

Non-Reportable

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5168 OF 2010
(Arising out of SLP (C) No.6232 of 2006)

And

CIVIL APPEAL NO. 5169 OF 2010
(Arising out of SLP (C) No.6234 of 2006)

Christian Medical College

... Appellant

Vs.

State of Punjab & Ors.

... Respondents

JUDGMENT**R.V.RAVEENDRAN, J.**

Leave granted.

2. In *Mridul Dhar v. Union of India* [2005 (2) SCC 64], this Court approved the following time-schedule for admission to medical courses (first MBBS course) :

Schedule for admission	Seats filled up by State Governments/institutions
Conduct of entrance Examination	Month of May
Declaration of result of qualifying exam/entrance exam	By 15 th June
First round of counseling/admission	To be over by 17 th July
Last date for joining the allotted college and course	29th July
Second round of counseling for allotment of seats from waiting list	25 th to 28 th August
Last date for joining for candidates allotted seats in second round of counseling from the waiting list	30th August
Commencement of academic Session	1st of August to 31 st August
Last date up to which students can be admitted against vacancies arising due to any reason	30 th September

3. The appellant (Christian Medical College, Ludhiana) is a minority institution running a medical college with an intake capacity of 50. As per the order dated 1.6.2005 of this Court in W.P. [C] No.357/2004, 75% of the seats were to be filled according to the choice of the Appellant college from the members of the minority community and balance 25% seats to be filled by the candidates allotted by the State on the basis of the merit list prepared

by it. Thus it is not in dispute that for the academic year 2005-06, out of the 50 seats, 38 seats were to be filled by the college with minority students and 12 seats were to be filled by the candidates allotted by the State.

4. On the ground that the State did not allot any candidate till 30.8.2005 which was the last date as per the schedule approved by this Court in *Mridul Dhar*, the appellant college claims to have filled those seats by candidates from its merit list namely respondents 6 and 17 (respondents 8 to 19 in the second matter).

5. The State/University allotted candidates towards their quota after belated counseling with reference to merit list prepared on the basis of second Punjab Medical Entrance Test (PMET) during the middle of September, 2005. The appellant denied to those candidates admission on the ground that the last date for allotment being over, those seats were filled by candidates from its own merit list. Aggrieved by their non-admission, six of the State quota allottees, namely respondents 4 and 5 in the first matter and respondents 4 to 7 in the second matter, approached the High Court and sought a direction for admission.

6. Several contentions were urged by the appellant resisting the said petitions. Ultimately the High Court by a common judgment dated 4.1.2006 allowed the two writ petitions with the following directions :

- “1) The admission of the private respondents* to the MBBS course at the CMC for the academic year 2005-2006 is protected.
- 2) The petitioners cannot be granted admission in MBBS classes in the current academic year after 30.9.2005, as their admission would be a midstream admission which has been prohibited by the Hon’ble Supreme Court.
- 3) The petitioners will be admitted to the MBBS course at the CMC for the academic session 2006-2007 against the management quota seats in terms of the directive contained in para 35(11) of Mridul Dhar’s judgment, as it has exceeded its quota during the academic year 2005-2006.
- 4) *The CMC would compensate each of the petitioners with an amount of Rs.2 lacs each for the loss of one year, for the mental tension and for economic loss caused to them.*
- 5) *The CMC is burdened with the costs of Rs.2 lacs to be deposited, with the Baba Farid University of Health Sciences, Faridkot, within 3 months from today, for being utilized towards students welfare fund.”*

(*Note: ‘Private respondents’ refers to the 12 candidates admitted by the appellant college against the State quota seats.)

(Emphasis supplied)

7. The said judgment is challenged in these appeals by special leave. Though several grounds were urged in the special leave petitions at the time of hearing, learned counsel for the appellant college submitted that in

compliance with the judgment of the High Court, the appellant has admitted the six writ petitioners (respondents 4 and 5 in the first matter and respondents 4 to 7 in the second matter) for the academic session 2006-07 against the management quota, and they have been prosecuting their studies without hindrance and they will not be disturbed by the appellant. As a consequence, there is no need to examine the several contentions urged in the appeals on merits challenging the judgment of the High Court.

8. What remains for consideration is the correctness of the two directions that the college should compensate the six writ petitioners by paying Rs.2 lakhs each for the loss of one year and for mental tension and economic loss, and the direction to pay costs of Rs.2 lakhs to Baba Farid University of Health Sciences.

9. Three of the six writ petitioners (respondent No.5 in the first matter and respondents 4 and 5 in the second matter) have entered appearance and they submitted that they do not press for payment of the compensation of Rs. Two lakhs awarded to each of them. The other three writ petitioners (respondent 4 in the first matter and respondents 6 and 7 in the second matter) have not appeared and contested the matter.

