

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).19738/2013

(From the judgment and order dated 27/05/2013 in CWP No. 8794/2012 of The
HIGH COURT OF HIMACHAL PRADESH AT SHIMLA)

SHIVALI CHOUDHARY Petitioner(s)

VERSUS

STATE OF H.P & ORS. Respondent(s)

(With prayer for interim relief and office report)

WITH
SLP(C) NO. 21813-21814 of 2013
[ANSHUL CHAUHAN V. STATE OF H.P. & ORS.]
(With application for directions, permission to place additional documents
on record, prayer for interim relief and office report)

SLP(C) NO. 25204 of 2013
[SHIVANI V. STATE OF H.P. & ORS.]
(With prayer for interim relief and office report)

Date: 04/10/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. PATNAIK
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

For Petitioner(s) Mr. Mahabir Singh, Sr. Adv.
in SLP 19738 Mr. S.S. Shamsbery, Adv.
Mr. Bhakti Vardhan, Adv.
Ms. Asha Kochar, Adv.
Mr. V.M. Vishnu, Adv.
Mr. Bharat Sood, Adv.
Mr. Sabmeet Das, Adv.
Mr. R.C. Kohli, Adv.

In SLP 25204 Mr. Anil Nag, Adv.

In SLP 21813-14 Dr. Krishan Singh Chauhan, Adv.
Mr. Ajit Kumar Ekka, Adv.
Mr. Ravi Prakash, Adv.
Mr. Chand Kiran, Adv.

For Respondent(s)
For MCI Mr. Amit Kumar, Adv.
Mr. Atul Kumar, Adv.
Mr. Avijit Mani Tripathi, Adv.

For State Mr. Varinder Kumar Sharma, Adv.
Mr. Varun Thakur, Adv.

For RR 6 in SLP Mr. Gaurav Sharma, Adv.
25204 Mr. Sumeet Bhatia, Adv.

For RR 2 & 4 in Mr. Ashwani Kumar Dubey, Adv.
SLP 25204 & 19738 Mr. Avinash Prasad, Adv.

For RR 2 & 5 in
SLP 21813-14 Mr. Ashwani Kumar Dubey, Adv.
Mr. Avinash Prasad, Adv.

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

SLP(C) Nos. 21813-21814 of 2013 and 25204 of 2013 are dismissed.
Leave granted in SLP(C) NO. 19738 of 2013.
The appeal stands partly allowed in terms of the signed order.

[KALYANI GUPTA]		[SHARDA KAPOOR]
COURT MASTER		COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE.]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8973 OF 2013
[ARISING OUT OF SPECIAL LEAVE PETITION) NO. 19738 OF 2013]

SHIVALI CHAUDHARY	APPELLANT
VERSUS		
STATE OF HIMACHAL PRADESH & ORS.	RESPONDENTS

O R D E R

Leave granted.

2. By the impugned order dated 27th May, 2013 passed in Civil Writ Petition No. 8794 of 2012, the High Court found that the appellant had been wrongly admitted in the MBBS Course and after the mistake was detected, a realignment of seats had to be made and consequently the admission of the appellant had to be cancelled and she had to be reverted to the H.P. Government Dental College, Shimla to her original seat in BDS Course to which she was admitted on the basis of her merit. The High Court, however, left the issue with regard to continuance of the appellant in the BDS Course to the competent authorities and particularly the Dental Council of India subject to their approval.

3. Aggrieved the appellant is before this Court.

4. We have heard learned counsel for the parties and we find that the appellant was selected for admission in a BDS seat on the basis of her merit in the entrance test and thereafter given admission to MBBS Course on a mistaken impression that some MBBS seats fell vacant on surrender of the All India Quota seats to the State of Himachal Pradesh. The appellant was informed by letter dated 6th October, 2012 of the Directorate of Medical Education and Research, Himachal Pradesh about the mistake and about the cancellation of her admission in the MBBS Course in Dr. RPGMC, Kangra at Tanda and was asked to revert back to the Himachal Pradesh Government Dental College for BDS Course. The appellant, however, herself chose to instead pursue her claim for the MBBS seat by filing a writ petition before the High Court. Now that the High Court has found that she was not entitled to admission to MBBS seat, in our view, the High Court is right in taking a view that relief to the appellant cannot be granted so far as MBBS seat is concerned.

5. But the fact remains that the appellant though entitled to admission in the BDS Course on the basis of her merit was in fact given admission to the MBBS Course on account of a mistake committed by the authorities of the State Government and for this mistake the

appellant should not suffer. She is entitled to continue in her seat in BDS Course. The High Court, therefore, should not have left this issue to the decision of the Dental Council of India and to other competent authorities. The High Court should have directed the authorities to accommodate the appellant in BDS Course for the academic session 2013-2014.

6. We, therefore, modify the impugned order passed by the High Court and direct that the State of Himachal Pradesh will accommodate the appellant in BDS Course in any of its Colleges if necessary by adding a seat, and the Dental Council of India will approve the increase of strength for this limited purpose.

7. The appeal stands partly allowed in the above terms.

.....J
[A.K. PATNAIK]

.....J
[JAGDISH SINGH KHEHAR]

NEW DELHI
OCTOBER 04, 2013.