

A DR. KULMEET KAUR MAHAL & ORS.

v.

STATE OF PUNJAB & ORS.
(Civil Appeal No. 7940 of 2013)

B SEPTEMBER 11, 2013

[K.S. RADHAKRISHNAN AND A.K. SIKRI, JJ.]

EDUCATION:

C *Medical admissions – Admission to PG Medical*
Courses – Weightage to in service candidates – Clarificatory
order by High Court in review petition, without disturbing the
already allocated seats – Held: On facts, since the order does
not deprive the appellants in getting admission into their
D *preferred colleges or subjects, and they have already been*
admitted into various colleges and counseling is also over,
it would not be in the interest of justice to disturb the
admissions of appellants or contesting respondents – Legal
questions left open.

E *Impleadment:*

Medical admissions – Application for impleadment –
Significance of time limit – Explained – Delay/Laches.

F **In the matter of quota of general category and in-**
service candidates for admission to PG Medical courses,
the instant appeal was filed against the clarificatory order
of the High Court to the effect that already allocated seats
in the general category are not to be disturbed but
G **whatever further seats remain vacant and/or are spill over**
from 60% quota, the RMOs would also compete, with the
only difference that there would be weightage given to
them as per Clause (ix) of Medical Council of India
Regulations.

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PUNJAB

Dismissing the appeal, the Court.

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HELD: 1. On facts, leaving the legal questions open, the order passed by the High Court in the review application does not deprive the appellants of their right to get admission into their preferred colleges or favourite subjects, and since the appellants and the RMOs have already been admitted to the various colleges and the counseling is also over, it would not be in the interest of justice to disturb the admission of the appellants or the contesting respondents. [para 6] [324-B-D]

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2. In academic matters, the time limit has to be strictly viewed. In the instant case, the applicants should have approached the Court at the earliest opportunity. In the circumstances, there is no reason to entertain the impleadment application, which was filed belatedly. [para 7] [324-D-E]

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Satyaprata sahoo & ors. vs. State of orissa & ors. 2012 (10) SCR 204 = 2012 (8) SCC 203 - relied on.

Case Law Reference:

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2012 (10) SCR 204 relied on para 4

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7940 of 2013.

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From the Judgment and Order dated 29.07.2013 of the High Court of Punjab and Haryana at Chandigarh in RA No. 89 of 2013 in LPA No. 1070 of 2013 in CWP No. 11206 of 2013.

Shyam Divan, Satinder S. Gulati, Kamaldeep Gulati for the Appellants.

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P.S. Patwalia, Deepak Sibal, V. Shyamohan, Rayjith Mark, Uttara Babbar, Jagajit Singh Chhabra, Ashutosh K. Singh,

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A Sanjay Bansal, Reepak Kansal, G.K. Bansal, Arvind Kr. Sharma, Saurabh Mishra for the Respondents.

The Judgment of the Court was delivered by

B **K.S. RADHAKRISHNAN, J.** 1. Leave granted.

2. Appellants are aggrieved by the order passed by the Punjab & Haryana High Court in Review Application No.89 of 2013 in LPA No.1070 of 2013, by which the Division Bench of the High Court clarified its earlier order dated 25.7.2013 stating as follows :-

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D “We thus clarify that there has not to be disturbance of the already allocated seats in the general category but whatever further seats remain vacant and/or are spill over from 60% quota, the RMOs will also compete with the only difference that there would be weightage given to them as per Clause (ix) of Medical Council of India Regulations.”

3. Appellants, who are nine in number and not made parties to the Review Petition, have questioned the order of the High Court on the following questions of law :-

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F I. Whether the impugned order passed by the Hon'ble High Court is sustainable in the teeth of law laid down by this Hon'ble Court in CA No.5705-5706 of 2012 Satyabrata Sahoo & Ors. Vs. State of Orissa & Ors. vide judgment dated 03.08.2012 since, in the said case this Hon'ble Court was pleased to quash the clause of prospectus (to the extent that it provided for weightage to in-service candidates inspite of there being a reservation of seats for them to the extent of 50%) and held it to be *ultra vires*?

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H II. Whether the Hon'ble High Court could have expanded the scope of a writ petition while deciding a Review Application by creating a new category of candidates of RMOs by giving additional weightage of marks to them on

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the basis of their tenure of service within 40% open category seats for MD Course admissions? A

III. Whether the Hon'ble High Court could have framed a new policy/new criteria without there being any provisions for the same either in the prospectus issued by Baba Farid University and/or in the Regulations issued by Medical Council of India, and which is contrary to the law laid down by this Hon'ble Court? B

IV. Whether the Hon'ble High Court could have laid down new rules for admission to Post Graduate Medical Courses midway i.e. before the second counselling for the State of Punjab was to take place? C

4. Shri Shyam Devan, learned senior counsel appearing for the Appellants, submitted that the High Court was not justified in granting the substantial reliefs in a review application filed in a dismissed appeal, confirming the judgment of the learned Single Judge. By the impugned order, the learned senior counsel submitted that the Division Bench of the High Court has created a new category of in-service candidates, and granted reservation carving out the same for the 40% quota earmarked for general category candidates for admission to MD course. At best they could seek a claim only for the 60% quota earmarked for in-service candidates and that itself is a moot question. The learned senior counsel, in support of his contention placed reliance on the judgment of this Court in *Satyabrata Sahoo & Ors. Vs. State of Orissa & Ors.*, (2012) 8 SCC 203. Learned senior counsel submitted that the RMOs cannot infiltrate into the 40% quota earmarked for the general category candidates depriving appellants of their choice of subject or college. D
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5. Shri P.S. Patwalia, learned senior counsel appearing for the RMOs submitted that the impugned order in no way deprives admission of the appellants, nor takes away their choice of subject or the college. Learned senior counsel tried H

A to demonstrate the same by producing a chart which throws considerable light on his plea. Shri Patwalia, learned senior counsel also submitted that even on merits the appellants have no case nor on equity.

B 6. We are of the view that the order passed by the High Court in the review application, as a matter of fact does not deprive the right of the appellants in getting admission into their preferred colleges or favourite subjects, even though we have our own reservation about the manner in which the High Court has entertained the review petition and granted the reliefs. But
C since the rights of the appellants are not adversely affected and the appellants and the RMOs have already been admitted to the various colleges and the counselling is also over, it would not be in the interest of justice to disturb the admission of the appellants or the contesting respondents.

D 7. We also find no reason to entertain the application for impleadment, which was filed after a period of one month from the date of passing of the impugned order. In academic matters, the time limit has to be strictly viewed and against the
E impugned order, candidates, if had any grievance, ought to have approached this Court at the earliest opportunity, which they did not. In such circumstances, we find no reason to entertain the Impleadment Application.

F 8. We, however, do not propose to give our stamp of approval to the clarification issued by the High Court in the review application, which we order, would be restricted to the facts of this case. Therefore, all legal questions arising out of that order are left open to be decided in an appropriate case.

G 9. The appeal, therefore, stands dismissed, so also application for impleadment. There shall be no order as to costs.

R.P.

Appeal dismissed.

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