

PETITIONER:

DR. AJAY KUMAR AGRAWAL AND ORS. ETC.

Vs.

RESPONDENT:

STATE OF U.P. AND ORS.

DATE OF JUDGMENT 16/11/1990

BENCH:

MISRA, RANGNATH (CJ)

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MISRA, RANGNATH (CJ)

SAHAI, R.M. (J)

CITATION:

1991 AIR 498                      1990 SCR Supl. (3) 184

1991 SCC (1) 636                JT 1991 (1) 168

1990 SCALE (2) 1041

CITATOR INFO :

R                      1992 SC 932 (8)

ACT:

Professional Colleges--Admission to--U. P. State Medical Colleges --Fixing of cut off date as end of December 1990--Contrary to Statute and Rules--Medical post graduate course--Specialised study only most eligible and qualified students to have access.

HEADNOTE:

This group of writ petitions is an off-shoot of the directions given by this Court on 31.8.1990. These petitions relate to admission in the Post Graduate Medical Courses in the seven Medical Colleges of Uttar Pradesh. State. This Court by its judgment in 1987 (4) SCC p 459 has directed that selection examination as already decided in Dr. Dinesh Kumar's case (1984) 3 SCC 654 shall be conducted by the All India Institute of Medical Sciences, New Delhi, to provide an integrated base for medical education for post graduate studies & M.B.B.S. stage on national basis. Reservation of quota on all India basis was considered necessary. In case of Post Graduate Studies 25% was left to be done by A.I.I.M.S. vide selection, and 75% was left to the States to make their selections but the consideration which should weigh for the purpose of selection were also detailed in some of the judgments. The details of the directions given for post graduate studies selection examination are: (i) the announcement is to be made on October 1 of every year, (ii) the applications could be made within full four weeks, (iii) after scrutinizing applications admit cards would be announced, (iv) on 2nd Sunday of January of every year, examination shall be held and the results be announced within four weeks from holding of the examination, (v) admission shall commence two weeks after the declaration of results. The last date for taking admission shall be six weeks from the date of the announcement of the results. The courses of study shall be common in every such institutions and such study shall be provided from 2nd May of every year throughout the country. Notification regarding examination, publication of results, allotment of place of admission, keeping preferences in view, shall be published into successive

issues of one national paper in English and at least two local papers in the language of the States as quickly as possible.

In 1989 the State of Bihar came up in appeal before this court

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challenging the directions of Ranchi Bench of the Patna High Court taking exception to steps taken by the Bihar Government contrary to the aforesaid directions. So in State of Bihar v. Dr. Sanjay Kumar Sinha, [1989] 4 J.T. 360 in para 6 it was stated by this Court. That time schedule had not been strictly followed and all institutions running post graduate studies are bound by this court's order and shall comply with the time frame strictly. There would be no lapse in this regard in future.

Soon after an application from the State of Uttar Pradesh came for disposal for not complying with the directions made by this Court. Both the State of Uttar Pradesh and the seven Medical Colleges run by it are bound to implement the scheme given in the main judgment as modified from time to time. In 1987 and 1989, directions were given in relation to two things (1) Uniform pattern of the Courses and the time schedule for selection examination and admission of students in the Post Graduate Studies and Commencement of sessional teaching. In 1987, in this Court's Order a clear five-year period was allowed to evolve the system of uniformity, time-frame for every purpose like admission, teaching etc. from the year 1988. Two distinct directions were made, the requirement of change of regulations, and rules and the procedural aspects in operating the scheme (2) for regulating admissions, commencement of teaching. Thus there is no scope for confusion.

Uttar Pradesh State case is a clear case of either wilful default and total callous indifference to binding and lawful orders made by this court, i.e. to initiate action at appropriate time for admission and commencement of examination for the year 1990 with effect from 2nd May 1990 for 75% seats entrance examination which was to be conducted by Lucknow University. So from every possible angle the Uttar Pradesh Government and Principles of each of the seven Medical Colleges have done nothing short of contumacy. It is therefore necessary that exemplary costs against the Uttar Pradesh State and the public authorities has been imposed instead of initiating contempt. These payment are to be made to the Registry by 30th September 1990 as per compliance of the orders of this Court.

The Uttar Pradesh Government and six Medical Colleges except that of Meerut were totally indifferent to the directions of this court in the matter of selecting candidates for 75% Post Graduate seats within the state fixed the cut-off date for completion of internship as 31.12.1990. It notified the examination for 27.5.1990 instead of 2.5.1990. By this Court Order on 31.8.1990 it was not open to the Uttar Pradesh Government to hold the examination on 27.5.1990 when the

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session for the year was to start on 2.5.1990. No reference was made to the fixation of 31.12.1990 as the cut-off date for the completion of housemanship. The State of Uttar Pradesh was directed to hold the examination as contemplated to be held on 27.5.1990 through Lucknow University by a particular date and called upon the Medical Colleges to complete admissions for the year 1990-91 session by the date indicated in the order and to deem the commencement of session to have been from 2.5.90 by providing additional

teaching facilities to cover up the courses.

In holding the examination the State Government lost sight of directions given in Bihar matter as to the cut-off date not to beyond the commencement of the session. Thus admitted candidates out of which some were fully qualified, while others had yet to complete their internship.

While delivering the Order, the Court,

HELD: This being specialised study in the Medical Faculty the most eligible qualified students should have access to the courses for the ultimate social good. [193A]

It is in general interest that the 50% cut-off base as has been adopted should be sustained. [193E]

The action of the State of Uttar Pradesh in fixing the cut-off date as the end of December 1990 and allowing the candidates undergoing internship to take the selection examination as also get admitted to the Post Graduate courses is-contrary to the scheme of the Indian Medical Council Act and the regulations made there under. [193G]

The prevalent arrangement in the State of Uttar Pradesh can only be classified as another indisciplined action. [193H]

Specialisation is the main basis of Post Graduate study. Hereafter no-one shall be admitted without complying with the requirements of the Act, the Rules and the Regulations, and no State Government or authority running a Medical College would be permitted to avoid compliance of the Law..[194B; F-G]

JUDGMENT: