

Kumar Bhenu Gopal Vs. the Jharkhand Combined Entrance Competitive Examination Board and ors.

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SooperKanoon Citation : sooperkanoon.com/518121

Court : Jharkhand

Decided On : Apr-08-2004

Reported in : AIR2004Jhar110; [2004(3)JCR311(Jhr)]

Judge : P.K. Balasubramanyan, C.J. and; Tapen Sen, J.

Acts : Educational Law; [Constitution of India](#) - Article 226

Appeal No. : L.P.A. No. 8 of 2004

Appellant : Kumar Bhenu Gopal

Respondent : The Jharkhand Combined Entrance Competitive Examination Board and ors.

Advocate for Def. : Saurav Arun, Adv. for Respondent Nos. 1 to 3

Advocate for Pet/Ap. : M.S. Anwar, Sr. Adv.,; Altaf Hussain and; N. Hoda, A

Disposition : Appeal dismissed

Judgement :

ORDER

1. The appellant, who was the petitioner in W.P.C. No. 4589 of 2003 approached this Court complaining that he had been denied admission to the first year

M.B.B.S. course illegally and he has been deprived of the seat justifiably due to him based on the marks obtained by him in the Common Entrance Examinations.

2. On the basis of the duplicate admit card, the petitioner appeared in the examination and according to him, he secured rank No. 25. He thereafter, appeared for Counseling, as invited, but at the Counseling it was found that he did not have the residential certificate for 15 years, as required, and was, therefore, given time to produce such a certificate, that was on 3.9.2003. On his request, an additional day's time was granted to him to produce the certificate and he produced the certificate on 5.9.2003 but no admission slip was given to him that day. Next morning, he found a Newspaper report that an FIR has been lodged against some 16 candidates, who were seeking admissions to the medical courses, for various malpractices and his name was also found to be one among the 16. He was not given admission on that basis and this was illegal. He, therefore, approached this Court for relief.

3. The respondents contended that it was a case of suspected impersonation of the candidate at the entrance examination and sought to support the plea with reference to certain documents. They also pointed out that the FIR has been lodged and prosecution has been initiated against several candidates, including the petitioner. They highlighted the circumstances, which prompted the authority concerned, to suspect foul play. The relevant documents were annexed with the counter affidavit.

4. The learned Single Judge on a perusal of the relevant materials, and we have told, after questioning the petitioner in person, came to the conclusion that it was not a fit case for interference in the context of the offence alleged and the pendency of the prosecution. The learned Single Judge, therefore, refused to interfere at the instance of the petitioner against the denial of admission to him in the M.B.B.S. course. Feeling aggrieved, this appeal is filed.

5. The learned counsel for the appellant tried to convince us that there was no impersonation or anything wrong, done by the appellant while seeking admission to the M.B.B.S. course and this is a fit case where the Court should interfere and set right an injustice done to the appellant. Counsel referred to the various

documents relied on by the parties and tried to argue that there was no tenable charge against the appellant, justifying the denial of admission to him. Learned counsel appearing for the respondents, on the other hand, with reference to the documents pointed out that there were very many circumstances that were suspicious and they lead to an inference that there was impersonation at the Entrance Examination Centre and that the learned Single Judge was justified in not interfering with the decision of the authorities to deny the appellant admission. He particularly emphasized the Annexures to the counter affidavit which according to him, indicated that the charge of impersonation, prima facie, stands established.

6. As observed by the learned Single Judge, it is not for us to decide whether the appellant is guilty of the charges, made against him in the First Information Report. That is a matter for the concerned Court to look into and decide. But, on a prima facie scrutiny of the relevant materials made available in the case, we are not in a position to differ from the conclusion of the learned Single Judge that this is not a fit case for interference by this Court at this stage. So long as this Court is not in a position to positively find that the appellant was not involved in any improper practice or malpractice, it would not be possible for this Court to direct the respondents to admit him in the circumstances of the case. Since, we are not in a position to come to such a conclusion, prima facie, we are satisfied that there is no justification in interfering with the conclusion of the learned Single Judge. We, therefore, decline to interfere. We dismiss this appeal.