

IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 25.11.2022

+ **CONT.CAS(C) 799/2021**

CHANDANI JAGTAP AND ORS

..... Petitioners

versus

SHRI B CHANDRASHEKHAR AND ANR.

..... Respondents

AND

+ **CONT.CAS(C) 613/2022**

IRSHAD PATEL AND ORS.

..... Petitioners

versus

DR. PARBHAT KUMAR BUDHOLIA

..... Respondent

Advocates who appeared in this case:

For the Petitioners : Mr. Jasbir Singh Malik, Adv.

For the Respondents : Mr. Tapan Kumar Trivedi, Mr. Hem Kumar
& Mr. Rajesh Choudhary, Adv.

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HON'BLE MR JUSTICE VIBHU BAKHRU

HON'BLE MR JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J. (ORAL)

1. The petitioners have filed the present petitions, *inter alia*, praying that the proceedings for Contempt of Court be initiated against the respondents / contemnors for wilful disobedience of the orders dated 26.08.2021 and 20.04.2022 passed in W.P.(C) No.6140/2019.

2. The said writ petition [being W.P.(C) No.6140/2019] was filed raising the issue whether candidates who did not undergo the National Eligibility-cum-Entrance Test (NEET) can be admitted to the

Ayurveda, Yoga and Naturopathy, Unani, Siddha, Homeopathy (hereafter “AYUSH”) course.

3. The Ministry of AYUSH has decided to grant admissions to the students in the AYUSH courses only through the NEET examination.

4. Some of the petitioners challenged the said requirement. Similar petitions were also filed in High Courts of Karnataka, Punjab and Haryana, and Rajasthan. Certain interim reliefs were granted by the courts in those petitions. By an order dated 20.09.2019, the High Court of Karnataka had granted an interim order in the following terms:

(i) In the on-going counselling for the academic year 2019-20, after all NEET qualified students have made their choices and if seats remain unfilled, any other candidate who has not appeared for NEET examination, but has the minimum qualification to undergo the AYUSH courses (BAMS, BHMS and BUMS) as provided, shall be permitted to take part in the counselling.

(ii) Such of those candidates would also be intimated that their admission are being made in view of the absence of NEET qualified candidates and would ultimately remain subject to the result of these writ petitions.

(iii) It is further made clear that the process as indicated above would be applicable only to such of those institutions who are otherwise qualified to make admissions by possessing requisite infrastructure and if the competent authorities have taken any action against any of the colleges and restrained them from making admissions for the present academic year, such of those institutions shall not make admissions by taking benefit of this order.

(iv) If any of the institution against whom action had been initiated has secured any interim order permitting admissions and have already participated in the counselling, such institutions are eligible for making admissions in terms of this order.”

5. By an order dated 15.10.2019 passed in W.P.(C) No.6140/2019, the Division Bench of this Court had noted the aforesaid order, and passed directions in similar terms as the order dated 20.09.2019 passed by the Karnataka High Court.

6. The petitioners’ grievance is that though they are covered by the aforesaid order, they were not permitted to take the examination. A series of orders have been passed in the said petition, [being W.P.(C) 6140/2019], including the order dated 26.08.2021 passed in CM No.28296/2021 (which the petitioners allege has been deliberately violated by the respondents). The applicants had filed the said application, *inter alia*, seeking a direction to the Madhya Pradesh Medical Science University, Jabalpur, M.P. to enroll the applicants along with other students admitted by IGM Homeopathic Medical College Hospital & Research Centre, Dhar for academic year 2019-20 and to permit them to write ensuing examination of BHMS first year course.

7. By the said order dated 26.08.2021, this court allowed the aforesaid prayer albeit, “*subject to verification being carried out, as to whether or not the applicants / students, were accorded admission, on or before 15.10.2019*”. Despite the order dated 26.08.2021, the respondents did not permit some of the applicants – who claim to be the students of IGM Homeopathic Medical College Hospital & Research Centre, Dhar – to take the said examination.

8. Aggrieved by the same, some of the applicants filed another application [being CM No.19035/2022] praying that they be permitted to appear in the ensuing examination of BHMS first year course which was scheduled on 27.04.2022. The *ad-interim* order dated 20.04.2022 was passed in the said application directing Madhya Pradesh Medical Science University, Jabalpur, M.P. to allow the students admitted by IGM Homeopathic Medical College Hospital & Research Centre, Dhar for the academic year 2019-20 to appear in the examination of BHMS first year course *albeit* “*subject to their fulfilling the qualification other than the one challenged in the said writ petition*”.

9. Despite the said order, the respondents did not permit some of the applicants to take the said examination.

10. The failure on the part of the respondents to permit the applicants to sit for the examination has resulted in the applicants / petitioners filing these contempt petitions.

11. The respondents, in compliance of the order dated 17.11.2022, have filed an affidavit tendering an unconditional apology and pleading that a lenient view be taken. The respondents also point out certain mitigating circumstances. They state that they have not willfully violated the orders dated 26.08.2021 and 20.04.2022 as they understood the said order to be in continuation of the earlier order dated 15.10.2019. In terms of the said orders, all students were required to qualify and meet all other conditions except the one that was challenged in W.P.(C) No.6140/2019 (that is, requirement of clearing the NEET examination). The respondents state that the petitioners did not comply with the other conditions. First of all, IGM Homeopathic Medical College Hospital & Research Centre, Dhar had

been restrained from admitting any other students by the Government of India (Ministry of AYUSH) by an order dated 23.07.2019. Secondly, their admission forms clearly indicate that the admissions were back dated inasmuch as although the forms record that the fees have been paid on 16.10.2019, the forms are dated 15.10.2019.

12. The learned counsel appearing for the petitioners disputes the aforesaid contentions. The learned counsel for the petitioners points out that the order dated 23.07.2019 had been stayed by an order passed by the Madhya Pradesh High Court and the petitioners were admitted on 15.10.2019.

13. The respondents claim that they were not aware of the subsequent orders passed by the Court staying the order dated 23.07.2019 as they were not a party in the said writ petition.

14. The issue whether the petitioners were admitted prior to cut-off date of 15.10.2019 is a contentious issue.

15. In the given facts, considering that the respondents have tendered an unqualified apology, this Court considers it apposite to accept the same and terminate the present contempt petitions.

16. It is clarified that all rights and contentions of the parties on the merits of the entitlement of the petitioners, are reserved.

17. The petitions are disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

NOVEMBER 25, 2022

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