

PETITIONER:
U.P. JUNIOR DOCTORS' ACTION COMMITTEE

Vs.

RESPONDENT:
DR. B. SHEETAL NANDWANI AND ORS

DATE OF JUDGMENT 31/08/1990

BENCH:
MISRA RANGNATH
BENCH:
MISRA RANGNATH
KULDIP SINGH (J)

CITATION:
1991 AIR 909 1990 SCR Supl. (1) 130
1990 SCC (4) 633 JT 1990 (3) 690
1990 SCALE (2)462

ACT:

Medical Colleges--Post Graduate Courses--Admission--Fake order in a non-existent writ petition produced before High Court for securing directions regarding admission--High Court directing cancellation of scheduled competitive examination and directing admission on the basis of marks obtained in M.B.B.S.--Directions by Supreme Court--Admissions granted on the basis of M.B.B.S. results vacated--Enquiry by Central Bureau of Investigation.

HEADNOTE:

On the basis of a fake order, in a non-existent writ petition, said to have been passed by a Single Judge of the Allahabad High Court on 25.5.1990, some persons obtained an order dated 4.6.1990 from the Lucknow Bench of the High Court which directed cancellation of the scheduled competitive admission examination to the Post-Graduate Medical Courses in the Medical Colleges of the State of Uttar Pradesh and granted admission on the basis of the marks obtained in the M.B.B.S. Exams. Some admissions were secured in the medical colleges of the State on the basis of the High Court's orders. Against the High Court's orders, the U.P. Junior Doctors' Action Committee has preferred this appeal by special leave.

Allowing the appeal, this Court,

HELD: 1.1 Purity of the judicial stream should not be allowed to be polluted by a clandestine move and citizens should not be misled by actions of the conspirators.

1.2 There is a deep-seated conspiracy which brought about the fake order from Allahabad High Court and on the basis thereof a subsequent direction has been obtained from the Lucknow Bench of the same High Court. The first order being non-existent is declared to be a bogus one. The second order made on the basis of the first order is set aside as having been made on the basis of misrepresentation. Consequently, those who have taken admission on the basis of such orders, that is on the basis of the M.B.B.S. result without going through a selection examination, cannot be allowed to continue in the Post-Graduate

131

Courses. Accordingly, admissions, if any, made on the basis

of orders of the High Court shall stand vacated. [133F-G; 134A]

2. Though the persons who have taken admission on the basis of the High Court's order are not before this Court yet the circumstances in which such benefit has been taken by them do not justify attraction of the application of rules of natural justice of being provided an opportunity to be heard. [133G-H]

3. Appropriate investigation should be done by the Central Bureau of Investigation and the persons behind the deep-seated fraud should be brought to book without any delay. [134C]

Dr. Dinesh Kumar v. M.L.N. Medical College, Allahabad, [1987] 4 S.C.C. 459; and State of Bihar v. Dr. Sanjay Kumar Sinha, A.I.R. 1990 SC 749, cited.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Interlocutory Application No. 1 of 1990.

IN

Civil Appeal No. 4444 of 1991).

From the Judgment and Order dated 25.5.1991 of the Allahabad High Court in C.W.P. No. 5267 of 1990.

D.K. Garg and Pradip Misra for the Appellants.

The Judgment of the Court was delivered by

RANGANATH MISRA, J. Leave is granted to the petitioners who were not parties before the High Court in Writ Petition No. 5267 of 1990 to file the special leave petition. The Registry shall, therefore, consequently register this special leave petition. Special leave is granted.

On 25.5.1990, a learned Single Judge of the Allahabad High Court is said to have made an order in Writ Petition No. 5267 of 1990. That brief order for convenience is extracted below:

has been brought to the notice of the Court that the opp. parties have violated the time schedule framed by Hon'ble Supreme Court in the case of Dr. Dinesh Kumar v. 132

M.L.N. Medical College, Allahabad, [1987] 4 SCC 459 in organising the competition to be held on 27.5.90 by Lucknow University for admissions in Post Graduate Medical Courses in the State Medical Colleges. The Hon'ble Supreme Court has recently warned in the case of State of Bihar v. Dr. Sanjay Kumar Sinha, AIR 1990) SC 749 that "Everyone including the States, the Union territories and other authorities running Medical colleges with Post Graduate Courses are bound by our order and must strictly follow the same schedule". For violating its orders, the Hon'ble Supreme Court hoped 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.

Keeping in view the above observations the opposite parties are strictly directed not to hold the competitive examination scheduled on 27th May, 1990 and admit the petitioners in Post Graduate Medical Courses in the present session on the basis of marks obtained in MBBS Course as has been done for MDS Courses.

