

ITEM NO.20

COURT NO.5

SECTION XV

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

Petition(s) for Special Leave to Appeal (C) No(s). 2445/2023

(Arising out of impugned final judgment and order dated 12-01-2023 in DBSAW No. 66/2021 passed by the High Court Of Judicature For Rajasthan At Jaipur)

TARA CHAND SHARMA & ORS.

Petitioner(s)

VERSUS

RAJASTHAN PARA MEDICAL COUNCIL & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.22290/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.22291/2023-EXEMPTION FROM FILING O.T.)

WITH

SLP(C) No. 3276/2023 (XV)

(FOR ADMISSION and I.R. and IA No.31560/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.31563/2023-EXEMPTION FROM FILING O.T.)

SLP(C) No. 3300/2023 (XV)

(FOR ADMISSION and I.R. and IA No.31946/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.31944/2023-EXEMPTION FROM FILING O.T. and IA No.31945/2023-PERMISSION TO FILE LENGTHY LIST OF DATES)

SLP(C) No. 3305/2023 (XV)

(IA No.32000/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.31998/2023-EXEMPTION FROM FILING O.T. and IA No.31999/2023-PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 27-02-2023 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Petitioner(s) Ms. Bina Madhavan, Adv.
Mr. Tushar Singh, Adv.
Mr. Katubadi Ismail, Adv.
M/S. Lawyer S Knit & Co, AOR

Mr. R. N. Mathur, Sr. Adv.
Ms. Chitrangda Rastravara, Adv.
Mr. Prateek Mathur, Adv.
Mr. Navin Chandra Mishra, Adv.

Mr. Dashrath Singh, Adv.
Mr. Aishwary Mishra, Adv.
Mr. Aditya Pratap Singh Chauhan, Adv.
Ms. Yasha Goyal, Adv.
Mr. Gp. Capt. Karan Singh Bhati, AOR

Ms. Charu Ambwani, AOR

For Respondent(s) Dr. Manish Singhvi Sr, Adv.
Mr. Milind Kumar, AOR

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

The present petitions have been filed assailing the interim order passed by the High Court dated 12.01.2023 pending special appeal(s) to be heard on merits.

The grievance of the petitioners before this Court is in reference to such of the applicants who have obtained their professional qualification (Degree/Diploma) post 2014 from various universities established under the statute but their respective Para Medical courses are not being recognized/approved by the Rajasthan Para Medical Council Act, 2008.

It is brought to our notice that the State Authorities have initiated the process of selection pursuant to the advertisement dated 12.06.2020 for various posts including Medical Laboratory Technology and Radio Imaging Technology where the qualification of para medical (Degree/Diploma) is one of the professional qualifications to participate in the selection process.

The grievance is in reference to Issue No. 'E' which is referred to by the Division Bench under its order impugned as follows:-

"Issue No. E:- Rajasthan Para Medical Council is refusing the candidates, who have obtained diploma from Universities of Rajasthan, namely, NIMS University, Singhania University, JRN Vidhyapeeth (Deemed) University, Jaipur National University, Mahatma Gandhi University of Medical Sciences & Technology, Mahatma Jyoti Rao Phoolle University, SMS Medical College, and Madhav University."

Pending appeal before the Division Bench, on an interim application filed by the petitioners that came to be disposed of with the following directions:-

"In view of the above considerations, the appellants have made out a strong prima-facie case and the interim orders passed are not liable to be interfered with except that in view of order passed in the case of NIMS University Versus Rajasthan Para Medical Council (supra), the council would be under an obligation to grant registration to those who have obtained diploma, degree prior to 2014 through a regular course, provided they fulfill the requirements of Regulations 42, sub-clause (i) of the Regulations of 2014 because it has been held in that case that NIMS University had prior approval of UGC, which is a Government Body. Therefore, to that extent, clarification is being given in this order that interim order shall not be made a basis to refuse registration to those students who have obtained diploma or degree through regular course from NIMS University or other private University prior to 2014.

Such category of diploma/degree holders shall be granted Registration forthwith so that they may apply for appointment to the post of Assistant Radiographer/Lab Technician in the forthcoming recruitment process, for which last date for submission of application form is stated to be 30.01.2023."

