

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6618 OF 2000@@
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Vaibhav Verma & Ors.Appellants

VS.

State of Himachal Pradesh & Ors.Respondents

With Civil Appeal No. 6620 of 2000
(With appln. for intervention)

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Realising the necessity to establish another medical college in the State of Himachal Pradesh where only one medical college, known as Smt. Indira Gandhi Medical College, Shimla was functional, the State Government made an announcement in 1996 that one more medical college in District Kangra shall be set up to cater to the need of medical education for the students belonging to the State of Himachal Pradesh. The proposed college was to be set up at Tanda. In July, 1996, the State Government approached the Central Government for permission to start the medical college. The Medical Council of India, which is the competent authority to make recommendation to the Central Government in such matters, was not satisfied with the steps taken by the State Government to start the medical college at Tanda. Consequently, the ...2/-

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Medical Council of India pointed out the deficiencies and recommend the Central Government not to grant permission to start the medical college at Tanda. Consequently permission was not granted by the Central Government. The State of Himachal Pradesh questioned the order of the Central Government refusing permission to establish medical college at Tanda by filing writ petition No. 551 of 1997 in the H.P. High Court. On 9th January, 1998, the High Court allowed the writ petition filed by the State. Certain directions were issued by the High Court. Union of India was directed to accord permission to the State initially for one year to enable the medical college at Tanda to commence first year classes of MBBS course. Against the order made by the Division Bench of the High Court, two appeals came to be filed in this Court - one by the M.C.I. and the second by the U.O.I.

Both the appeals, i.e. C.A. No. 5045/98 and C.A. 5046/98 were disposed of on February 16, 2000. It transpires that deficiencies, which had been noticed by the M.C.I. had, in the meanwhile, been
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removed. The Medical Council, therefore, permitted H.P. State to set up the medical colleges in the State and also granted permission to start first year M.B.B.S. classes. Dr. Rajendra Prasad Government Medical College, Tanda was set up with an intake capacity of 50 students on the basis of the permission granted by the U.O.I. in January, 1999. The appeals were disposed of with certain observations but we are not at present concerned with those observations in these cases.

Though Dr. Rajendra Prasad Government Medical College was not even in existence in 1997, the State Government of Himachal Pradesh, after having taken a decision to set up such a college but without waiting for getting permission from the Central Government and the M.C.I. held a Combined Pre Medical Test (CPMT) in 1997 for selecting students to fill 50 seats in Dr. Rajendra Prasad Government Medical College, Tanda. Those students were expected to be admitted for the session 1997-98. Obviously, the students could not be admitted since there was no college. In the year 1998, no CPMT was held. The batch of students, who
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had qualified in the CPMT held in 1997 for admission to the session 1997-1998, kept waiting to be admitted. After permission was granted, in January, 1999, by the Central Government and the M.C.I. for the college to start functioning, Session 1999-2000 commenced. CPMT was held in 1999 but the first batch of students who had qualified in the CPMT of 1997 were admitted to the first year MBBS for the Session 1999-2000 and not the students, who had qualified in the CPMT held in 1999. The 1999 CPMT batch candidates, therefore, could not be admitted for the session 1999-2000 because the 50 seats of the college stood filled up by the waiting students who had qualified in CPMT held in 1997. It was now the turn of the qualified students of 1999 CPMT to wait in the wings.

In the year 2000, for the session 2000-2001, CPMT was held for admission to various professional colleges in Himachal Pradesh but in the Prospectus, it was clearly disclosed that CPMT was not being conducted for 50 seats of Dr. Rajendra Prasad

Government Medical College, Tanda. For filling up those 50 seats, therefore, no CPMT was held in the ...5/-

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year 2000 for the session 2000-2001. Appellants, who had qualified in 1999 CPMT for the session 1999-2000 and who could not be adjusted in that session for the reasons noticed earlier, claimed admission to first year MBBS course against 50 seats in Dr. Rajendra Prasad Government Medical College, Tanda for the session 2000-2001, which seats for that session had admittedly remained unfilled.

