

Writ Appeal
Present
The Hon'ble Justice Pranab Kumar Chattopadhyay
And
The Hon'ble Justice Md. Abdul Ghani

Judgment on 20.08.2010

M.A.T.648 of 2010
With
C.A.N.4434 of 2010.
Mrinal Prasad Pal
-Vs-
State of West Bengal and Ors.

Points:

Internship training: Application for provisional registration certificate was submitted to the college -Petitioner after passing BHMS joined internship training after completion all formalities-Subsequently whether he can be prevented from continuing the training on the plea of non production of BHMS certificate and provisional registration certificate of the Council of Homoeopathic Medicine, West Bengal- Constitution of India Art 226

Facts:

The appellant/petitioner after passing the final B.H.M.S. Examination joined the internship training at D. N. De Homeopathic Medical College and Hospital on 1st December, 2007. He could not attend the internship duty from March 1, 2008 to April 7, 2008 due to his accident and subsequently also on and from November, 2008 on account of his illness. Thereafter the college authority did not allow him to join the internship duty in December, 2008 after his recovery from

ailments. The Teacher-in-charge of D. N. De Homeopathic College and Hospital admits that the petitioner was not allowed to join internship duty since the provisional registration certificate from the State Homeopathic Council and the B.H.M.S. Certificate from Calcutta University was not produced. Writ petition was dismissed.

Held:

The appellant/petitioner herein was allowed to join internship duty by her predecessor-in-office in the month of December, 2007 upon completion of necessary formalities and, therefore, the said teacher-in-charge had no authority to prevent the appellant/petitioner from continuing the internship training on the plea of non-production of B.H.M.S. certificate and the provisional registration certificate of the Council of Homeopathic Medicine, West Bengal. Para 7

The application for provisional registration certificate of the appellant/petitioner was submitted to the college and according to the learned Counsel of the appellant/petitioner, said application for registration was not forwarded by the college authority. Accordingly, Court directs the Calcutta University authorities to issue formal pass certificate in favour of the appellant/petitioner in view of issuance of pass mark sheets in

favour of the said appellant/petitioner in respect of B.H.M.S. Part-I, Part-II and Part-III Examinations after allowing him to complete the B.H.M.S. Course. The University authorities will issue the aforesaid pass certificate on or before 31st August, 2010 subject to production of the original mark sheets before the University authorities for the purpose of completion of necessary formalities in this regard. The teacher-in-charge of D. N. De Homeopathic College and Hospital is also directed to allow the appellant/petitioner to join the internship training immediately in order to enable the said appellant/petitioner to complete the said training within the balance period of 12 months since the said appellant/petitioner was wrongfully prevented from joining the internship training in the month of December, 2008 and thus illegally denied the said appellant/petitioner to complete the internship training within the prescribed period of 24 months. The teacher-in-charge of D. N. De Homeopathic College and Hospital is further directed to forward the application form of the appellant/petitioner for provisional registration under the Council of Homeopathic Medicine, West Bengal being Annexure P-6 of the stay application without any further delay but positively on or before 31st August, 2010. Paras 8,13,14 and 15

Mr. Arabinda Chatterjee,
Mr. Goutam De,

Mr. Subir Sabud,
Mr. T. Samanta,
Mr. Ranajit Ghosh.

...For the Appellant.

Mr. Syed Nazmul Hossain.

...For the Respondent
No.6.

Dr. S. K. Patra,
Mr. R. K. Basak.

...For the State.

Re: CAN 4434 of 2010.

The Court:

This stay application has been filed in connection with the appeal preferred from the order dated 3rd May, 2010 whereby and whereunder a learned Judge of this Court dismissed the writ petition on merits.

2. From the records, we find that the appellant/petitioner after passing the final B.H.M.S. Examination joined the internship training at D. N. De Homeopathic Medical College and Hospital on 1st December, 2007.

3. It also appears from the records that the said appellant/petitioner could not attend the internship duty from March 1, 2008 to April 7, 2008 due to his accident and subsequently also on and from November, 2008 on account of his illness.