10. Learned counsel for the University submitted that the High Court had examined the matter in detail and costs were awarded in view of the failure of the appellant college to admit the candidates allotted by the State and admission of candidates of its own choice to the State quota seats. He submitted that the order of the High Court regarding costs did not call for interference.

11. In view of the above, the question is whether the direction for payment of compensation of Rs. Two Lakhs each to respondent 4 in the first matter and respondents 6 and 7 in the second matter, and the award of costs of Rs.2 lakhs to the University, require interference. The fact that the time schedule laid down in *Mridul Dhar* was not followed by the State and the University is not in dispute. In fact the High Court has recorded the following findings in regard to the delays on the part of the State/University:

“The reasons for not being able to abide by the time schedule laid down in *Mridul Dhar*’s case (supra) are known to every one concerned with the matter. The 1st PMET 2005 was held on 5th June 2005. As there was leakage of question papers, therefore, the said entrance test was cancelled as a whole on 7.6.2005. The 2nd PMET was held on 30.6.2005 and the result thereof, was declared on 2.7.2005. Because of wrong key answers, the merit list prepared on the basis of the 2nd PMET held on 30.6.2005 was challenged in this Court through CWP No.10272 of 2005 (*Saumil Garg and others vs. State of Punjab and others*) and a large bunch of similar writ petitions. This Court directed the preparation of correct key answer vide its judgment dated 8.8.2005. *Guru Nanak Dev University* which was one

of the respondents in that case, filed a petition for Special Leave to Appeal (Civil) No. 16952 of 2005. The said petition/appeal was decided by the Hon'ble Supreme Court vide its order dated 24.8.2005. The answer sheets of candidates who had taken the 2nd PMET, were required to be re-evaluated on the basis of correct key answers in respect of 8 questions. The result of the 2nd PMET was to be declared within two days, and a further period of 72 hours was granted to the candidates to file objection (as per the decision of the Hon'ble Supreme Court). Admittedly, the result of 2nd PMET-2005 was declared on 29.8.2005.

The narration of the facts stated above clearly reveals, that the time schedule as laid down in the regulation dated 25.2.2004 issued by the MCI and as approved by the Hon'ble Supreme Court in *Mridul Dhar's* judgment (supra), could not be observed for admission to the MBBS courses, in so far as the State quota is concerned, as the dates for holding of entrance test (in May) declaration of the result of entrance test (15th June), the date of first round of counseling/admission (17th July) and the date of second round the counseling or allotment of seats from waiting list (25th to 28th August) had already expired, before the result was declared on 29.8.2005, and therefore, the observance of these dates was not at all possible by any stretch of imagination.”

Therefore, even assuming that the appellant had read the judgment in *Mridul Dhar* selectively to achieve its object, as held by the High Court, we are of the view that the award of compensation of Rs. Two lakhs on each of the six writ petitioners may not be warranted, as there was also a clear violation of the time schedule by the State. The writ petitioners have been accommodated and they no longer have any grievance. As the State/University were responsible for the delay in conforming to the schedule for counseling and allotment of candidates under the State quota, on account of leakage of question papers and preparation of wrong key-

answers, which resulted in the non-admission of the six writ petitioners, the award of costs in favour of the University was not warranted.

12. We accordingly allow these appeals in part and set aside directions (4) and (5) in the impugned order of the High Court for payment of compensation of Rs.2 lakhs to each of the six writ petitioners and the levy of costs of Rs.2 lakhs in favour of the University. We make it clear that we have not expressed any opinion regarding directions (1) to (3) as they have been accepted and acted upon by the appellant college.

13. Learned counsel for the appellant submitted that in regard to the 12 students admitted by the appellant against the vacant State quota seats, that is respondents 6 to 17 (who are respondents 8 to 19 in the second matter), the marks sheets have not been released by the University on the ground of non-payment of costs of Rs. Two lakhs and pendency of these appeals. Insofar as those 12 students are concerned, the High Court had protected their admission and held that their admission need not be disturbed. We extract below the relevant observations of the High Court :

“So far as quashing of the admission granted to the private respondents in the CMC against the Government quota seats is concerned, undoubtedly, their admission is on provisional basis, but nothing has been placed on the file to show if these candidates had played any condemnable role in seeking admission, or that they had connived with the CMC for getting admission to the course under reference. It seems that the private

respondents have been given admission by the CMC out of its own merit list prepared on the basis of the entrance test conducted by it. In our view, therefore, it is only the CMC, which is responsible for admitting the private respondents against the seats of Government quota. Therefore, the career of the private respondents, who have been admitted in the CMC against the State quota seats should not be cut down for the fault of CMC.”

In the circumstances the University will have to deal with the said 12 students as having been regularly admitted and if their results or marks sheets or other documents have been withheld, release the same without delay.

New Delhi;
July 8, 2010.

.....J.
(R V Raveendran)

.....J.
(H L Gokhale)

JUDGMENT