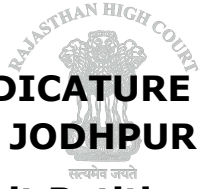




**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**



(1) S.B. Civil Writ Petition No. 1988/2021

1. Pooja Punaram Patel D/o Punaram Patel, Aged About 20 Years, Ashok Nagar, 24B 701, Om Sai Bhiwandi, Thane, Maharashtra.
2. Kanishka Sharma D/o Ramesh Chander Sharma, Aged About 19 Years, House No.15, Ward No.5 Batote, Tehsil Batote, District Ramban Batote, Jammu And Kashmir (Ut).
3. Harshita Sadhwani D/o Raju Sadhwani, Aged About 21 Years, 112, Sindhi Colony, Shastri Nagar, Jodhpur.

----Petitioners

Versus

1. Rajasthan University Of Health Sciences, Sector 18, Kumbha Nagar, Pratap Nagar, Jaipur, Through Its Controller Of Examination.
2. The Vyas Dental College And Hospital, Pali Road, Jodhpur, Rajasthan, Through Its Principal.

----Respondents

Connected With

(2) S.B. Civil Writ Petition No. 12192/2019

1. Khushi Deora D/o Rajesh Bhai, Aged About 19 Years, R/o Girls Hostel, Vyas Dental College And Hospital, Jodhpur, Rajasthan.
2. Preety Sandhu D/o Shri Tarsem Kumar, Aged About 19 Years, R/o Girls Hostel, Vyas Dental College And Hospital, Jodhpur, Rajasthan.
3. Preya Sharma D/o Shri Joginder Paul, Aged About 19 Years, R/o Girls Hostel, Vyas Dental College And Hospital, Jodhpur, Rajasthan.
4. Mohd. Sajed S/o Shri Zakir Hussain, Aged About 18 Years, R/o Girls Hostel, Vyas Dental College And Hospital, Jodhpur, Rajasthan.
5. Karan Mengi S/o Shri Deepak Mengi, Aged About 19 Years, R/o Girls Hostel, Vyas Dental College And Hospital, Jodhpur, Rajasthan.
6. Summera Reyaz D/o Shri Reyaz Ahmad Zarger, Aged About 19 Years, R/o Girls Hostel, Vyas Dental College And





Hospital, Jodhpur, Rajasthan.

7. Supriya Jaswal D/o Shri Kulwant Singh, Aged About 18 Years, R/o Girls Hostel, Vyas Dental College And Hospital, Jodhpur, Rajasthan.
8. Sourav Chandan S/o Shri Rakesh Kumar, Aged About 19 Years, R/o Girls Hostel, Vyas Dental College And Hospital, Jodhpur, Rajasthan.
9. Mo. Aaftab S/o Shri Mo. Altaf, Aged About 19 Years, R/o Girls Hostel, Vyas Dental College And Hospital, Jodhpur, Rajasthan.
10. Sanju Rajpurohit D/o Shri Jethusingh Babusingh Rajpurohit, Aged About 22 Years, R/o Girls Hostel, Vyas Dental College And Hospital, Jodhpur, Rajasthan.
11. Akshita Pandita D/o Shri Vinod Kumar, Aged About 19 Years, R/o Girls Hostel, Vyas Dental College And Hospital, Jodhpur, Rajasthan.

----Petitioners

Versus

1. The State Of Rajasthan, Through The Secretary, Department Of Medical And Health (Education), Secretariat, Jaipur.
2. The Rajasthan University Of Health Sciences, Through Its Registrar, Ruhs Campus, Jaipur-302033.
3. The Vyas Dental College And Hospital, Jodhpur, Kuri Hod, Pali Road, Jhalamand, Jodhpur-342005.