It is also informed to this Court that the present process of selection in reference to the advertisement dated 12.06.2020 and pending litigation the respondent/State has come out with a fresh advertisement dated 15.12.2022 and it is informed that the

selection process will be held on the basis of marks secured by the candidates/applicants in academic and professional qualification and experience. At least, there is no competitive examination to be held in reference to the selection process conducted in terms of two advertisements indicated above.

Dr. Manish Singhvi, learned senior counsel appearing for the respondent submits that to meet out the present requirement of the candidates/petitioners who are making complaint to this Court and taking their grievance into consideration, the State Government has come out with the Notification dated 16.02.2023 followed by 23.02.2023 issued in exercise of power conferred under sub-section (3) of Section 42 of the Rajasthan Para-medical Council Act, 2008 read with Regulation 42 of the Rajasthan Para-Medical Council Regulation, 2014 and 2015 laying down a mechanism according to which the candidates can be registered with the Para-Madical Council on qualifying the examination as referred to in clause (3):-

"3. Substitution of regulation 42:- The existing regulation 42 of the Rajasthan Para-Medical Council Regulation 2014, hereinafter referred to as the said regulations, shall be substituted by the following namely:-

"42. Eligibility for registration:- The following persons who has domicile of Rajasthan shall be eligible for registration-

(i) who has obtained diploma and degree of a Para-medical course from any Government body or private body permitted by the Government for the purpose who has run the course and awarded diploma and degree before the commencement of these regulations;

(ii) who has passed the Para-medical course from any institution/Government body, outside the

territories of Rajasthan, recognized for the purpose by the concerned State Government or Central Government Medical Department, and if Registered with respective State/Union Territories paramedical council applied with Cancellation Certificate of respective State Council registration and NOC of the council;

(iv) who has passed the Para-medical course from any institution, outside the territories of India, recognized for the purpose by the Government of the country concerned and verified by Government of India;

Provided that such person(s), who has/have acquired Paramedical Diploma through distance education mode prior to year 2015 shall be given an option to appear for an examination to be conducted by the Council if they so desire. Such person(s), who, opts/opt to appear for the examination, which shall be conducted by the Council, pass the aforesaid examination, they would be deemed to have qualified as per the regulations and they shall be deemed eligible for registration with Rajasthan Paramedical Council (RPMC).

Provided further that the aforesaid option shall only be provided once and it shall not be treated as a precedent.

Provided also that such person(s), who will/have acquired Paramedical Degree and Diploma prior to June 2023 from such University established by an Act of the Government of Rajasthan and obtain recognition from Rajasthan Paramedical Council within 6 months from the date of publication of these Regulations shall be given an option to appear for an examination to be conducted by the Council if they so desire. Such person(s), who, opts/opt to appear for the examination, which shall be conducted by the Council, pass the aforesaid examination, they would be deemed to have qualified as per the regulations and they shall be deemed eligible for registration with Rajasthan Paramedical Council (RPMC).

Provided also that the aforesaid option shall only be provided once and it shall not be treated as a precedent."

After we have heard learned counsel for the parties and taking into consideration the material on record, since the last date for

filling up the application form in terms of the present advertisement of December, 2022 has been extended by the State Government upto 02.03.2023 and selection process has to be held by the respondents on the basis of academic and qualifying examination which indisputably has been undergone by each of the candidate/applicant, however, subject to qualifying the test to which they have to undergo of which reference has been made, this Court consider it appropriate that let the present applicants/petitioners be permitted to fill their application forms and may be considered to participate in the process of selection but that shall remain subject to their appearing in the examination which is to be held by the respondents in terms of the Notification dated 23.02.2023 and their participation shall be provisional and will not confer any right and will abide the final outcome of the examination which is scheduled to be held pursuant to the Notification dated 23.02.2023.

It is an interim arrangement made by us and it will be subject to the final outcome of the pending special appeal(s) before the High Court. We would request the High Court to decide the pending special appeal(s) expeditiously on merits without being influenced by the observation made on its own merits in accordance with law.

Dr. Singhvi, learned counsel for the respondent, on instructions, submits that the State Government will try its best to conduct the examination within a scheduled programme but in no case later than two months in terms of notification dated 23.02.2023.

With the aforesaid directions, the special leave petitions are

disposed of.

Pending application(s), if any, stands disposed of accordingly.

(VIRENDER SINGH)
BRANCH OFFICER

(ASHWANI KUMAR)
ASTT. REGISTRAR-cum-PS