

(2007) 01 RAJ CK 0089
Rajasthan High Court (Jaipur Bench)
Case No: None

Pramod Jain (Dr.)

APPELLANT

Vs

State of Rajasthan and
Others

RESPONDENT

Date of Decision: Jan. 25, 2007

Citation: (2007) 3 RLW 2214

Hon'ble Judges: Ashok Parihar, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Ashok Parihar, J.

Post Graduate course in Dental Surgery was first time started in the State of Rajasthan from the year 2006-2007. Initially some guidelines in regard to admission to the MDS Course were issued by the State Government, however, the guidelines so issued vide notification dated 29.5.2006 came to be challenged before this Court. As per the guidelines the admission to the MDS Course was to be made only on the basis of interview and a prayer was made that as per judgment of Hon'ble Supreme Court in the case of [Harish Verma and Others Vs. Ajay Srivastava and Another](#), there ought to have been an entrance examination for admission to the MDS Course. Though the MDS Course had been started for the Sessions 2006- 2007, however, necessary amendments were not made in the Ordinance of the University in regard to the above Post-Graduate Course in Dental Surgery. As such, the criteria for admission also could not be laid down by the University in the Ordinance.

2. Taking note of the above facts, this Court, while allowing the writ petition filed by Dr. Mukesh Pal Singh and Ors. bearing SB Civil Writ Petition No. 4371/2006, vide its judgment dated 7.6.2006 reported in 2006(3) WLC page 726 set aside the notification dated 29.5.2006 and directed the University of Rajasthan to conduct entrance test for PG Course in Dentistry in accordance with the procedure laid down in the Ordinance 278-E and the University was further directed to undertake entire

formalities within the time frame as fixed by the Hon"ble Supreme Court including the entrance test and the counseling.

3. As per directions of this Court as referred above, fresh guidelines were issued vide notification dated 9.6.2006 in regard to Pre PG Dental Examination 2006. In the above notification it had specifically been mentioned that the details of eligibility, criteria, syllabus of examination, number of available seats etc. will be available on the Web-site of the University from 11.6.2006. The Instruction Booklet for the Pre PG Dental Examination 2006 and also been issued accordingly. In the Instruction Booklet, it has been clearly mentioned that all candidates seeking admission to MDS Course should have secured at least 50% marks (40% in case of natural born SC/ST and OBC) at the Pre-PG Dental Examination 2006. The examination was held on 26.6.2006. The result was also declared on the same day. As per the Instruction Booklet the counselling was to be made on 28.6.2006 and the same was held accordingly. Having failed to secure the minimum requisite marks in the Pre PG Dental Examination 2006, the petitioner has filed the present writ petition on 28.6.2006 challenging the validity of the entire examination itself. This Court vide interim order dated 28.6.2006 directed the respondents to allow the petitioner in the counseling as in-service candidate in Pre-PG Dental MDS Course and consequential admission was also to be made provisionally subject to decision of the writ petition.

4. Mr. Maloo, learned Counsel for the petitioner has submitted that there is no provision in regard to fixing cut-off marks either in the University Ordinance nor the same has been provided by the Dental Council of India for admission to the Post Graduate Courses in Dentistry. It has also been submitted that providing 10% different of cut-off marks among general candidates and the reserved category candidates is much on the higher side. Mr. Maloo has also challenged the negative marking in the present examination.

5. Learned Counsel for the respondents, on the other hand, has submitted that the entire Pre PG Dental Examination 2006 has been conducted strictly as per directions of the Supreme Court as also this Court.

6. Having considered submissions of counsel for the parties, I have carefully gone through the material on record, the relevant provisions of the Ordinance as also the judgments cited at the bar.

7. As has already been referred above, the PG Examination in Dentistry had been started only from the year 2006-2007. Though the degree is to be awarded by the University of Rajasthan, however, the corresponding amendment has not been made in the University Ordinance in regard to PG Course in Dentistry. Under such circumstances, this Court in the case of Dr. Mukesh Pal Singh (supra) had directed the University to hold the examination as per provisions of Ordinance 278-E. The criteria for admission has further to be fixed as per regulations made by Medical

Council of India for admission to the courses as per Ordinance 278-E. The Supreme Court in the case of Harish Verma and others (supra) has categorically held that the guidelines issued by the MCI for prescribing cut-off marks in binding on the University as also the State Government. A reference has been made to the regulations of Dental Council of India which only provides for admission to PG Course in Dentistry by way of selection by the Selection Committee including Senior Teachers, however, in view of the judgment of the Supreme Court in the case of Harish Verma and others (supra) wherein the Supreme court has held that in such Post-Graduate Courses, the admission can only be made through entrance examination. That apart, the criteria for selection at the time of admission at the best should be left to the experts. Time and again, the Supreme Court has held that there should be no compromise so far as the admission to the PG Courses in medical sciences are concerned. Under the circumstances, the criteria fixed by the University in the present matter cannot be held to be unreasonable for admission to the Post Graduate Dental Course also. Admittedly, the petitioner belongs to the general category and failed to secure 50% marks as notified in the Instruction Booklet issued for the present examination was not entitled for admission to the MDS Course. That part, the petitioner fully knowing the conditions duly notified in the notifications dated 9.6.2006 as also Instructions Booklet for the Pre PG Dental Examination 2006 having appeared in the examination, now cannot be allowed to challenge the conditions mentioned therein after failing to secure the minimum requisite marks.

8. Having considered entire facts and circumstances, no case for any interference of this Court under writ jurisdiction is made out.

9. The writ petition is dismissed accordingly as having no merits.