

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4203 OF 2009
(@SPECIAL LEAVE PETITION (CIVIL)NO.21050 OF 2005)

B.MAYURI & ORS.

Appellant(s)

VERSUS

GOVT. OF INDIA REP.BY SECY. TO GOVT. & ORS. Respondent(s)

WITH CIVIL APPEAL NO.4204 OF 2009 @ SLP(C)NO.21341/2005
CIVIL APPEAL NO.4205 OF 2009 @ SLP(C)NO.173 OF 2006
CIVIL APPEAL NOS.4206-4207 OF 2009 @ SLP(C)NOS.26105-26106/2005
CIVIL APPEAL NOS.4208-4209 OF 2009 @ SLP(C)NOS.26103-26104/2005
CIVIL APPEAL NO.4210 OF 2009 @ SLP(C)NO.26101/2005

ORDER

Leave granted.

Heard both sides.

2. These appeals have been filed by the various colleges where the studies for Indian system of medicine of homeopathy etc. are being imparted. Some of the appeals have been filed by the students and some are filed by the Association of Colleges where this course of studies is pursued. The students were admitted in these colleges for the academic years 2004-05 and 2005-06. In the State of Tamil Nadu, a Notification was issued by the Health and Family Welfare Department to the effect that the students who join in these professional colleges should obtain (a) a minimum of 60% marks in Biology, Botany and Zoology taken together and (b) a minimum of 60% marks in each of the subjects of Physics and Chemistry and an aggregate of the percentage of marks in (a) and (b) should not be less than 140 out of 200 marks. Likewise, the State Government

prescribed minimum marks for various categories such as open competition, B.C., M.B.C., S.C./S.T. Etc. For the year 2004-05, a Notification was issued in the month of October, but by that time admissions are over. As regards 2005-06, about 75 students had been admitted, who did not have this requisite percentage of marks. We are told that these students have also now completed their admission. Learned counsel appearing for the petitioners has submitted that, as per the Central Council of India Medicine (Minimum Standards of Education in Indian Medicine) Regulations, 1986, minimum marks prescribed is 50%, as against 60% marks notified by the Health and Family Welfare Department of the State Government. Of course, the State can prescribe high percentage of marks for admission to the courses for various colleges in the State. But these courses are not much sought after by the students and sometimes there is difficulty in getting sufficient number of students for these courses as most of the students either join in Engineering or medical courses. As regards the students of 2004-05, Notification was issued belatedly. But we do not think that this Notification should be made applicable to such students.

3. For the students of 2005-06, only 25 students were not strictly qualified as per the Notification. But they have also secured more than 50% of the marks as stipulated in the Central Government Notification and we are told that they have already completed their courses. We do not think

that they should be disqualified at this stage. Accordingly, we hold that these students should also declared to be qualified to join for the courses they had opted. In the circumstances, these appeals are disposed of with the direction that the students shall be treated as qualified to join the courses. No costs.

.....CJI.
(K.G. BALAKRISHNAN)

.....J.
(P. SATHASIVAM)

NEW DELHI;
9TH JULY, 2009.