----Respondents

(3) S.B. Civil Writ Petition No. 4321/2020

Neha Singh D/o Prem Chand Singh, Aged About 21 Years, Jitaura Jamuaon, Bhojpur, Bihar - 802159

----Petitioner

Versus

1. The Dental Council Of India, Through The Joint Secretary, Aiwan-E-Galib Marg, Kotla Road, New Delhi - 110 002.
2. The Chairman, State Neet Under-Graduate Medical And Dental Admission Cum Controlling Council Board, 2018, Jaipur Through Its Principal And Controller, Sms Medical College And Attached Hospitals, Jaipur, Rajasthan.





3. Maharaja Ganga Singh Dental College And Research Centre, 11 Lnp Hanumangarh Road, Sri Ganganagar Through Its Principal.

-----Respondents

(4) S.B. Civil Writ Petition No. 2329/2021

Nisha Prajapat D/o Shri Shyam Lal Prajapat, Aged About 22 Years, R/o 115, East Patel Nagar, Ganeshpura, Ratanada, Jodhpur.

-----Petitioner

Versus

1. The Dental Council Of India, Through Its Joint Secretary, Aiwan - E - Galib Marg, Kotla Road, New Delhi - 110002
2. The Chairman, State Neet Under -Graduate, Medical And Dental Admission Cum Controlling Council Board, 2018, Jaipur Through Its Principal And Controller , Sms Medical College And Attached Hospitals, Jaipur, Rajasthan.
3. The Rajasthan University Of Health Sciences, Sector 18, Kumbha Nagar, Pratap Nagar, Jaipur , Through Its Controller Of Examination
4. The Vyas Dental College And Hospital, Pali Road, Jodhpur , Rajasthan, Through Its Principal

-----Respondents

(5) S.B. Civil Writ Petition No. 516/2022

1. Vrinda Choudhary D/o Shri Baldev Choudhary, Aged About 21 Years, R/o Merta City, Nagaur.
2. Sonika Katoch D/o Shri Rajendra Kumar, Aged About 21 Years, Village Chanti Gatoch, Bhardarwa, District Doda (J And K).

-----Petitioners

Versus

1. Rajasthan University Of Health Sciences, Sector 18, Kumbha Nagar, Pratap Nagar, Jaipur, Through Its Controller Of Examination.
2. The Dental Council Of India, Through Its Joint Secretary, Aiwan-I-Galib Marg, Kotla Road, New Delhi - 110002.
3. The Chairman, State Neet Under-Graduate Medical And Dental Admission Cum Controlling Council Board, 2018,





Jaipur Through Its Principal And Controller, Sms Medical College And Attached Hospital, Jaipur, Rajasthan.

4. Vyas Dental College And Hospital, Pali Road, Jodhpur, Rajasthan, Through Its Principal.

----Respondents

For Petitioner(s)	:	Mr. Manoj Bhandari, Senior Advocate assisted by Mr. Aniket Tater Mr. Nikhil Dungawat
For Respondent(s)	:	Mr. S.S. Rathore, AAG assisted by Mr. Pravin Kumar Choudhary Mr. A.A. Bhansali Mr. Mahendra Bishnoi Mr. Rajesh Punia Mr. Sher Singh Rathore for Mr. N.S.Rajpurohit, AAG Mr. Vipul Dharnia Mr. Sanwar Lal, Dy.G.C.

JUSTICE DINESH MEHTA

Judgment

REPORTABLE

03/04/2025

- These writ petitions involve almost common facts and law and hence, being disposed of conjointly.
- However, for the sake of brevity and clarity, the facts are being taken from *S.B. Civil Writ Petition No.1988/2021 : Pooja Punaram Patel & Ors. Vs. Rajasthan University of Health Sciences & Anr.*
- Mr. Manoj Bhandari, learned Senior Counsel espousing the cause of the petitioners submitted that all the three petitioners, namely, Pooja Punaram Patel, Kanishka Sharma and Harshita Sadhwani have appeared in NEET Examinations-2019 and had cleared the same and took admission in the Vyas Dental College and Hospital, Jodhpur in accordance with law. However, the



allegation leveled by the respondent-Rajasthan University of Health Sciences (hereinafter referred to as 'RUHS') and Dental Council of India (hereinafter referred to as 'DCI'), is that their names had not been uploaded on the official websites of DCI and RUHS by cut-off date i.e. 15.09.2019 by the respondent – college.

4. He asserted that the petitioners got admission and pursued their studies after being provisionally admitted by the RUHS on 18.09.2019. Meanwhile, DCI sent a letter to all the dental colleges to send list of students admitted and in furtherance whereof, the colleges sent list of the students on 01.10.2019.

5. The respondent No.2 – Vyas Dental College vide letter dated 01.10.2019 furnished the details of the students with a plea that due to inadvertence the names of the petitioners were not reflected in the list which was furnished on 15.09.2019. DCI forwarded the list of the students so sent by the college to the Director, Medical Education during which it was revealed that the petitioners' name were not reflected in the initial list which was uploaded by the college on 15.09.2019.

6. In the first writ petition out of the captioned writ petitions (S.B. Civil Writ Petition No.1988/2021), the discrepancy which was found by the respondents was that the names of the petitioners (Pooja Punaram Patel, Kanishka Sharma and Harshita Sadhwani) were not reflected in the list which was uploaded by the college on the official websites of the DCI and RUHS.

7. The DCI issued communication dated 03.12.2019 and asked the respondent - college to discharge the petitioners. According to the petitioners, in spite of the fact that the respondent – college had received the communication dated 03.12.2019 neither the





petitioners were informed nor they were discharged by the respondent – college and it was only when the admission cards to appear in the first year examination were not issued to them, they came to know about the order dated 03.12.2019 passed by the DCI.

8. The fact that DCI had passed an order dated 03.12.2019 had come to the knowledge of the petitioners only after filing of the writ petition. They have moved an amendment application and challenged the order dated 03.12.2019.

9. Mr. Bhandari, learned Senior Counsel submitted that so far as petitioners other than those involved in the first writ petition (S.B. Civil Writ Petition No.1988/2021) are concerned, they stand on slightly different footings. The allegations against the remaining students are that though their names were reflected in the list which was uploaded by the respondent – college (or list uploaded for the respective academic years) on 15.09.2019, but their admission were not in accordance with law as they were not registered with the Rajasthan NEET UG Counseling Board (hereinafter referred to as 'Counseling Board').

10. Mr. Bhandari, learned Senior Counsel submitted that so far as the petitioners of the writ petition being S.B. Civil Writ Petition No.1988/2021 are concerned, they had got admission prior to the cut-off date, but it was due to inadvertence or fault of college which did not forward their names to the RUHS and DCI, for which, neither the petitioners can be blamed nor can their admission be canceled.

11. Learned Senior Counsel emphasized that the petitioners' educational qualification and eligibility and the fact that they had





cleared corresponding NEET Examination is not in dispute and submitted that if for the reasons best known to the respondent – college, despite accepting fee from the petitioners and giving them admissions, it did not forward their names, the college should be penalized by the respondent – DCI or RUHS rather than canceling petitioners' admissions. He submitted that the petitioners have been visited with cancellation of their admission for fault or folly of the college.

12. Mr. S.S. Rathore, learned counsel appearing for the respondent – DCI submitted that the facts as narrated by Mr. Bhandari are not as simple as they have been portrayed. He argued that all the petitioners knowing it fully well that the cut-off date had expired or that they were not registered with the Counseling Board, got themselves admitted with their wide eyes open. He submitted that the petitioners who have got irregular admissions with the connivance of the respondent – college cannot be given a clean chit and their admissions have rightly been canceled by the DCI.

13. Mr. Mahendra Bishnoi, learned counsel appearing for the respondent - RUHS submitted that respondent – college has given incessant admissions to the students, contrary to law and dehors the norms set by the DCI and therefore, no indulgence be granted.

14. He submitted that even if this Court proposes to take a lenient view towards the students, at least the respondent – college be penalized for the gross irregularities it had committed.

15. He submitted that the respondent – RUHS has imposed fine of Rs.1 Crore on the respondent – college for the irregular





admissions which it had given to the students who filed writ petition being S.B. Civil Writ Petition No.1988/2021 (namely, Pooja Punaram Patel, Kanishka Sharma and Harshita Sadhwani).

16. While informing that the respondent – college has separately challenged the imposition of fine by way of filing separate writ petition (being S.B. Civil Writ Petition No.8012/2023), he submitted that the said writ petition is pending though an interim order has been passed by co-ordinate Bench of this Court staying the recovery of the amount of fine subject to condition if the respondent-college deposits 25% of the fine amount.

17. He raised an apprehension that if any indulgence is granted to the petitioners or the college regarding payment of fine imposed upon the respondent – college, it will adversely affect the rights of the parties involved in such writ petitions.

18. Mr. Rathore and Mr. Bishnoi in unison submitted that neither the petitioners nor the respondent – college are entitled for any sympathetic consideration. While inviting Court's attention towards various orders which have been passed by Division Bench of this Court, he highlighted that in similar case a fine of Rs. 25 lac per student has been imposed by the Division Bench vide its order dated 26.04.2023 passed in D.B. Special Appeal (Writ) No.911/2018.

19. Mr. A.A. Bhansali, learned counsel appearing for the respondent – college submitted that so far as petitioners of writ petition No.1988/2021 are concerned, they did get admissions prior to the cut-off date, but they did not report to the respondent – college and therefore, on 15.09.2019, when the list of students admitted was uploaded, their names were not reflected, however





since the petitioners had reported to the respondent - college after 15.09.2019 their names were included in the subsequent list which was uploaded on 01.10.2019. He submitted that in any case, there is a small time lag of 15 days between the date when the first list was uploaded (15.09.2019) and subsequent list was uploaded (01.10.2019) and therefore, the allegation of irregular admissions leveled by the respondent – DCI is unsustainable.

20. Heard learned counsel for the parties and perused the record.

21. The fact that all the petitioners are NEET qualified and each of them has secured requisite percentile to get admission under the respondent – college is not in dispute.

22. The first bone of contention is that the names of all the three petitioners in writ petition (being S.B. Civil Writ Petition No.1988/2021) were not reflected in the first list which the respondent – college uploaded on 15.09.2019 and second is, that the names of the students involved in the remaining writ petitions were though reflected in the list on 15.09.2019, but they did not get themselves registered with the Counseling Board.

23. For whatever reasons - bonafide or otherwise, non-reflection of the names of the petitioners in the list of students uploaded on 15.09.2019 cannot be countenanced by this Court. It was imperative for the respondent – college to give the list of students admitted on 15.09.2019 and hence, the plea taken by the respondent – college that since these three students did not report to the college by 15.09.2019, their names were not shown in the list is nothing but a lame excuse.





24. Moving on to the second issue, the requirement that a candidate desirous of getting admission in any college of Rajasthan including private college is required to get himself registered with Counseling Board is not unknown to the stakeholders. The petitioners of remaining writ petitions were admittedly not registered with the Counseling Board of the corresponding years. Their admissions also cannot be claimed in tandem with law or treated regular in any event.

25. At this juncture, Mr. Bhandari, learned Senior Counsel submitted that all these students (about 20 in numbers) were given admissions in the year 2018-2019 and 2019-2020 and they have not only completed their courses pursuant to the interim order(s) passed by the Court, but have also been declared successful (though mark-sheets have not been issued to them). He prayed that may be because of adolescence or lack of legal acumen, the petitioners got admissions in the respondent - college in an anxiety/zeal of building their career being oblivious of the consequences, which they may ultimately have to face.

26. He contended that some of the students/their parents have taken educational loans. While maintaining that there was no malafide intention as such, he argued that since their eligibility and educational qualification was not in doubt even the banks advanced the credit facilities. He lastly prayed that petitioners' admissions be regularized.

27. The aforesaid request made on behalf of the petitioners, according to this Court, requires a sympathetic consideration on the principles of equity. The petitioners are young people of 20-22 years of age and are yet to begin their life. If at this stage, the





order passed by the DCI of discharging their admissions is allowed to be given effect to, the result would be irreconcilable – these young students will be back to square one. Not only 5-6 years of their prime youth would go in vain, but also their fee and money would be shredded into the drains. By now, they must have become age barred to get admissions in any other courses. Their 5 years of education and experience which they have obtained will be rendered nugatory.

28. Such being the position, this Court feels that if their admissions are regularized, subject to payment of a token fine of Rs.1 lac each student for the lack of diligence they have exhibited, it would meet the ends of justice. Their example may operate as a scarecrow for the future students to remain cautious and careful, while getting admissions and thus, their career are not left in lurch.

29. So far as respondent – college is concerned, according to this Court, it had given admissions to the students (except those involved in writ petition being S.B. Civil Writ Petition No.1988/2021) irregularly. It ought to have been more vigilant and law-abiding while giving admissions, particularly to those students who were not registered with the respective Counseling Board.

30. Be that as it may. If this Court accedes to the request of the students, it cannot let the erring colleges go scot-free. They have to be penalized for the unlawful gain they have derived by defrauding the students and giving them admissions.

31. A recent judgment of Hon'ble the Supreme Court passed on 29.01.2025 has been brought to the notice of this Court which





was delivered in the case of **Dr. Tanvi Behl Vs. Shrey Goel & Ors. (Civil Appeal No.9289/2019)** in which almost similar observations, however in much better expression have been made. For the sake of ready reference, the same are being reproduced hereunder:-

"Having made the above determination that residence-based reservation is impermissible in PG Medical courses, the State quota seats, apart from a reasonable number of institution-based reservations, have to be filled strictly on the basis of merit in the All- India examination. Thus, out of 64 seats which were to be filled by the State in its quota 32 could have been filled on the basis of institutional preference, and these are valid. But the other 32 seats earmarked as U.T. Chandigarh pool were wrongly filled on the basis of residence, and we uphold the findings of the High Court on this crucial aspect. "

32. Though in the above referred judgment, Hon'ble the Supreme Court has not imposed fine, but having regard to the fact that the respondent – college has given irregular admissions year after year, this Court is of the view that imposition of fine is necessary.

33. Similar indulgence has also been granted by Hon'ble the Supreme Court in the case of *Rajendra Prasad Mathur Vs. Karnataka University & Ors.*, reported in (1986) Suppl SCC 740.

The relevant part is reproduced hereinfra:-

"8. We accordingly endorse the view taken by the learned Judge and affirmed by the Division Bench of the High Court. But the question still remains whether we should allow the appellants to continue their studies in the respective engineering colleges in which they were admitted.





It was strenuously pressed upon us on behalf of the appellants that under the orders initially of the learned Judge and thereafter of this Court they have been pursuing their course of study in the respective engineering colleges and their admissions should not now be disturbed because if they are now thrown out after a period of almost four years since their admission their whole future will be blighted. Now it is true that the appellants were not eligible for admission to the engineering degree course and they had no legitimate claim to such admission. But it must be noted that the blame for their wrongful admission must lie more upon the engineering colleges which granted admission than upon the appellants.

....

...

We do not see why the appellants should suffer for the sins of the managements of these engineering colleges. We would therefore, notwithstanding the view taken by us in this Judgment, allow the appellants to continue their studies in the respective engineering colleges in which they were granted admission. But we do feel that against the erring engineering colleges the Karnataka University should take appropriate action because the managements of these engineering colleges have not only admitted students ineligible for admission but thereby deprived an equal number of eligible students from getting admission to the engineering degree course."

34. These writ petitions are, therefore, allowed in the manner that though on merit, the order dated 03.12.2019 qua each of the





student is affirmed, but on equity and subject to payment of Rs.1 lac by each students, their admissions stand regularized.

35. Each of the students shall furnish a demand draft of Rs.1 lac drawn in the name of Registrar, Rajasthan University of Health Sciences within a period of one month from today.

36. On receiving of the demand draft and a webcopy of the order instant, the respondent - RUHS shall issue them mark-sheets/degrees.

37. Needless to observe that after the degrees have been issued by the RUHS, the competent authority shall register the petitioners in accordance with law.

38. So far as respondent - colleges, namely, Vyas Dental College; Eklavya Dental College and Maharaja Ganga Singh Dental College are concerned, they shall pay a fine of Rs.7 lac 50 thousand per student on or before 31.07.2025 to the Registrar, RUHS. In case, the respondent - college fails to deposit said amount of Rs. 7 lac 50 thousand per student by 31.07.2025 (subject of course to their right of appeal etc.), the Counseling Board shall not reflect name of such colleges in the list of eligible colleges.

39. The Registrar, RUHS shall keep the amount in separate account as and when deposited and shall ultimately transmit the same to the Principal and Controller, Government Dental College, Jodhpur, who shall utilize the same for purchase of dental chairs and some other equipments or for meeting out any capital expenditure (not of revenue nature). The amount aforesaid shall be utilized on or before 31.03.2026 and utilization certificate shall be sent to the Registrar, RUHS so also to the DCI.





40. It is high time when the Court should warn the private colleges to desist from giving irregular admissions. The order instant has been passed being guided by the equity in light of peculiar facts and considering that the contentious admissions were given 5-6 years back. However, in future if any such irregular admission is given by the colleges involved in the present writ petitions or by any other college, the DCI and RUHS shall take stern action. They should not consider end of their duties by imposition of fine - they should withdraw or revoke the recognition granted to such colleges in accordance with law, obviously after following principles of natural justice.

41. The stay applications also stand disposed of, accordingly.

S.B. Civil Writ Petition No.12192/2019:-

42. This writ petition is also disposed of in terms of the aforesaid order of even date passed in S.B. Civil Writ Petition No.1988/2021 except qua 3 petitioners, namely, Preya Sharma, Summera Reyaz and Supriya Jaswal.

43. So far as these 3 candidates mentioned in preceding para are concerned, the allegation against them is that, though they had appeared as candidates of unreserved category/general category in the NEET Examination, but they have taken admissions in the respondent-college as 'other backward class' (OBC) students.

44. Mr. Dungawat, learned counsel for the petitioners submitted the fact that these 3 petitioners (Preya Sharma, Summera Reyaz and Supriya Jaswal) belong to other backward class is not in dispute so also the fact that their names were reflected in the list of students given admission and that too as OBC candidates.





45. He submitted that simply because the petitioners did not appear in NEET Exams as OBC candidates for lack of knowledge or otherwise, their admissions cannot be canceled.

46. Mr. Punia, learned counsel for the respondent - RUHS submitted that the petitioners having appeared as general category candidates cannot be given admissions as OBC candidates.

47. Upon hearing learned counsel for the petitioners and perusal of the record, this Court finds that the petitioners had secured 46 percentile in NEET Exams and accordingly, they were disqualified to be given admission as general category candidates. However, since their marks were more than the percentile required for OBC candidate (40 percentile), they were given admission.

48. Their qualification as OBC candidates is not in doubt. This Court is conscious of this fact and the law that the change of category is impermissible and in normal circumstances, a candidate having appeared as a general category candidate cannot claim admission as an OBC candidate, but since the petitioners were given admissions in the year 2018-2019 and pursuant to the interim order they have not only pursued their course but have also cleared the examination, this Court is of the view that they are also entitled for equitable considerations, however, on payment of slightly higher fine.

49. Each of these petitioners (Preya Sharma, Summera Reyaz and Supriya Jaswal) shall pay a fine of Rs. 2 Lac each in the same terms as has been observed in S.B. Civil Writ Petition No.1988/2021 and on payment of fine of Rs.2 lacs by these petitioners, their admission shall be treated regular.





50. The stay application also stands disposed of, accordingly.

(DINESH MEHTA),J

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