

CASE NO.:
Appeal (civil) 202 of 2000

PETITIONER:
MEDICAL COUNCIL OF INDIA

Vs.

RESPONDENT:
SARANG & ORS.

DATE OF JUDGMENT: 28/08/2001

BENCH:
S. Rajendra Babu & Doraiswamy Raju

JUDGMENT:

RAJENDRA BABU, J. :

Respondent No.1, being a student of medical college in New Mumbai, sought for migration to a medical college at Aurangabad, his home-town, on certain medical grounds. The appellant rejected the application as he did not fall within the purview of the compassionate grounds specified in the relevant regulations. Respondent No.1 filed a writ petition before the High Court of Bombay for a direction to the appellant to permit migration on the ground of mental depression and on the additional ground that his father was having angina problem. He also filed a Misc. Application in the said writ petition stating that he was suffering from acute renal failure and his father was suffering from hypertension and unstable angina. The High Court directed the appellant to re-examine the case of respondent No.1 for migration on the basis of the medical certificate issued on 2.10.1998. The appellant again examined the case of respondent No.1 and declined to grant migration by communication sent on 7.1.1999. However, on 13.1.1999, on account of some misunderstanding of the matter, the learned counsel for the appellant, who appeared before the High Court, stated that the appellant had permitted the migration which was in fact contrary to the communication sent on 7.1.1999 to the Assistant Registrar of the High Court. On the basis of the statement made in the High Court, the High Court directed the provisional admission of respondent No.1 in the medical college at Aurangabad. The High Court was informed on 21.1.1999 that the statement made by the appellants counsel was incorrect. However, no modification was made in the order of the High Court. By order dated 12.2.1999, the High Court again directed that the copies of the latest test reports along with the report of the Civil Surgeon be sent to the appellant for re-consideration of the matter. On 15.4.1999, the appellant made an order allowing migration of respondent No.1 subject to the condition provided in Regulation 6(5) of the Medical Council of India Regulations on Graduate Medical Education, 1997 that he should appear for the IInd professional MBBS examination only after completing 18 months study in the transferee college from the date of migration and affidavit to that effect be obtained from respondent No.1. The High Court, by an order made on 29.4.1999, construed Regulation 6(5) does not require the study of 18 months at the transferee medical college after the date of migration before appearing for the IInd professional MBBS examination, and thus allowed the writ petition.

On appeal by special leave, this Court granted leave and stayed the order of the High Court but without affecting the benefit derived by respondent No.1.

It must be made clear in this case that respondent No.1 has already passed the IInd professional examination and also cleared the IIIrd professional examination and whatever may be the outcome of the present case, he will not be affected adversely by the order of this Court. The appellant is more interested in interpretation of Regulation 6(5) framed by it.

Regulation 6(5) provides that a student will pursue 18 months of prescribed study before appearing at the IInd professional examination at the transferee medical college. However, the High Court took the view that the proper construction of this regulation should be that a student, who has migrated from one University to another University, should have completed 18 months study in both the colleges together, that is, from the College he has migrated and in the transferee college. In other words, if he completes 18 months study altogether he will be eligible to appear for the examination. The High Court has thus held that the appellant has erroneously interpreted the said regulation to mean that in the transferee college the student should have completed 18 months study and such an interpretation is unjust because after passing the examination of the first year MBBS the candidate has to submit the application through the college to the Medical Council of India seeking migration under Regulation 6 and unless and until the migration is permitted under Regulation 6, the said candidate cannot give up the college where he has already been admitted and he cannot join the transferee college located in other University area where the migration has been sought and if the Medical Council of India takes some time for taking the decision the student will have to lose one academic year of the MBBS course.

Thus, the following comparison can be drawn between Regulation 6(5), as it stands, vis-À-vis interpretation given to it by the High Court:

Regulation 6(5), as it stands
Regulation 6(5), as interpreted by the
High Court

The applicant candidate must submit an affidavit stating that he/she will pursue 18 months of prescribed study before appearing at IInd professional Bachelor of Medicine and Bachelor of Surgery (MBBS) examination at the transferee college, which should be duly certified by the Registrar of the concerned University in which he/she is seeking transfer. The transfer will be applicable only after receipt of the affidavit.

The applicant candidate must submit an affidavit at the transferee college stating that he/she will pursue 18 months of prescribed study before appearing for the IInd professional Bachelor of Medicine and Bachelor of Surgery (MBBS) examination, which should be duly certified by the Registrar of the concerned University in which he/she is seeking a transfer. The transfer will be applicable only after receipt of the affidavit.

In matters of academic standards, courts should not normally interfere or interpret the rules and such matters should be left to the experts in the field. This position has been made clear by this Court in *The University of Mysore & Anr. vs. C.D.Govinda Rao & Anr.*, 1964 (4) SCR 575; *State of Kerala vs. Kumari T.P.Roshana & Anr.*, 1979 (2) SCR 974 and *Shirish Govind Prabhudesai vs. State of Maharashtra & Ors.*, 1993 (1) SCC 211. The object of the said regulation appears to be that although the course of study leading to IInd professional examination is common to all medical colleges, the sequence of coverage of subjects varies from college to college. Therefore, the requirement of 18 months of study in the college from which the student wants to appear in the examination is appropriately insisted upon. Migration is not normally allowed and has got to be given in exceptional circumstances. In the absence of such a stipulation as contained in Regulation 6(5), it is clear that the migrated student is likely to miss instruction and study in some of the subjects, which will ultimately affect his academic attainments. Therefore, the strained meaning given by the High Court, which actually changes the language of Regulation 6(5), is not permissible. Thus we disagree with the view taken by the High Court and state that the correct interpretation is as given by the Medical Council of India set forth above by us.

In the circumstances of the case, though we do not interfere with the order made by the High Court, we make it clear that the declaration of law made by the High Court is incorrect and to that extent the order shall stand modified. The appeal is disposed of accordingly. No costs.

...J.
[S. RAJENDRA BABU]

...J.
[DORAISWAMY RAJU]

AUGUST 28, 2001.