



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).

@ SLP(C) No. 26511/2019

IRFAN AKBANI & ORS.

APPELLANT(S)

VERSUS

THE STATE OF MADHYA PRADESH & ORS.

RESPONDENT(S)

J U D G M E N T

B.R. GAVAI, J.

1. Leave granted.
2. This appeal arises out of a peculiar facts and circumstances. The appellants had completed their Bachelor of Dental Surgery (BDS) course from the States of Karnataka, Gujarat and Maharashtra.
3. They took admission for Master of Dental Surgery (MDS) in the dental colleges situated in the State of Madhya Pradesh. However, their admissions were cancelled by the Regulatory Authority on the ground that they have not participated in the counselling process and for being in violation of the order passed by this Court dated 17.03.2016.
4. The order of the Regulatory Authority cancelling admission of the appellants was affirmed by the Appellate Authority. Being aggrieved thereby the appellants had

approached the High Court.

5. The High Court granted an interim order by virtue of which the appellants completed their MDS Course from 2016 to 2019.

6. After the appellants completed their MDS course, the writ petition was dismissed by the Division Bench of the High Court, upholding the order of the Regulatory Authority as well as the Appellate Authority.

7. We have heard Shri Kapil Sibal, learned senior counsel appearing for the appellants and Shri Saurabh Mishra, learned senior counsel appearing for the State of Madhya Pradesh and Shri Gaurav Sharma, learned senior counsel appearing for Respondent No.2.

8. This appeal is vehemently opposed by Shri Saurabh Mishra and Shri Gaurav Sharma, learned senior counsel, on the ground that the admission of the appellants is in violation of the order of this Court as well as on account of them not getting admission from the process of counselling and as such they are backdoor entrants.

9. In the ordinary circumstances, we would not have interfered with the impugned order. However, the fact remains that the admission of the similarly situated students who have completed their BDS from the same State and the same college has not been disturbed on the ground that they had completed their BDS from the State of Madhya Pradesh.

10. No doubt that the principle of negative equality would not be applicable while considering the grant of relief under Article 226 of the Constitution of India. However, the fact remains that similarly circumstanced students, who have passed their BDS Course from the State of Madhya Pradesh have got their Post Graduate Degrees (MDS Course).

11. Though, Shri Saurabh Mishra, learned senior counsel, submits that insofar as the students from the State of Madhya Pradesh are concerned there are only violations of

two factors; insofar as the appellants herein are concerned there is a violation of three factors. Shri Saurabh Mishra, learned senior counsel submits that in any case the admissions of the former were not regularized by the State but by the Regulatory Authority.

12. We find that the approach adopted by the Regulatory Authority which has been confirmed by the Appellate Authority and the High Court to the effect that since the number of illegalities in cases of the appellants were higher than the number of illegalities in the case of the students who have passed their BDS from the State of Madhya Pradesh, the appellants admission would not be regularized, is not a correct approach. In any case, the appellants have completed the MDS course and they have successfully cleared the examination.

13. It is commonly known that there is a dearth of super specialty doctors even in the field of dental science. If the admission of the appellants is not regularized the education undertaken by them would go in waste. Therefore, in the peculiar facts and circumstances of the case, we are inclined to allow the appeal and quash and set aside the impugned order passed by the High Court as well as the orders passed by the Regulatory Authority and the Appellate Authority. Ordered accordingly.

14. The appeal is, accordingly, allowed.

15. The admission of the appellants is directed to be regularized and the respondent(s)/Authorities are directed to issue necessary degree(s) to the appellants.

16. Needless to state that as observed hereinabove, we are passing the aforesaid order in the peculiar facts and circumstances of the case and it shall not be treated as a precedent in any other matter.

17. Pending application(s), if any, shall stand disposed of.

.....J
(B.R. GAVAI)

.....J
(K.V. VISWANATHAN)

NEW DELHI;
DECEMBER 04, 2024