

SOURABH BRALA AND ORS.

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v.

UNION OF INDIA AND ORS.

(Writ Petition (Civil) No. 571 of 2018)

DECEMBER 06, 2018

[R. F. NARIMAN AND M. R. SHAH, JJ.]

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Education/Educational Institutions: Medical college – MBBS Course – Allegation of students of 1st year MBBS course that respondent no. 5 College had not got its act in order – Students sought transfer from respondent no. 5 College to any other college in the State and be allowed to take examination after having completed the first year of MBBS Course – Held: State Government willing to take over medical students and respondent no. 5 College with its infrastructure and assets so that it could meet both the Medical Council of India’s norms and affiliate with the State Medical University – Issuance of direction to the College to hand over the land, building and all assets to the State Government, by next day – On application being made by the State Government to the State Medical University, the said University after making inspection would proceed to take steps to grant affiliation to the respondent no. 5 College and the Medical Council of India would grant permission under the Medical Council of India Act – Henceforth, the students who took the first year course could sit for the first year examination of MBBS.

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CIVIL ORIGINAL JURISDICTION : Writ Petition (Civil)
No. 571 of 2018

Under Article 32 of the Constitution of India

F

With

Writ Petition (C) No. 798 of 2018.

Aman Lekhi, ASG, J. K. Sethi, Dy. Adv. Gen., Nidhesh Gupta, Vikas Singh, Ajit Kumar Sinha, Sr. Advs., Akshat Shrivastava, Mrs. Pooja Shrivastava, Tarun Gupta, Himanshu Sethi, Jatinder Kumar Bhatia, Ashutosh Kumar Sharma, Gaurav Sharma, Dhawal Mohan, Prateek Bhatia, Prasanna Mohan, Amitabh Sinha, Chandra Bhushan Prasad, Vijay Prakash, Ms. Prerna Priyadarshni, G. S. Makker, Varun Tankha, Siddharth Sharma, Advs. for the appearing parties.

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A The following Order of the Court was passed :

ORDER

B 1. The present Writ Petition has been filed by the students, who were admitted to the first year MBBS Course in the Respondent No. 5 College. Mr. Nidhesh Gupta, learned senior counsel appearing for the
C petitioners, has informed us that the total number of students who were admitted to the first year MBBS Course is 150. Despite having been taught for a period of 1 year, the petitioners have knocked at the doors of this Court for the reason that the Respondent No. 5 College has not got its act in order, as a result of which, they prayed that they be transferred from Respondent No. 5 College to any other College in the State and be allowed to take their examination after having completed the first year of MBBS.

D 2. We have heard Mr. J.K. Sethi, learned Deputy Advocate General of the State of Uttarakhand and Mr. Vikas Singh, learned senior counsel appearing on behalf of the Medical Council of India.

E 3. After hearing the learned counsel for some time, Mr. Sethi stated that he was instructed to make an offer before this Court which the court considered to be fair. Mr. Sethi states that the State Government would be willing to take over the students and the Respondent No. 5 College itself, along with all its entire infrastructure and assets, movable and immovable, so that it could then meet both the Medical Council of India's norms and affiliate with Hemwati Nandan Bahuguna, Uttarakhand Medical University, Dehradun.

F 4. We direct the Respondent No. 5 College to hand over the land, building and all assets, as stated hereinabove, to the State Government forthwith – to be completed latest by tomorrow, i.e., December 7, 2018. This is only to allay an apprehension raised by Mr. Sethi that the management of Respondent No. 5 College should not be given any time to deal with the assets and/or infrastructure, as it exists, as of today.

G 5. On an application being made by the State Government to the aforesaid University, the aforesaid University will, after taking an inspection, as per its Statutes, proceed to take steps either to grant affiliation or otherwise, within a period of four weeks from the date on which the said application is made to it by the State Government. Likewise, once the State Government sets up the necessary infrastructure in terms of teaching staff etc., it will apply to the Medical Council of India for its permission under Section 10A of the Medical Council of
H India Act.

6. We make it clear that if the aforestated University affiliates the Institution and the Medical Council of India grants permission, the students, who have taken the first year Course, can then sit for the first year examination of MBBS, to be conducted by the affiliating University. A

7. In pursuance of our order for handing over possession today itself, the Director General of Police, Dehradun, is directed to seal the aforesaid premises forthwith. We make it clear that any litigation *qua* this College, that may arise in future, can only be made before this Court and no other. B

8. List on Thursday, the 13th December, 2018 as first item for further hearing. C

Nidhi Jain

Directions for further listing.