

(1994) 02 SC CK 0123

Supreme Court of India

Case No: Civil Appeal No. 1200 Of 1994

Dental Council of India

APPELLANT

Vs

Harpreet Kaur Bal and Others

RESPONDENT

**Date of Decision:** Feb. 14, 1994

**Citation:** (1995) 1 SCC 309 Supp

**Hon'ble Judges:** A. M. Ahmadii, C.J; S. Mohan, J

**Bench:** Division Bench

**Final Decision:** Disposed Of

### Judgement

@JUDGMENTTAG-ORDER

1. Heard Shri Kailash Vasdev, learned counsel for the appellant: Shri Harish N. Salve, learned Senior Counsel for some of the respondents and Shri Ranjit Kurnar, learned counsel for the Kurukshetra University Respondent 61. Special leave granted.

2. On the writ petition of the respondents-students, the High court of Punjab and Haryana passed an order, the operative part of which provides : "We, therefore, partly allow this writ petition and direct the Kurukshetra University to proceed to hold 1 st professional examination at the risk and responsibility of the students as per the relevant provisions of their regulations etc. We dismiss the writ petition insofar as direction to the University to grant affiliation to the College for the academic year 1992-93 is concerned. Dasti."

3. We are afraid, this order both in terms of judicial approach to a question of this kind and the conception of the reliefs permissible in a petition under Article 226 are difficult to sustain. This kind of judicial sympathy we have no doubt that it is wholly misplaced creates more problems than it, apparently, seems to solve. The institution was not a recognised one. No question of the University being directed to hold professional examinations at the risk and responsibility of the students can, at all, be conceived when it is admitted that the institution, viz., "B.R.S. Institute of Medical Sciences (Dental College)" was not a recognised institution. It is stated that at the

relevant time when the admissions were made not only recognition, but even the affiliation from the Kurukshetra University had been granted.

4. There are many pronouncements of this court cautioning against exercise of jurisdiction characterised more by benevolence than on settled legal principles. A relief must be such as could be considered permissible in law and worked out by the application of legally recognised principles. The decision must have legitimacy of legal reasoning and should not incur the criticism of lacking objectivity of purpose and rational and legal justification. Where an educational institution embarks upon granting admissions without the requisite affiliation and recognition and the students join the institution with their eyes wide open as to the lack of legitimacy in the admission, it would be preposterous to direct the University to hold examinations for the benefit of such students. We cannot sufficiently deplore this attitude and approach. The High court has, by its order, simply bolstered the hopes and aspirations of these students without any means of gratifying these expectations in a manner known to law. We have, therefore, no hesitation in setting aside the order under appeal as totally unjustified.

5. Instead of the kind of order that the High court has persuaded itself to make, it should, perhaps, have directed the Union of India to forward the application for recognition stated to have been submitted sometime in 1993 by the institution to the Dental council of India and, in turn, directed the Dental Council of India to consider that application and decide within a time-frame whether it would accord the recognition or not. These were the only permissible reliefs grantable in the case.

6. We, accordingly, allow this appeal and set aside the order of the High Court under appeal. However, we direct the Government of India to forward the application submitted to it by the "B.R.S. Institute of Medical Sciences (Dental College)", Village Kot Balla, District Ambala, Haryana, Respondent 63 in this appeal, to the Dental council of India within a period of four weeks from today. A copy of this order shall be sent by the Registry within a week from today to the secretary, Ministry of Health and Family Welfare, Department of Health, Government of India for compliance. The Dental council of India shall consider that application for grant of recognition within four months from the date of receipt of the said application and take and communicate an appropriate decision to the institution whether the council considers it appropriate to grant the recognition or not.

7. This order has been made without service of notice on the Union of India. Since the direction to it is merely a formal one to forward the application, we think that service is unnecessary having regard to the limited nature of the obligation imposed by the order. If, however, government of India is aggrieved by the direction, it is open to it to treat this direction as merely tentative and move the court within two weeks from the date of service of this order.

8. The appeal is disposed of accordingly. No costs.