

Rakesh Kumar Poddar Vs. the State of Bihar and ors.

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Court : Jharkhand

Decided On : Dec-11-2007

Reported in : 2008(56)BLJR1337; [2008(2)JCR226(Jhr)]

Judge : Narendra Nath Tiwari, J.

Acts : Bihar Indigenous Medicine Education Institution (Regulation and Control) Act, 1981 - Sections 6

Appeal No. : W.P. (C) No. 428 of 2004

Appellant : Rakesh Kumar Poddar

Respondent : The State of Bihar and ors.

Advocate for Def. : S.P. Roy, G.A.

Advocate for Pet/Ap. : Triveni Mishra, Adv.;J.C. to S.C. (Mines)

Disposition : Petition allowed

Judgement :

Narendra Nath Tiwari, J.

1. In this writ petition, the petitioner has prayed for a direction on Respondent No. 2, Secretary-cum-Registrar, Rajkiya Ayurvedic and Unani Chikitsa Adhikay, Bihar, Patna (hereinafter to be referred as 'Adhikay'), to conduct the examination of First

and Second Year DAP of 2001 and First Year DAP Examination of 2002.

2. It has been stated that the petitioner and its members are students of Chhotanagpur Ayurvedic Pharmacy College, Ranchi (hereinafter to be referred as the 'College'). The said College was recognized by Letter No. 274 dated 28th December, 1999 issued by the Respondent No. 2. It has been submitted that the petitioner along with other students had already appeared in First Year DAP Examination of 2001 and they have been declared pass. The petitioner had to appear in Second Year DAP Examination of 2001. Some students were also to appear in First Year DAP Examination of 2002. The petitioner and other students were informed that the examination shall be conducted by the Adhikay from 5th November, 2001. They had deposited the registration fee, examination fee and filled up their forms and took other required step for appearing in the examination, but by Annexure-12, a notice was issued addressing to the Principal of the said College that the examination, which was to commence from 5th November, 2001, has been postponed for unavoidable reason till further order.

3. Grievance of the petitioner is that till date the examination has not been taken up in spite of several requests and representations of the petitioner and other students. The petitioner has learnt that the Principal of the College has also made several requests in the interest of the students, but till date the examination has not been conducted by the said respondents. It has been urged that the fate and future of the students are hanging in balance due to the said apathetic and callous attitude of the respondents.

4. A counter affidavit has been filed on behalf of the Respondent No. 2 contesting the writ petition. In Para 16, it has been stated that the said College is not recognized under the provision of Section 6 of Bihar Indigenous Medicine Education Institution (Regulation and Control) Act, 1981, whereas in Para 15, it has been stated that in the meeting held on 4th August, 2003, the Council decided to withdraw the recognition of all such educational institutions including the petitioner's College granted by past faculty. It is, thus, admitted position that the College in which the petitioner studied was recognized up to 4th August, 2003. On the said ground, it has further been stated that the College is established in the

State of Jharkhand and now the petitioner should pray to the State of Jharkhand/Government of Jharkhand to hold the examination of DAP.

5. Learned Counsel, appearing on behalf of the State of Jharkhand, on the other hand, submitted that the College was recognized by letter dated 28th December, 1999 issued by the Respondent No. 2 (Annexure-6) and as such, the State of Jharkhand/Government of Jharkhand has got no concern with the claim of the petitioner.

6. After hearing learned Counsel for the parties and perusing the documents and materials on record, I find that the College in which the petitioner studied was given temporary recognition by Letter No. 274 dated 28th December, 1999 issued by the Respondent No. 2 (Annexure-6).

In the counter affidavit filed on behalf of the respondents, clear stand has been taken that the Council had decided to withdraw the recognition in the meeting held on 4th August, 2003. The respondents have, thus, admitted that the said College was recognized by them and that the decision was taken to withdraw the recognition in the meeting held on 4th August, 2003. The petitioner and other students have claimed for holding DAP Examination of 2001 and 2002 for which they had already filled up forms and deposited registration fee. The Respondent No. 2 by letter dated 11th October, 2001 (Annexure-12) had informed the Principal of the said College that the Examination of DAP/DUP of 2001, which was to commence from 5th November, 2001, is being postponed due to unavoidable reason till further order, but till date neither the said reason has been disclosed nor the examination has been conducted.

7. From the said stand and from Annexure-12, it is evident that the Respondent No. 2 has admitted the recognition of the College in which the petitioner studied at least till the decision taken on 4th August, 2003. There appears apparent arbitrariness on the part of the respondents. The respondents are not conducting the examination of the candidates of the sessions 2001 and 2002 for the said course. Since it is an admitted fact that the College was recognized by Adhikay, I find substance in the submission made by learned Counsel for the State of Jharkhand that the State of Jharkhand/Government of Jharkhand has no concern

with the claim of the petitioner.

8. For the reasons aforesaid, this writ petition is allowed. The Respondent No. 2 is directed to take all steps to conduct the examinations of First and Second Year DAP of 2001 and First Year DAP of 2002 of the petitioner and other students found eligible for appearing in the said examinations. The Adkhikay shall be entitled to ask for examination fees or other admissible fees and formalities. Entire process must be completed within a period of six months from the date of receipt/production of a copy of this order.

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