

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4424 OF 2018
(Arising out of SLP(C) No.11026/2018)

KASHMI BHAGTANI

APPELLANT(S)

VERSUS

THE STATE OF MADHYA PRADESH & ORS.

RESPONDENT(S)

With C.A. No.4425/2018 [@SLP(C) No.9256 of 2018]
C.A. No.4426/2018 [@SLP(C) No.9257 of 2018]
C.A. No.4427/2018 [@SLP(C) No.9874 of 2018]
C.A. No.4428/2018 [@SLP(C) No.10491 of 2018]
C.A. No.4429/2018 [@SLP(C) No.11027/2018]

O R D E R

Permission to file the special leave petitions is granted.

Leave granted.

We have heard learned counsel appearing for the parties and perused the record.

The appellants are students who were granted admissions in MBBS/BDS course in the round after the mop up round. This round came into existence by reason of this Court's judgment rendered in *Dar-Us-Slam Educational Trust & Ors. vs. Medical Council of India & Ors.* - (2017) 8 SCC 627. As a result of this round, about 60 students were admitted in MBBS course. Out of these 60 students, 48 students were not domiciled in the State of Madhya Pradesh. Respondent No.5 (in Civil Appeal Nos.4425 and 4426 of 2018) and other respondents-students who were domiciled in the State of Madhya Pradesh challenged the admissions granted to the present appellants.

The High court on a construction of Regulations relating to domicile framed by the State of Madhya Pradesh vide notification dated 07.07.2017 by the Department of Medical Education (DME) exercising powers under section 13 of the Madhya Pradesh Private Commercial Academic Institutions (Regulations of Admission and Determination of Fee) Act, 2007 (hereinafter referred to as the 'Regulations 2007') held that the appellants who are amongst 48 non-domicile students, would not have been entitled for admission in the MBBS course because the Regulations 2007 so provides. Regulation (6) of the Regulations 2007, reads as follows :

"6. Eligibility : -

(1) Applicant should be citizen of India. By giving priority to the applicants who are domicile of Madhya Pradesh, seats of unreserved category will be first allotted to them. Thereafter, the unreserved seats left vacant will be allotted to registered applicants of out of the State of Madhya Pradesh.

.....

.....

(6) Eligibility for allotment of left out seats : -

(i) Following applicants will be eligible for allotment of left out seats : -

(a) Such registered applicants who have not been allotted any seat in the earlier rounds of counseling.

(b) Such registered applicant who has not done choice filing in the earlier rounds of counseling.

(ii) Following applicants will not be eligible for allotment of left out seats : -

(a) Such registered applicants who have taken admission in the seats allotted to them in earlier rounds of counseling.

(b) Such registered applicants who have not taken admission in the allotted seat in the earlier rounds of counseling.

(c) Such registered applicants who have resigned after taking admission in the seat allotted to them in the earlier rounds of counseling.

....."

We have no doubt that the impugned order passed by the High Court on this point is unassailable. The Regulations 2007 clearly provide for a preference to students domiciled in the State of Madhya Pradesh for filling up the left out vacant seats in the fourth round of counseling for admission in the MBBS/BDS Course.

The appellants were not students who were domiciled in the State of Madhya Pradesh and their admissions have, therefore, been rightly cancelled. At this juncture, we find it necessary to observe that it is strange that the Department of Medical Education (DME) which is a body constituted by the State of Madhya Pradesh, would have forwarded the names of students who were not domiciled in the State of Madhya Pradesh for the purpose of fourth round of counseling for admissions. Presumably, the Department of Medical Education knew about the provisions in Regulations 2007, we find it difficult to understand why such names were forwarded.

Though the appellants do not appear to be entitled for admissions in the fourth round, we find that the High Court could not have cancelled their admissions without giving them an opportunity of hearing. They had already undergone studies for about four months at that time. Even if the High Court felt it unnecessary to hear the students only because it was construing the Regulations 2007 which applied equally to all the students, in our view, it is necessary for the High Court to hear the students because the question of accommodating the students in other seats which might be vacant often arises in

such cases.

We, therefore, consider it necessary in the interests of justice to set aside the directions given by the High Court vide the impugned order, by which the appellants' admissions have been cancelled.

We however find that it is not possible to adjust the respondents-students in any other college in this year because the cut-off date has already passed passed. These students may apply for admissions in MBBS/BDS course in accordance with the law in this regard for the next academic sessions.

We order accordingly.

At this stage, Mr. Aditya Sanghi, learned counsel, representing the respondents-students, prays for grant of compensation for the aggrieved respondents-students.

We permit the respondents-students being represented by Mr. Aditya Sanghi, learned counsel, to take out an appropriate proceeding for grant of compensation before the High Court in accordance with law.

With the aforesaid directions, these appeals are disposed of. Pending interlocutory applications, if any, also disposed of.

.....J
[S. A. BOBDE]

.....J
[L. NAGESWARA RAO]

New Delhi;
April 25, 2018.

ITEM NO.4 + 14

COURT NO.7

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) No.D13016/2018

(Arising out of impugned final judgment and order dated 23-03-2018 in WP No.15635/2017 passed by the High Court Of M.P. Principal Seat At Jabalpur)

KASHMI BHAGTANI

Petitioner(s)

VERSUS

THE STATE OF MADHYA PRADESH & ORS.

Respondent(s)

(With application for permission to file the SLP)

WITH SLP(C) No. 9874/2018 (IV-A)

SLP(C) No.9257/2018 (IV-A)

(With appln.(s) for exemption from filing c/c of the impugned judgment)

SLP(C) No. 9256/2018 (IV-A)

(With appln.(S) For exemption from filing C/C of the impugned judgment)

SLP(C) No.10491/2018 (IV-A)

(With appln.(S) For exemption from filing C/C of the impugned judgment)

SLP(C) No...../2018 Diary No.15368 of 2018

(With application for permission to file the SLP)

Date : 25-04-2018 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE

HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Mrs. Indu Malhotra, Sr. Adv.
 Mr. Rakesh Dahiya, AOR
 Mr. Aditya Dahiya, Adv.
 Mr. Satyavan Kudalwal, Adv.
 Mr. Prashant Singh, Adv.
 Mr. Shivang Dubey, adv.
 Mr. (Brig.) M.L. Khatter, Adv.

 Mr. Siddharth Gupta, Adv.
 Mr. Kush Chaturvedi, AOR
 Mr. Somay Kapoor, Adv.
 Ms. Priyashree, Adv.

For Respondent(s) Mr. Aditya Sanghi, Adv.
Mr. Akshat Shrivastava, Adv.
Mrs. Pooja Shrivastava, Adv.

Mr. Gaurav Agrawal, AOR
Mr. Abhishek, Adv.
Mr. Dhawal Mohan, Adv.
Mr. Prateek Bhatia, Adv.

Mr. Amalpushp Shroti, AOR

UPON hearing the counsel the Court made the following
O R D E R

Permission to file the special leave petitions is granted.

Leave granted.

These appeals are disposed of in terms of the signed order.

Pending interlocutory applications, if any, also disposed of.

(SANJAY KUMAR-II)
COURT MASTER (SH)

(INDU KUMARI POKHRIYAL)
ASST.REGISTRAR

(Signed Order is placed on the file)