The Writ Petition is allowed with no order as to costs"

On the basis of that order and relying upon the terms thereof, a learned Single Judge of the Lucknow Bench of the High Court made an order on 4.6.90) directing that steps be taken on the basis of the direction direction made in the

order dated 25.5.90 for giving admission to candidates in P.G. Courses. The net result of these two orders is that the Selection Examination for filling up of the seats in the Post Graduate Medical Courses of the seven medical colleges in U.P. has been cancelled and a direction has been issued to the State Government to grant admission on the basis of M.B.B.S. results.

This Court by order dated 21st August, 1990 directed the Registrar of the Allahabad High Court to transmit the record wherein order dated 25.5.90 is said to have been made. The Registrar in his letter dated 22nd August, 1990, to this Court in response to the direction has stated that:

"there is no such case as writ No. 5267 of 1990 Dr. B. Sheetal Nandwani v. State and Others, and no judgment
133

was delivered by Hon'ble Mr. Justice Anshuman Singh on 25.5.90 in the said case. The file is sent to you through special messenger and you are requested to kindly return the file after the Hon'ble Court's perusal.

It is further submitted that fake judgment was said to have been produced before different Medical Colleges purporting to have been delivered by Hon'ble Mr. Justice Anshuman Singh, J. on 25.5.1990 in Writ Petition No. 5267 of 1990 directing the opposite parties not to hold competitive examinations scheduled on 27.5.90 and admit the petitioners in Post-Graduate Medical Course in the present session on the basis of the marks obtained in M.B.B.S. Course. In 'Northern India Patrika' (Allahabad Edition) dated 11.8.90 this matter was published with the heading 'Bogus Judgment aborts entrance Exam' and only then it came to the notice of the Hon'ble Court and the Hon'ble the Chief Justice took up the matter and directed that a CID enquiry be instituted. On the direction of Hon'ble the Chief Justice the Government has been moved to get the matter investigated by CID."

From the report it is manifest that a fake order in a non-existent writ petition was produced before the Lucknow Bench of the Allahabad High Court for securing the order dated 4.6.90. It also transpires that on the basis of alleged order dated 25.5.90 and the subsequent order of 4.6.90 some admissions have been secured in some of the medical colleges. Those who have taken admission on the basis of such orders, that is on the basis of the M.B.B.S. result without going through a selection examination cannot be allowed to continue in the Post Graduate Courses. We are satisfied that there is a deep-seated conspiracy which brought about the fake order from Allahabad, the principal seat of the High Court and on the basis thereof a subsequent direction has been obtained from the Lucknow Bench of the same High Court. The first order being non-existent has to be declared to be a bogus one. The second order made on the basis of the first order has to be set aside as having been made on the basis of misrepresentation. We are alive to the situation that the persons who have taken admission on the basis of the M.B.B.S. results are not before us. The circumstances in which such benefit has been taken by the candidates concerned do not justify attraction of the application of rules of natural justice of being provided an opportunity to be heard. At and rate now that we have at the instance of the U.P. Government ordered

134

the selection examination to be held, admission on the basis of M.B.B.S. results cannot stand. We accordingly direct that admissions, if any on the basis of M.B.B.S. results granted after the impugned orders of the High Court shall stand vacated and the Principals of the medical colleges of U.P.

are directed to implement the direction forthwith. A copy of this order shall be communicated to each of the Principals of the seven medical colleges in the State of U.P. for compliance.

The report of the Registrar of the High Court of Allahabad indicates that the Criminal Investigation Department of the State has been asked to investigate into the matter. We are of the view that appropriate investigation should be done by the Central Bureau of Investigation and persons behind this deep-seated fraud should be brought to book without any delay. Purity of the judicial stream should not be allowed to be polluted by such a clandestine move and citizens should not be misled by actions of the conspirators. We, therefore, direct that the Central Bureau of Investigation shall step in forthwith and complete the investigation within two months and provide a copy of the report containing the result of the investigation to this Court. A copy of the report shall simultaneously be submitted to the learned Chief Justice of the Allahabad High Court. The appeal is allowed with costs. As and when the respondents who are said to be petitioners in writ petition No. 5267 of 1990 are identified shall be made to pay the costs of this appeal which we assess at Rs.10,000. Out of the costs as and when recovered, the appellants shall be entitled to a sum of Rs.3,000 and the remaining sum of Rs.7,000 shall be paid to the Supreme Court Legal Aid Committee.

T.N.A.

Appeal allowed.

145