

CASE NO.:
Appeal (civil) 3151 of 2006

PETITIONER:
Dr. Romil B. Shah & Ors

RESPONDENT:
The State of Gujarat & Ors

DATE OF JUDGMENT: 25/07/2006

BENCH:
K.G. Balakrishnan & D.K. Jain

JUDGMENT:
J U D G M E N T
(Arising out of SLP [C] No. 11845 of 2006
AND
CIVIL APPEAL NO. 3152 OF 2006
(Arising out of SLP) No. 11851 of 2006]
K.M. Shah Dental College
Vs.
The State of Gujarat & Ors.

.. Appellant

.. Respondents

K.G. BALAKRISHNAN, J.

Leave granted.

The appellants in these two appeals challenge the judgment of the Division Bench of the High Court of Gujarat. K.M. Shah Dental College, appellant in one of the two appeals herein, is a dental college in the district of Vadodra in Gujarat. They held entrance examination for admission to the post-graduate course (M.D.S. in all branches), for which an advertisement was published by them in two daily newspapers on 17.6.2006. The last date for receipt of applications was 22.6.2006 and thereafter the entrance examination was held on 25.6.2006. Though the counselling had been notified for 27.6.2006, the entire admission process was completed on 26.6.2006 itself. According to the appellant-college, 24 students had sought admission, but only 23 students were selected. One of the students who sat for the entrance examination filed a Special Civil Application before the High Court of Gujarat challenging the process of selection followed by the appellant-college. The learned single Judge directed that the appellant-college shall not fill up the seats of the post-graduate course on the basis of the common entrance examination held on 25.6.2006. The appellant-college challenged the same in a writ appeal and the Division Bench found that the common entrance examination conducted by the appellant-college was not fair and transparent and non-exploitative and held that all the 23 seats will be filled up from the list prepared by the Gujarat University.

We heard the appellant's counsel and counsel for the respondents. The counsel for the appellant-college contended that the entrance examination was held in accordance with law and the appellant-college being a single college was entitled to conduct the entrance examination of its own based on the decision of this Court in P.A. Inamdar vs. State of Maharashtra [2005] 6 SCC 537. Counsel for the respondents

on the other hand contended that even if it is assumed that the appellant-college had the right to conduct the entrance examination, the selection process was illegal and not fair to the students seeking admission. The Division Bench in the impugned judgment has pointed out a series of irregularities in the conduct of the entrance examination. The whole entrance examination was done in a haphazard manner. The entrance examination was advertised on 17.6.2006, the last date for receipt of applications was fixed as 22.6.2006 and the counseling was notified for 27.6.2006 whereas the counseling was held on the previous day. It is also contended that some of the students who sought admission were denied application forms, short date were given for examination in order to prevent the candidates from submitting the applications for examination. It is also alleged that the appellant-college was trying to circumvent the directions contained in various decisions of this Court. The appellant-college, on the other hand, contended that the whole process of selection had to be conducted before 30th June, 2006 and hence short time was given for submitting the applications.

On a close scrutiny of the various dates as also the way in which the entrance examination was conducted, we affirm the view held by the Division Bench that the entrance examination was not fair and transparent. It is high time that the Dental Council of India as well as the Medical Council of India may fix in advance the approximate dates during which the entrance examination is to be held by various colleges. When there is an outer limit fixed for the final admission of the students to various courses, the Dental Council, the Medical Council and the All India Council for Technical Education and such other authorities, which are regulating the admission of students in various colleges, shall be careful in seeing that irregularities are not committed in the matter of admissions. These institutions can fix in advance the dates of advertisement, availability of application forms as also final receipt of application forms. For the purpose of conducting the entrance examination, some approximate dates could be fixed giving sufficient time for the colleges to regulate the admissions. As the students have to compete in more than one examinations to secure admission in one of the colleges, sufficient opportunity should be given to the colleges to fix the date of entrance examination. If this regulatory mechanism is provided for, there can be a final date for admission to each college.

In the present case, though the entrance examination was not held in a proper manner, we do not think that the Division Bench was justified in directing that the entire 23 seats should be filled up from the list prepared by the Gujarat University. At least some of the students, if not all the 23 students who got admission, may be meritorious for getting admission to the post-graduate course. Their merit is to be assessed by a competent authority. The counsel for the respondents submitted that there should be a fresh entrance examination and that all these students should be given a chance to compete. We are not inclined to accept the submission as all other students had appeared for the entrance examination held by the Gujarat University.

In the result, we direct that 24 applicants, who are stated to have applied pursuant to publication of advertisement on 17.6.2006, shall be subjected to a fresh merit-assessment test, to be conducted by the Head of the Department of Dentistry of the All India Institute of Medical

Sciences. All the modalities in this behalf shall be worked out by the HOD in consultation with the appellant-College. The Head of the Department of Dentistry at the AIIMS shall give notice to all the applicants, whose addresses shall be furnished by the College. The test shall be held at the earliest and the appellant-college shall deposit a sum of rupees one lakh as initial expenses for conducting the said test. If any other expenses are required to be incurred, the appellant-college shall pay that amount also. If anyone or more of these 24 students is found meritorious and eligible for admission to the MDS (Dental] by the HOD at the AIIMS, the appellant-college is entitled to fill up the seats out of these 24 students available and if some seats are left over thereafter, the same shall be filled up out of the list prepared by the Gujarat University for admission to the post-graduate dental course. The last date fixed as 30th June, 2006 for admission to the post-graduate courses, shall be waived in the case of these 24 students.

The appeals are disposed of accordingly with no order as to costs.