

PETITIONER:
DR. DINESH KUMAR AND ORS

Vs.

RESPONDENT:
MOTI LAL NEHRU MEDICAL COLLEGE ALLAHABAD AND ORS.

DATE OF JUDGMENT 31/08/1990

BENCH:
MISRA RANGNATH
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MISRA RANGNATH
KULDIP SINGH (J)

CITATION:
1990 AIR 2030 1990 SCR Supl. (1) 135
1990 SCC (4) 627 JT 1990 (3) 707
1990 SCALE (2) 454

ACT:
Professional Colleges--Admission to post-graduate medical courses--Directions regarding--Meticulous compliance emphasised--Future default to be seriously viewed and drastically dealt with.

HEADNOTE:

In Dr. Pradeep Jain v. Union of India, [1984] 3 SCR 942 the Court had laid down a scheme of admission to medical colleges in graduate and post-graduate courses. By its order dated September 1987 in a miscellaneous petition the Court made certain specific directions for the sake of bringing about uniformity in post-graduate medical teaching and allowed a five year period upto 1992 for doing so. In 6 of the said order it also fixed a uniform schedule for inviting applications for holding the selection examination, declaration of the result, and admission of students to the post-graduate courses. 11 was laid down therein that the courses of study shall commence in every institution throughout the country from May 2 every year. The said time frame was intended to be brought into force from the year 1988, The Union of India, the Medical Council of India, the State Governments, Universities, medical institutions and all other authorities involved were required to give full effect to the orders and directions. copy of the order was communicated forthwith to the Chief Secretary every State and Union Territory for compliance.

In State of Bihar v. San jay Kumar, AIR 1990 SC 749 dealing with the lapse on the part of the State of Bihar in the matter of compliance with the directions of 1987 the Court had expressed the hope and trust that everyone concerned would comply with the time frame strictly in future and held out a serious threat of punishment against the defaulting authorities.

In the instant interlocutory application the respondents sought grant of time to the State of Uttar Pradesh for implementing the reader dated September 25, 1987 and commence the session for post-graduate education from 2nd May, 1990 in all the seven medical colleges run by

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it, and to hold the competitive examination for admitting

the postgraduate students for the year 1990 through the University of Lucknow. Their stand was that there was scope for confusion relating to the directions and non-compliance was relatable to a bona fide mistake.

Disposing of the application, the Court,

HELD: 1. The directions of the Court are not intended to be brushed aside and overlooked or ignored. Meticulous compliance is the only way to respond to them. [141G]

2.1 In the instant case, two distinct sets of directions were made by the Court---one in regard to requirement of change of the regulations and rules and the procedural aspects of the scheme, and the other for regulating admission and commencement of teaching. There was no scope for confusion relating to them. [140C-D]

2.2 It was the obligation of the State of Uttar Pradesh in terms of the orders of 1987 and 1989 to initiate action for admission in appropriate time so as to allow the commencement of the course for the year 1990 with effect from May 2, 1990. The respondents' stand that the entrance examination for the remaining seats (besides 25% controlled by the AllMS) was to be conducted by the University of Lucknow on 27th May, 1990 itself was contrary to the scheme. [140E-F]

2.3 Where the direction is clear and arising out of default of compliance, a further direction is made clarifying the position and warning defaulting parties of serious consequences, there was no scope for any justification for continued default. In failing to take notice of the Court's directions the State Government and its officers have exhibited a conduct of non-cooperation and callousness. In fact, their performance was nothing short of contumacy. It is but appropriate, therefore, to impose exemplary costs against the State of Uttar Pradesh as also the Principal of each of the seven medical colleges. [140D; G-H]

The State of U.P. shall pay costs of Rs.20,000 while each of the Principals of the seven medical colleges shall pay Rs.500 by way of the costs which shall be recovered personally from their salary, and they would not be entitled to reimbursement of the same from the State exchequer. [141A]

3. The State of U.P. to hold the selection examination stipulated by it for May 27, 1990, by 30th of September, 1990 and the University

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of Lucknow is authorised to conduct it. The result of the examination should be published within one week, that is, by 8th of October, 1990 and admissions should be completed on or before 26th of October 1990 and classes shall commence on 1st of November, 1990. The classes shall be deemed to have commenced from 2nd May, 1990, and each of the medical colleges shall undertake to provide additional teaching to compensate the students for the days lost. [141D-E]

4. A warning is administered to everyone associated with the scheme for implementing the directions contained in the main judgment and the subsequent orders that a future default by anyone in any part of the country shall be seriously viewed and drastically dealt with. [141F]

JUDGMENT:

ORIGINAL JURISDICTION: I.A. No. 4 of 1990.

IN

Writ Petition Civil Nos. 348-352 of 1985.

(Under Article 32 of the Constitution of India).

Kapil Sibbal, Additional Solicitor General, Madan Lokur, Ms. Shobha Dikshit, Gopal Subramaniam and Ms. A. Subhashini (NP) for the appearing parties.

Pramod Swarup for the Intervener and R.K. Mehta (NP) for the State of Orissa.

The Judgment of the Court was delivered by RANGANATH MISRA, J. This is an interlocutory application at the instant of the respondents in the writ petitions where the following directions of this Court have been asked for:

- (i) grant time to State of Uttar Pradesh for implementing judgment and order dated 25th September, 1987 and commence the session for post-graduate education from 2nd May, 1990 in all the seven medical colleges;
- (ii) further permit the State of Uttar Pradesh to hold the competitive examination for admitting the post-graduate students for the year 1990 through the University of Lucknow; and
- (iii) pass such other and further orders as it may deem fit and proper in the interest of justice.

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The main judgment of this Court was delivered on 22nd June, 1984, in Dr. Pradeep Jain etc. etc. v. Union of India & Ors., [1984] 3 SCR 942. By a subsequent order made on 21st July, 1986, this Court directed that the total number of seats for admission to post-graduate courses in each medical college or institution on the basis of All India Entrance Examination shall be limited to 25% and such examination would be held by the All India Institute of Medical Sciences at New Delhi.

By order dated September 25, 1987, this Court made clear directions for the sake of bringing about uniformity in post-graduate medical teaching by requiring post-graduate courses to be structured on a uniform basis; directing that diploma prevailing in Tamil Nadu may not be available for admission to a post-graduate degree course; and ordering that provision in regard to super specialities like MD and other higher degrees need not be court controlled. For doing so this Court allowed a five year period upto 1992 inclusive. With a view to bringing all the medical colleges and institutions subject to the scheme to one common discipline and for admissions beginning from 1993, the Court indicated that there should be only one pattern, namely, the three year degree course without any housemanship. After having done so the Court proceeded to fix uniform schedule for inviting applications for having the selection examination, declaration of the result, admission of students to the post graduate courses and commencement of the sessional teaching. The Court then desired that the discipline regarding holding of the selection examination, admission and commencement of courses should be effective from 1988. In the penultimate paragraph of that order. it was said:

"All necessary directions for post graduate course are now complete. We direct the Union of India, the Medical Council of India, the State Governments, Universities, Medical Institutions and all other authorities that may be involved in implementation of the scheme to give full effect to the orders and directions made by this Court in the proper spirit so that the scheme may become operative as directed. We make it clear that no application for any modification of matters already covered by our order henceforth shall ordinarily be entertained.

A copy of this order shall be communicated forthwith to the Chief Secretary of every State and Union Territory for compliance. A copy of it be also sent to the Director

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Generals, All India' Radio and Doordarshan for appropriate publicity of the order in general interest."

We have ascertained from the Registry that there was due compliance of the direction contained in the last paragraph of the order.

A matter from Bihar forming subject of Civil Appeal No. 3589 of 1989 relating to admission in post graduate medical courses came before this Court. This Civil Appeal was disposed of by this Court on 15.11.89 (AIR 1990 SC 749). Dealing with the lapses on the part of the State of Bihar in the matter of compliance with the directions of 1987 which we have already referred to, this Court said:

"Obviously the relevant directions have not been followed by the examining body for the current year. Similarly, the State of Bihar did not follow the directions of this Court while drawing up its prospectus. If the courses of study are to commence from May 2, the last qualifying date could not have been fixed as May 31, 1989. It has been reiterated before us that several States have not been following the directions. Instead of issuing notice to the States and Union Territories for examining the correctness of the allegations of delay and non-compliance of the directions, we have thought it appropriate to indicate that every one including the States, Union Territories and other authorities running Medical Colleges with Post-Graduate Courses are bound by our order and must strictly follow the time schedule indicated in paragraph 6 of the order. We have not proceeded against the defaulting authorities for violation of this Court's order, hoping that there would be no recurrence of it but we would like to administer a warning to everyone that if it is brought to our notice at any time in future that there has been violation, a serious view of such default shall be taken. We hope and trust that everyone concerned shall comply with the time-frame strictly and there would be no lapse in this regard in future."

This application is grounded upon the default which this Court has been anxious to eliminate and apprehensive of non-compliance of directions wherein a serious threat of punishment had been held out. Both the State of Uttar Pradesh and the seven medical colleges run by it are bound to implement the scheme in the main judgment as modified from time to time and were covered by the orders of 1987 and

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1989. We have read our order of 1987 again and find no scope for the stand of the respondents in the present petition for the position that there was scope for confusion relating to the directions in regard to uniform pattern of the courses and the time scheduled for the various aspects concerned with the selection examination, admission of students into the Post Graduate and commencement of sessional teaching. These were two different matters and while in regard to items referred to in the order of 1987 a clear five year period was allowed to evolve the system of uniformity, time-frame for every purpose like admission and teaching was intended to be brought into force from the year 1988. Two distinct sets of directions were made-one in regard to the requirement of change of the regulations and rules and the procedural aspects in operating the scheme, and the other for regulating admission and commencement of teaching. We reject the plea of the Uttar Pradesh Government and the other respondents that there was scope for confusion and non-compliance with the directions was relatable to a bona fide mistake. This is a clear instance of either wilful default or total callous indifference to binding and lawful

orders made by this Court. Where the direction is clear and arising out of default of compliance, a further direction is made clarifying the position and warning defaulting parties of serious consequences we find no scope for any justification for continued default. More so when the State Government and its officers obliged to give effect to our directions fail to take notice of the same and exhibit a conduct of noncooperation and callousness.

It was the obligation of the State of Uttar Pradesh in terms of the two orders referred to above to initiate action for admission in appropriate time so as to allow the commencement of the course for the year 1990 with effect from May 2, 1990. It is the respondents' stand that for the year 1990 the Entrance Examination for the remaining seats (besides 25% controlled by the AllMS) was to be conducted by the University of Lucknow on 27th May, 1990. This itself was contrary to the scheme and exhibited the same pattern of conduct as appeared in the Bihar case referred to above. In fact on looking at the matter from every possible angle we have not been able to appreciate the submissions of Mrs. Dixit and are of the view that the performance of the State of U.P. and its public authorities is anything short of contumacy. At one stage we were thinking of initiating contempt action against the State and the Principals of the seven medical colleges. Such steps for disciplining the State and the public authorities concerned would result in multiplicity of proceedings; therefore, instead of undertaking such an exercise we have thought it appropriate to impose

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exemplary costs against the State of Uttar Pradesh as also the principal of each of the seven medical colleges. We direct that the State of U.P. shall pay costs of Rs.20,000 (twenty thousand) while each of the Principals shall pay Rs.500 (five hundred) by way of costs. So far as the State of Uttar Pradesh is concerned it has of course to come from the public fund of the State. In regard to the principals of each of the seven medical colleges located at Lucknow, Agra, Kanpur, Jhansi, Meerut, Gorkhpur and Allahabad, the amount of costs shall be recovered personally from their salary and they would not be entitled to reimbursement of the same from the State exchequer. These payments be made with the Registry of this Court by 30th of September, 1990. A copy of this order shall be made available to each of the principals of the seven medical colleges for compliance.

The State of U.P. is directed to hold the Selection Examination stipulated by it for May 27, 1990, by 30th of September, 1990 and the University of Lucknow is authorised to conduct it. The result of the examination should be published within one week, that is, by 8th of October, 1990 and admissions should be completed on or before 26th of October, 1990, and classes shall commence on 1st of November, 1990. The classes shall be deemed to have commenced from 2nd May, 1990, and each of the medical colleges shall undertake to provide additional teaching in course of the session so as to compensate the students for the days lost on the basis that the course begun on 2nd May, 1990. Each of the principals of the medical colleges shall certify to the Registry of this Court by 15th November 1990, that this part of order has been implemented.

Before we part with the case we would like to again administer a warning to everyone associated with the scheme for implementing the directions contained in the main judgment and the subsequent orders that a future default by anyone in any part of the country shall indeed be seriously

viewed and drastically dealt with. This Court has stated in the past and we would like now to reiterate that the directions of this Court are not intended to be brushed aside and overlooked or ignored. Meticulous compliance is the only way to respond to directions of this Court.

P.S.S.

Application disposed of.

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JUDIS