clinical subjects which will be imparted from 18 months after passing the First Professional examination collaterally with the instruction in the clinical subjects ordinarily in the month of June/July or on completion of the period of 18 months."

4. The learned counsel for the petitioners has strenuously argued that a liberal interpretation of the second condition namely that of the duration of the instruction for eligibility for appearance at the examination merits to be placed

because the basic condition should be limited only to the number of the minimum classes to be attended by the students which essentially qualify them to take the required instructions and once the required percentage of classes has been attended the students should be permitted to take the examination irrespective of the duration within which such classes are conducted. The argument raised is that the petitioners having been permitted and continuing to attend the classes along with their original batchmates no useful purpose would be served in insisting upon the second condition of the classes being held within the aforesaid period of 1½ years after the first professional examination which will result in the wastage of the period of six months of the petitioners. According to the learned counsel for the petitioners liberal and indulgent interpretation to such requirements should be given in the modern liberal approach to the Rules of interpretation.

5. We find it difficult to accept the argument advanced on behalf of the petitioners. The statutory provisions have to be interpreted according to the normal and well known rules of interpretation of statutes. To accept the argument of the petitioners' learned counsel is to altogether overlook and eliminate from consideration the provisions relating to the duration of studies intervening the first professional examination and the second professional examination. This is obviously neither possible nor proper for this Court to do. The subject-matter of controversy relates to the field of Medical Education and the two conditions, though interrelated in a way, are surely distinct and separate. Both the conditions have been laid down as statutory conditions in the form of statutes of the University on the basis of the recommendations of the Medical Council of India which is the statutory body entrusted with the task of regulation and maintenance of requisite standards of Medical Education. Courses of studies in a Medical College are conducted in a regulated systematic manner laying down the number of the classes to be taken daily/weekly subject wise involving various teachers, teaching hours, holidays including periodical vacations etc. This has relevance to the relationship with the requirements and regulation of work load connected also with the maintenance of the efficiency and convenience of the teachers and other connected staff. To compel the Medical College Authorities to arrange the special classes would entail obvious practical difficulties besides involving non-compliance of the statutory provision.

6. Learned counsel for the petitioners has failed to satisfy us as to the existence of any legal rights involved in favour of the petitioners; in fact this is not a case where invasion of any legal rights of the petitioners or breach of any statutory requirements is involved; what is sought on the other hand is that the Principal of the Medical College may be directed to act against the statutory requirements which he as important academic and administrative functionary is expected and required to enforce and carry out. No mandamus can be issued to direct the Principal to act against the law which he is bound to obey and carry out. If the petitioners cannot appear at the second professional examination along with their original batchmates it is because of something accountable to them because

they failed in some of the subjects at the first professional examination and as a result could not attend the classes along with their batchmates from the very beginning of the course of studies for the second professional examination.

7. We are satisfied on the perusal of the affidavit exchanged between the parties that the case of the King George Medical College, Lucknow referred to in the writ petition has no applicability on facts to the present case and as such that case extends no help to the petitioners' matter.

8. In the above, the petitioners have failed to establish any case justifying on law or facts the issue of the Writ of Mandamus prayed for. The petition fails and is dismissed, however without any order as to costs.