

Pramila Kumari and ors. Vs. State of Bihar and ors.

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Court : Patna

Decided On : Feb-12-1993

Judge : G.C. Bharuka and Aftab Alam, JJ.

Acts : [Constitution of India](#) - Articles 14, 16 and 226

Appeal No. : Civil Writ Jurisdiction Case Nos. 4724 and 7067 of 1992

Appellant : Pramila Kumari and ors.

Respondent : State of Bihar and ors.

Advocate for Def. : Ajit Kumar and Ramanuj Pandey, Ram Balak Mahto, A.G., P.K. Sahi, G.P., S.N. Roy, S.C.

Advocate for Pet/Ap. : V.N. Shinha and Amarendra Kr. Sinha R.K. Shukla, Adv.

Disposition : Petition allowed

Judgement :

G.C. Bharuka, J.

1. The present writ applications have been filed by the petitioners seeking issuance of a writ of mandamus against the respondents to consider the cases of the petitioners for their admission in 1990-94 session of General Nursing and Midwifery (G.N.M.) training course in the Nalanda Medical College and Hospital

(N.M.C.H.), Patna.

2. The relevant facts may be stated in brief. The Director General, Health Services, Bihar, has published an advertisement in the Daily news-paper inviting applications from the persons intending to undertake 4 years G.N.M. training course for the session 1990-94 on 4-1-90. A copy of the said public notice is enclosed at Annexure-1 to the writ application. The minimum qualification fixed for admission in the said course was '10+2' or Intermediate pass from any University/ Board recognised by either the Central or the

State Government. The admissions were to be taken in the course in question from amongst the merit list prepared on the basis of marks-sheet obtained by the respective candidates in the aforesaid examination, as is evident from memo No. 225 (6) dated 27-2-1986 issued by the Respondent-Director in Chief (Annexure-4 of C.W.J.C. 4724/92).

3. In the present cases the grievance of the petitioners is that though the candidates having lesser marks than the petitioners have been offered admission in the said course but the petitioners have been arbitrarily and mala fide denied the opportunity of opting the said course. They also alleged that in several cases admissions have been taken on the basis of forged marks-sheet filed by some of the candidates.

4. Keeping in view the seriousness of the allegations, we directed the respondent-Superintendent, Nalanda Medical College and Hospital to produce all the relevant records relating to the admission in the course in question including Marks-sheet submitted by the respective candidates. The Secretary, Bihar Intermediate Council was also made a party respondent. Thereafter, under the orders of the Court, the respondent-Superintendent handed over all the marks-sheet to the Secretary of the Intermediate Council. Some of the marks-sheet related to the examinations held by other Universities/Boards, which were also handed over for verification to those respective bodies. But the learned counsel appearing for the Intermediate Council complained that the Superintendent, N.M.C.H., is not rendering proper assistance in verification of the marks-sheet by providing all necessary documents. Accordingly, at our request, learned Advocate General

undertook to get all the marks-sheet properly verified by the respective Counsel/Board or University and submit a detailed report on affidavit.

5. Now a detailed counter affidavit has been filed by the respondent-Superintendent enclosing various charts and lists. The facts emerging from the said affidavit demonstrates a sordid state of affairs in the matter of admission to the course in question. As a

result of verification, it has transpired that out of 113 candidates admitted to the course, in the 12 cases admissions were obtained by furnishing forged certificates. It also appears that the admissions have been taken to the course in flagrant violation of the reservation policy inasmuch as some of the candidates of Backward Class II and of Extremely Backward Class, who ought to have been admitted on merit under the general category have been given admission in the reserved category and thereby depriving the other candidates of those classes from deriving the advantage of reservation.

6. From the facts and figures disclosed in the said affidavit of the respondent-Superintendent, it also transpires that out of 100 seats available after terminating the admission of persons seeking admission on the basis of forged documents and on some other reasons, now only 98 candidates are under training and thereby two seats are now available in the course. It is also apparent that if the reservation policy is properly enforced then these petitioners may be entitled to get their admission but in that case some of the candidates who have been granted admission under the general category and have already completed their first year course will have to be terminated. But no such order can be passed by us in their absence and particularly keeping in view the fact that they have already completed their course for the first year. Moreover, since the first year course is already over, even if the petitioners before us are deprived of their right of taking admission, we cannot direct the respondents to take their admission in the mid-stream of the course. This aspect of the matter has been considered by the Supreme Court in several cases I may refer only to the case of State of U.P. v. Dr. Anupam Gupta reported in AIR 1992 SC 932 : (1992 AIR SCW 746) wherein it has been held in p. 14 as follows : -

'Considering from this point of view, to maintain excellence the courses have to be commenced on schedule and to be completed within the schedule, so that the students would have full opportunity to study full course to meet their excellence and come at

par excellence. Admission in the midstream would disturb the courses and also works an handicap to the candidates themselves to achieve excellence. Considering from this pragmatic point of view we are of the considered opinion that vacancies of the seats would not be taken as a ground to give admission and direction by the High Court to admit the candidates into those vacant seats cannot be sustained.'

7. Faced with the aforesaid situation, the learned Advocate General after seeking instruction from the respondent-Superintendent, has very fairly agreed that these petitioners if they, in law, considering the merit list and the reservation policy are entitled for their admission to the courses desired by them, then subject to fulfilling of all the requisite qualifications and conditions admissions will be granted to them in the session, which is to commence currently. In our(opinion, the stand is quite fair and it will mitigate the injustice committed to the petitioners and will be in consonance with both the equity and law. Directions are issued in terms of the said suggestions made by the learned Advocate General.

8. Before parting with the judgment, we have to deal with another aspect, which has arisen in this case. Now it has stood substantiated that admission to the technical courses are sought and granted on the basis of forged/ fake documents and mark-sheets. This situation cannot be allowed to continue. It is high time when the concerned authorities should rise to the occasion and take all stern measures to bring the culprits to book without any delay. The educational system cannot be allowed to pollute any further which is already in the process of touching the lowest level. If a civilised society has to survive then the measures have to be taken to maintain the excellence of education. Accordingly, we direct the respondent-Superintendent to initiate criminal prosecution against all such candidates who had secured admission by filing forged certificates and also against all such persons who were involved in similar nefarious criminal acts.

9. I also feel that the Government should

take appropriate legal and disciplinary action against the authorities and persons including the then Superintendent of N.M.C.H. who had offered admissions in flagrant violation of the reservation policy professed by the Government.

10. The writ applications are allowed to the extent and in terms as indicated above. The petitioners will be entitled to a cost of Rs. 1000/- (Rupees one thousand) in each case which will be payable by the respondent-Superintendent by a crossed bank draft within two weeks from today. The said amount will be recoverable from the officer, who is found to have committed illegalities in the process of admission in question.

Aftab Alam, J.

11. I agree.

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