

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

IA No. 4 in Petition(s) for Special Leave to Appeal (Civil) No(s).9342/2012

(From the judgement and order dated 12/10/2011 in LPA No.1415/2010,CWP No.11087/2010 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

NATIONAL BOARD OF EXAMINATIONS

Petitioner(s)

VERSUS

ABHISHEK BISWAS & ORS.

Respondent(s)

(With appln(s) for stay and office report)

Date: 23/07/2012 This application was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE H.L. DATTU

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Petitioner(s)            Mr. M.L. Verma, Sr. Adv.  
                                     Mr. Rudreshwar Singh, Adv.  
                                     Mr. Rakesh Gosain, Adv.  
                                     Mr. Kaushik Poddar, Adv.  
                                     Mr. Gopal Jha, Adv.

For Respondent(s)        Mr. P.S. Patwalia, Sr. Adv.  
                                     Mr. Suryanarayana Singh, Adv.  
                                     Ms. Pragati Neekhara, Adv.

R.6                                Mr. Gaurav Goel, Adv.  
                                     Ms. Garima Prashad, Adv.

Mr. Kunal Verma ,Adv

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

Learned Single Judge, while disposing of CWP No. 11087 of 2010 has issued the following direction to the petitioner, which reads as under:-

"The counsel for the petitioner has also drawn my attention to the final recommendation made by the Committee while carrying out the inspection. He would highlight that as per the recommendation, accreditation granted for running DNB course in surgery oncology was to be withdrawn immediately due to lack of qualified faculties whereas no such recommendation was made as far as Anesthesia and Radiotherapy was concerned. Considering the totality of the circumstances and the pleadings made before me and keeping in view the career of the students, who were admitted though unwarrantedly by the institution, I deem it appropriate to direct the respondent-Board to grant accreditation and registration to petitioners No. 1 to 5 for the courses of Anesthesia and Radiotherapy respectively. This, however, would not permit the petitioner-institution to admit any other students for any other courses till matter is cleared by the respondent-Board either on conclusion of the inquiry or otherwise. Further admission to all the specialties will be regulated only after the grant of permission by the Board and not otherwise."

Being aggrieved by the aforesaid direction issued, the Board was before the Division Bench of the Punjab and Haryana High Court in LPA No. 1415 of 2010. The Division Bench by its order dated 12.10.2011 has affirmed the orders passed by the learned Single Judge and has passed the following directions:-

"As a result of the above discussion, we do not find any substance in this appeal and dismiss the same while upholding the concluding directions of the learned Single Judge and that they would run qua the two candidates admitted in the Anesthesia course. We hope and trust that DNB would deal with the two candidates left in the fray with fairness when they appear for the examination and evaluate their merit without any rancour from failure of this litigation."

Sh. Verma, learned senior counsel appearing for the Board would submit that the learned Single Judge, while disposing of the writ petition ought not to have directed the petitioner-Board to grant accreditation to respondent no. 6 institution. A reading of the order passed by the learned Single Judge would negate that position. In our opinion, the argument of the learned senior counsel for the petitioner is not well-founded. In fact, in our opinion, the Division Bench of the High Court has clarified the position in paragraph 15 of the impugned order.

In that view of the matter, we now direct the petitioner-Board to grant registration to respondent nos. 4 and 5 for the course of Anesthesia in respondent no. 6 college within two weeks' time from today. This shall be subject to the result of the special leave petition.

Sh. Patwalia, learned senior counsel appearing for the respondent nos. 4 and 5 would submit that he would not press the contempt petition filed by them before the Punjab and Haryana High Court.

Accordingly, IA No. 4 is disposed of.

Sh. Verma, learned senior counsel, on instructions, would submit that the Board does not press the special leave petition against respondent nos. 1 and 3. A fresh memo be filed within a week's time from today.

Respondent no. 7 is permitted to be served through the Central Agency.

Post for hearing in the usual course.

(NAVEEN KUMAR)  
COURT MASTER

(VINOD KULVI)  
COURT MASTER