4. It has been submitted on behalf of the appellant/petitioner that the college authority did not allow the appellant/petitioner to join the internship duty in December, 2008 after his recovery from ailments.

5. The Teacher-in-charge of D. N. De Homeopathic College and Hospital is personally present before this Court.

6. The said teacher-in-charge admits that the appellant/petitioner was not allowed to join internship duty since the provisional registration certificate from the State Homeopathic Council and the B.H.M.S. Certificate from Calcutta University was not produced.

7. The appellant/petitioner herein was allowed to join internship duty by her predecessor-in-office in the month of December, 2007 upon completion of necessary formalities and, therefore, the said teacher-in-charge had no authority to prevent the appellant/petitioner from continuing the internship training on the plea of non-production of B.H.M.S. certificate and the provisional registration certificate of the Council of Homeopathic Medicine, West Bengal.

8. From the records, we find that the application for provisional registration certificate of the appellant/petitioner was submitted to the college and according to the learned Counsel of the appellant/petitioner, said application for registration was not

forwarded by the college authority.

9. We also find that the appellant/petitioner completed the B.H.M.S. Course and passed Part-I, Part-II and Part-III Examinations before joining the internship training. The mark sheets in respect of the aforesaid B.H.M.S. Part-I, Part-II and Part-III Examinations have been annexed with the stay application.

10. Since the appellant/petitioner herein was allowed to complete the B.H.M.S. Course by the Calcutta University and the said appellant/petitioner duly passed B.H.M.S. Part-I, Part-II and Part-III Examinations, there can be no valid reason for not issuing the pass certificate in favour of the appellant/petitioner.

11. It is true that the internship training was required to be completed by the candidate within a period of 24 months after passing the final examination. In the present case, however, the teacher-in-charge of the College wrongfully and illegally prevented the appellant/petitioner from completing the said internship training within the prescribed period of 24 months as the said appellant/petitioner was not allowed to join the internship training in the month of December, 2008 i.e. only after expiry of 12 months from joining the said internship training.

12. For the aforementioned reasons, we do not approve the conduct of the college authorities and furthermore, the stand

taken by the University authorities in respect of the appellant/petitioner.

13. Accordingly, we direct the Calcutta University authorities to issue formal pass certificate in favour of the appellant/petitioner in view of issuance of pass mark sheets in favour of the said appellant/petitioner in respect of B.H.M.S. Part-I, Part-II and Part-III Examinations after allowing him to complete the B.H.M.S. Course. The University authorities will issue the aforesaid pass certificate on or before 31st August, 2010 subject to production of the original mark sheets before the University authorities for the purpose of completion of necessary formalities in this regard.

14. The teacher-in-charge of D. N. De Homeopathic College and Hospital is also directed to allow the appellant/petitioner to join the internship training immediately in order to enable the said appellant/petitioner to complete the said training within the balance period of 12 months since the said appellant/petitioner was wrongfully prevented from joining the internship training in the month of December, 2008 and thus illegally denied the said appellant/petitioner to complete the internship training within the prescribed period of 24 months.

15. The teacher-in-charge of D. N. De Homeopathic College and Hospital is further directed to forward the application form of the appellant/petitioner for provisional registration under the Council

of Homeopathic Medicine, West Bengal being Annexure P-6 of the stay application without any further delay but positively on or before 31st August, 2010.

16. In view of the aforesaid directions, impugned order under appeal passed by the learned Single Judge stands set aside and this application thus stands disposed of.

17. In view of the aforesaid order, no purpose will be served in keeping the appeal pending. Therefore, the appeal is also treated as on day's list and disposed of accordingly.

18. In the facts of the present case, there will be, however, no order as to costs.

19. Xerox plain copy of this order countersigned by the Assistant Registrar (Court) be given to the appearing parties on usual undertaking.

(Pranab Kumar Chattopadhyay, J.)

(Md. Abdul Ghani, J.)

