

2025 LiveLaw (SC) 319

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SANJAY KUMAR; J., AUGUSTINE GEORGE MASIH; J.

March 18, 2025

CIVIL APPEAL NOs. ----- & ----- OF 2025 (@ S.L.P.(C) Nos. 4361-4362 of 2019)

Zaid Sheikh *versus* The State of Madhya Pradesh and others

Education Law - Admission Eligibility - Curing Defect During Course - Interim Orders - *Actus Curiae Neminem Gravabit* - Where a student, initially admitted to a B.A.M.S. course without fulfilling the mandatory English subject requirement, subsequently passed the English exam during the pendency of a writ petition and completed the entire course under interim orders, and where the college itself had provisionally admitted the student subject to passing the English exam, the High Court erred in dismissing the writ petition based solely on the initial ineligibility. The principle of "*Actus curiae neminem gravabit*" dictates that an act of the court should not prejudice anyone, and this principle was disregarded by the High Court. The student's subsequent fulfillment of the eligibility criteria, coupled with the college's provisional admission and the completion of the course under interim orders, warranted the issuance of the B.A.M.S. degree. (Para 8)

[Arising out of impugned final judgment and order dated 18-06-2014 in WP No. 10267/2012 and 01-08-2014 in RP No. 236/2014 passed by the High Court of Madhya Pradesh at Indore]

For Petitioner(s): Mr. L.C. Patne, Adv. Mr. Raghav Pandey, Adv. Mrs. Rekha Pandey, AOR Ms. Gauri Pandey, Adv. Ms. Sharmistha Choudhary, Adv.

For Respondent(s): Ms. Mrinal Gopal Elker, AOR Mr. Abhimanyu Singh, Adv. Mr. Saurabh Singh, Adv. Mr. Chhavi Khandelwal, Adv. Ms. Shruti Verma, Adv.

J U D G M E N T

SANJAY KUMAR, J

1. Leave granted.

2. The appellant before us almost completed his education under the protection of interim orders granted by the Madhya Pradesh High Court but was ultimately shown the door, when Writ Petition No.10267 of 2012 filed by him was dismissed on 18.06.2014 by a Division Bench of the High Court. His petition seeking review of the said order, viz., Review Petition No. 236 of 2014, met with the same fate on 01.08.2014. Aggrieved thereby, he filed these special leave petitions in November, 2014, with a delay of 45 days, which was condoned only in the year 2019.

3. The appellant completed his High School Education (10+2) in the year 2008 from the Madhya Pradesh Sanskrit Board, Bhopal. He appeared in the Pre-Ayurvedic, Homeopathic and Unani Entrance Test, 2008, and secured admission to B.A.M.S. (Bachelor of Ayurvedic Medicine and Surgery) Degree Course in Smt. Dhairya Prabha Devi Sojatia Ayurvedic Medical College at Neemthur in Tehsil Bhanpura, District Mandsaur, Madhya Pradesh, in September, 2008. He completed the first-year course and secured 940 marks out of 1600. While so, Smt. Dhairya Prabha Devi Sojatia Ayurvedic Medical College at Neemthur came to be de-recognized. The students of the said College were transferred to Shaskiya Swasashi Dhanwantari Ayurvedic Medical College at Ujjain in July, 2012. However, the appellant was not given this benefit on the ground that he was

actually ineligible to be admitted to B.A.M.S. Degree Course as he had not taken and passed 'English' as a subject in his 10+2 examination.

4. Challenging the same, he filed the subject Writ Petition No.10267 of 2012 before the Madhya Pradesh High Court in October, 2012. Pursuant to the interim orders passed therein on 30.10.2012, he was permitted to attend classes. Surprisingly, the Principal of Shaskiya Swasashi Dhanwantari Ayurvedic Medical College, Ujjain, had issued Allotment Letter dated 19.09.2012 to the appellant even before the filing of his writ petition. He informed the appellant that he had been transferred to and admitted to B.A.M.S. 3rd Prof. in the said College and directed him to present himself within 3 days along with requisite documents and the prescribed fee for taking admission. Significantly, the said Allotment Letter ended with the following paragraph.