The Government of H.P. wrote to the Central Government seeking permission to admit the 1999 batch of CPMT qualified candidates to be admitted against the 50 seats of 2000-2001 session. Permission was granted but before the students could be formally admitted, some of the candidates, who had appeared in CPMT held in 2000 competing for admission against seats (other than for the seats of Tanda medical college) filed writ petitions in the High Court seeking admission against 50 seats. Apparently, those petitioners were the ones who had not secured admission in the other medical colleges on the basis of the CPMT held in 2000 and were in the waiting list. They challenged the decision of the Central Government ...6/-

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and the State of Himachal Pradesh to admit the qualified students for 1999 batch to the session 2000-2001 against the 50 seats of Medical College at Tanda. A Division Bench of the High Court noticed the anomalous situation which had been created. The High Court also noticed that the students of 1999-2000 batch were being made to suffer for no fault of theirs because the seats which they could have filled up stood occupied by the students of the previous batch of 1998 but expressed their 'helplessness' to help those students who were the sufferers for no fault of theirs. The High Court held that students who had cleared CPMT for 1999 could not be admitted in the Session 2000-2001 to fill 50 seats of Medical College at Tanda. Aggrieved, the appellants have approached this Court. Some of the students who were in the waiting list of CPMT held in 2000 for admission to other colleges have filed intervention applications. It, however, is not disputed that 50 seats of Medical College of Tanda have remained unfilled because no CPMT was held in 2000 for filling up those seats.

On 13th March, 2001, when these appeals were taken up for consideration, it was submitted on behalf

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of the appellants by their learned senior counsel, Mr. Dwivedi, that since 50 seats for session 2000-2001 (Medical College at Tanda) had remained unfilled and it would be unfair to waste those seats, when the appellants could be adjusted against those seats in order of their merit. It was submitted that the appellants had been waiting in the wings after qualifying in 1999 CPMT for the session 1999-2000 for no fault of theirs and they could be accommodated without in any way infringing the rights of any other qualified candidates. It was noticed by us that in case 1999 CPMT batch students were admitted to the first year MBBS for the session 2000-2001, could they complete their studies since only a few months remained for the 2000-2001 session to conclude.

We, therefore, consider it appropriate to find out from the university, the Medical Council of India and the State of Himachal Pradesh, if they were in a position to complete the first year MBBS course of study without in any way compromising with the standard of education in case the 1999 batch students were adjusted against the unfilled seats. Learned

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counsel for the University, the State and the Medical Council of India submitted that they would convene a meeting to examine the situation.

Various meetings were held between the three and an affidavit has been filed in Court today on behalf of the State of Himachal Pradesh by Sh. Ashok Sharma, Joint Secretary, Health, Government of H.P. In the affidavit it is inter-alia stated:

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" - that after detailed discussion, it was unanimously agreed upon that if permission is given to start the MBBS Course (first professional), the study programme and the examinations of this batch will be conducted in accordance with MCI rules and regulations without compromising the standards of medical education."

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In view of the position explained in the above affidavit by the State, with which the M.C.I., the U.O.I. and the college are in agreement, it appears

to us that the issue is capable of being resolved.

Undoubtedly, the appellants have suffered for no fault of theirs. 50 seats of the medical college at Tanda for the session 2000-2001 are available ...9/-

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having not filled till date. There is no point in wasting those seats particularly when it is stated in the affidavit referred to above that without@@
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compromising with the standards of education, the@@
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study programme and examinations of the batch to be now admitted can be conducted in accordance with the M.C.I. rules and regulations till the session concludes. We, accordingly, direct as follows:

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1. That against 50 available seats in the medical college at Tanda for the session 2000-2001, admissions be made in the order of merit from the list of the qualified candidates who had appeared in the CPMT held in 1999. The cases of the present appellants (17 in number) shall be considered in accordance with their respective merit position in the CPMT held in 1999.

2. In the event any seat is left unfilled, the same be made available to the qualified candidates, who had ...10/-

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appeared in the CPMT held in 2000 for other medical colleges. This shall also be done strictly in accordance with merit on the basis of the merit list prepared for the CPMT held in 2000.

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The State and the medical college shall take all immediate steps to admit the students and commence studies. The State shall undertake the entire exercise of admission in the terms suggested above in one go and we are assured by the State that the exercise can be completed on or before 20th April, 2001 so that the classes can commence w.e.f. 23rd April, 2001, as suggested by learned counsel for MCI as well as learned counsel representing the State.

We wish to make it clear that the order has

been made in the peculiar facts and circumstances of this case and it should not be construed as any precedent for not filling up the seats by the batches of students who qualify in the CPMT for the session in question and we have no quarrel with the propositions laid down in the earlier judgments of the court
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including Dr. Indu Kant & Ors. etc. vs. State of@@
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U.P. & Ors. etc. 1993 supp.(2) SCC 71 (which case@@
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on facts is distinguishable from the facts of the present case).

The appeals and the intervention applications are disposed of in the above terms but with no order as to costs.

Learned counsel appearing for the State of H.P. shall communicate this order, pronounced in the open Court, to the State so that appropriate steps are commenced forthwith.

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(R. C. LAHOTI)

.....J.
(DORAISWAMY RAJU)

New Delhi
April 10, 2001.