

7<
ITEM NO.301
[3.30 p.m.]

COURT NO.1

SECTION XVIA

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

I.A.NO.3 IN TRANSFER CASE (CIVIL.) NO. 101 OF 2012

A.P.PVT.MEDICAL & DENTAL COLLEGE MGT.ASS Petitioner(s)

VERSUS

DR.N.T.R.UNIV.OF HEALTH SCIENCES & ANR. Respondent(s)

(for clarification/modification of Court's order)

Date: 01/07/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL R. DAVE
HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Petitioner(s)

Mr. L.Nageshwara Rao, Sr. Adv.
Mr. A.Ramesh, Adv.
Mr. Y.Rajesh Kumar, Adv.
Ms. Madhavi, Adv.
Mr. D.Geetha, Adv.
for Mr. C.S.N. Mohan Rao, AOR

CBCI

Ms. Bina Madhavan, Adv.
Ms. Praseena Elizabeth Joseph, Adv.
M/s. Lawyers Knit & Co.Advs.

I.A.3 in TC 101/12
TC 144/12

Mr. Amit Anand Tiwari, Adv.

For Respondent(s)

Mr. Y. Raja Gopala Rao, AOR
Ms. Y.Vismai Rao, Adv.
Mr. Hitendra Nath Rath, Adv.

/applicant

Mr. Prashant Bhushan, AOR
Mr. Rohit K.Singh, Adv.

St. of A.P.

Mr. G.N. Reddy, Adv.
Mr. Debojit, Adv.

CBSE

Mr. T.C. Sharma, AOR
Ms. Neelam Sharma, Adv.
Mr. Rajeev Sharma, Adv.

Sri Ramachandra
University

Mr. Ajit Kumar Sinha, Sr. Adv.
Mr. Ashwarya Sinha, Adv.
For Mr. Ambhoj Kumar Singh, Adv.

St. of Raj.

Dr. Manish Singhvi, AAG.
Mr. Irshad Ahmad, Adv.

DCI

Ms. Prathiba M.Singh, Adv.
Mr. Gaurav Sharma, Adv.

MCI

Mr. Nidesh Gupta, Sr. Adv.

Mr. Amit Kumar, AOR
Mr. Atul Kumar, Adv.
Mr. Rituru Kumar, Adv.

Dean Goa Medical College Mr. Bhavanishankar V.Gadnis, Adv.
Ms. Sunita B.Rao, Adv.

UPON hearing counsel the Court made the following

O R D E R

IA 3 of 2013 has been filed in I.A.No.2 of 2013 in Transferred Case(Civil)No.101 of 2012, wherein the Andhra Pradesh Private Medical and Dental College Management Association, was the petitioner. The applicant, Sankalp (NGO), was impleaded as a respondent in these proceedings on 15th January, 2013.

In this application, the applicant has, inter alia, prayed for a clarification that at least for the present academic year, though the private medical colleges would be free to take admissions on the basis of their respective entrances tests, the students who are selected on the basis thereof, should be from those only who had also appeared in the common entrance test, (NEET) conducted by the Medical Council of India and obtained the 50 per cent and above percentile in the common test.

Mr. Prashant Bhushan, learned advocate appearing in support of the application, has submitted that this clarification is required on account of the fact that in the Order passed by us on 13th May, 2013, while modifying the earlier order passed on 13th December, 2012, and allowing the results of the examinations already conducted to be declared to enable the students to take advantage of the same for the current year, it had not been mentioned as to whether students who had not sat for the NEET examinations are also to be considered for admission by the private institutions.

Mr. Bhushan further submitted that this clarification was needed, since, some of the students who had appeared for the NEET examinations had not appeared in the examinations of the other private institutions on account of the fact that the amended regulation of the MCI had not been stayed by the Court and was still operative.

Mr. Bhushan's submissions were endorsed by Mr. Nidhesh Gupta, learned senior counsel for the Medical Council of India.

On behalf of the petitioners in the Transferred Case, Mr. L.N. Rao, learned senior advocate, submitted that the Order was very clear, since by the Order of 13th December, 2012, all institutions were permitted to hold their entrance examinations, but were injuncted from declaring their final results. It was also submitted by him that it cannot be said as a matter of fact that all students who wish to apply for the MBBS in the post-graduate courses have, in fact sat for the NEET examinations. The same sentiments were expressed by the learned counsel for the other parties, who had appeared on behalf of the various institutions as also the Andhra Pradesh Government.

In order to consider the prayer which has been made on behalf of the applicant, one will have to consider the purport of the order which we had passed on 13th May, 2013. We had taken into consideration the fact that a large number of students had already sat for the examinations which had been conducted by MCI and private institutions and that they would suffer if the bar imposed by us on 13th December, 2012, restraining the results from being declared, was not lifted. In fact, it was submitted that the students would lose a year in the event the same was not done. It is in that background that the order of 13th December, 2012, was modified by the order of 13th May, 2013.

The submissions made by Mr. Prashant Bhushan will to some extent depend upon the final judgment in the batch of matters which had been heard, since it involves the very right of the Medical Council of India to conduct the NEET examinations in order to ensure entrance of all MBBS courses and post-graduate courses in Medicine in all the different medical institutions in the country by one single entrance examination. Since we are yet to pronounce judgment on that score, accepting Mr. Bhushan's

submissions at this stage, in our view, would be premature. However, Mr. Bhushan has also brought to our notice the Order passed by the Vacation Bench on 11th June, 2013, which, in our view, protects the students whom Mr. Bhushan's client represents.

Since we are not interfering with the said order, we see no reason to entertain the present application, which is, accordingly, dismissed.

|(Sheetal Dhingra)
|AR-cum-PS

|(Juginder Kaur)
|Assistant Registrar

|