'Certificate of Passing of Class 12th in English Subject in the attached Mark-sheet of Sanskrit Board or Provisionally admitted on the condition of passing English Subject in Class 12.'

It is, therefore, clear that the appellant was required to either produce his pass certificate in proof of having taken English as a subject and passing the same or in the event he failed to do so, he was provisionally admitted subject to the condition that he would pass English as a subject in Class 12.

5. Admittedly, the appellant re-appeared for the 12th class examination conducted by the Board of Secondary Education, Madhya Pradesh, in March, 2013. Therein, he took English as a subject and passed it by securing 70 marks. Apart from this examination, he also appeared in the Senior Secondary School Examination conducted by the National Institute of Open Schooling, an autonomous institution under the Ministry of Human Resource Development, Government of India, and the Provisional Certificate issued by the said Institute on 05.06.2014 demonstrates that he passed the said examination with the subjects - English, Physics, Chemistry, Biology and Hindi. It is also an admitted fact that the appellant had prosecuted the entire studies of B.A.M.S. Degree Course and had also completed part of his mandatory internship at the time his writ petition was dismissed.

6. The Division Bench of the Madhya Pradesh High Court, Bench at Indore, non-suited the appellant on the ground that he was initially ineligible to be admitted to B.A.M.S. Degree Course as he had not taken and passed 'English' as a subject in the qualifying examination of 10+2. The Division Bench was apprised of the fact that the appellant had again taken the 12th class examination with English as a subject and had passed the same during the pendency of the Writ Petition but it was not persuaded to hold in his favour. The appellant's entreaty to review the dismissal of his writ petition was peremptorily rejected by the Bench on the ground that there was no error apparent on the face of the record.

7. Though there can be no dispute with the proposition that fulfilling the basic eligibility for admission to a course is a *sine qua non*, which ought not to be overlooked or ignored, the peculiar facts of the case on hand ought to have weighed with the High Court while considering the plight of the appellant. His initial admission in the first College was in clear violation of the Madhya Pradesh Ayurveda/Unani/Homeopathy Undergraduate Entrance Examination Rules - 2008, which prescribed the eligibility condition that candidates of all categories and classes were required to have passed English as a subject in the qualifying examination of 10+2. However, the said College came to be de-recognized and all the students of that College were transferred to the Shaskiya Swasashi Dhanwantari Ayurvedic Medical College, Ujjain, and the appellant was allowed to pass English as a subject in Class 12, when he was provisionally admitted by the said College. That fact

ought to have been given more weightage by the High Court. More so, as the appellant had acted upon the said Allotment Letter and reappeared for the Class 12 examination, twice over, with English as a subject and had passed it.

8. Though, the interim order granted by the High Court on 30.10.2012 recorded that the appellant would not be entitled to claim equities, the fact that he was permitted to complete the entire course and had also finished part of his mandatory internship ought not to have been brushed aside lightly. Be it noted that the appellant had put in nearly 6 years by then in pursuing B.A.M.S. Degree Course and the end result of the High Court's order was to decimate his entire labour of all those years. An act of the Court should, ordinarily, not prejudice anyone (*Actus curiae neminem gravabit*). This is a fundamental principle of justice, but it was disregarded by the High Court while considering the case of the appellant. In any event, the appellant's so-called ineligibility, which was not essential in the context of the course that he had taken, was cured by him thereafter owing to the liberty given by the College itself while provisionally admitting him to the course in September, 2012. Given these peculiar facts, we are of the opinion that this is a fit case for interference so that the appellant is not left out in the cold after completing almost the entire course.

9. The appeals are accordingly allowed, setting aside the order dated 18.06.2014 passed by the Madhya Pradesh High Court in W.P. No. 10267 of 2012 and the order dated 01.08.2014 passed by it in Review Petition No. 236 of 2014. The appellant shall be permitted to complete his course and internship in Shaskiya Swasashi Dhanwantari Ayurvedic Medical College, Ujjain, and the authorities concerned shall thereafter issue him his B.A.M.S. Degree in accordance with due procedure.

No order as to costs.

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