

\$~27 & 33

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 2649/2013

NOOPUR BAJPAI

Through

..... Petitioner
Mr. K.K. Rai, Sr. Adv. with Mr. P.K.
Mishra and Mr. Niraj Kumar Mishra,
Adv.

versus

UNIVERSITY OF DELHI & ORS

Through

..... Respondents
Mr. Mohinder J.S. Rupal, Adv.
Prof. Upreet Dhaliwal, Dean, FMS.

AND

+ W.P.(C) 2575/2013

JYOTSNA KASHYAP

Through

..... Petitioner
Mr. K.K. Rai, Sr. Adv. with Mr. P.K.
Mishra and Mr. Niraj Kumar Mishra,
Adv.

versus

UNION OF INDIA AND ORS

Through

..... Respondents
Mr. Himanshu Bajaj, Standing
Counsel for R-1.

CORAM:

HON'BLE MR. JUSTICE V.K. JAIN

ORDER

12.07.2013

%

Statements of Dr. Noopur Bajpai and Dr. Jyotsna Kashyap, petitioners
and Prof. Upreet Dhaliwal, Dean for the respondent/University of Delhi

Signature Not Verified

Signing Date: 12.09.2024 17:13:36
Certify that the digital and physical file have
been compared and the digital data is as per
the physical file and no page is missing.

12

have been recorded separately.

The writ petitions are disposed of in the following terms:

1. The petitioners in W.P.(C) 2649/2013 and 2575/2013 will be permitted to pursue and complete their studies in MD course of Delhi University.
2. Though the petitioners shall be permitted to appear in the examination subject to their being otherwise qualified for the same, (including submission of thesis and completion of the process in all respects and appearing in supplementary examination, if otherwise, permissible under the rules.) and the result would also be intimated to them, no Provisional Certificate or Degree of MD course shall be issued to them by Delhi University, except as stated in para (4) herein below.
3. The petitioners in W.P.(C) 2649/2013 and 2575/2013 shall not claim to be MD, unless the Provisional Certificate and/or Degree is released to them by Delhi University, in terms of this order.
4. If the criminal court before which chargesheet has been filed against the petitioners holds that there was no tampering with their OMR sheets, only then University of Delhi shall issue the provisional certificate and/or degree in MD course to them, in case they have

passed out in the said examination. Otherwise, the petitioners shall forfeit their right to the Degree in MD course.

5. If there is any shortfall in attendance, the application if submitted by the petitioners for condoning the shortfall shall be considered by the Competent Authority in the light of all the facts and circumstances of this case.

Order be given dasti to counsel for the parties under the signatures of court master.



V.K. JAIN, J

JULY 12, 2013
rb

\$~15

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2575/2013**

DR. JYOTSNA KASHYAP

..... Petitioner

Through: Mr. P.K. Mishra and Mr. Niraj Kumar
Mishra, Advocates

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Anurag Ahluwalia and Mr. Arunava
Mukherjee, Advocates for R-1

Mr. Mohinder J.S. Rupal, Advocate with Dr.
Sudha Prasad, Dean, Faculty of Medical Sciences
for R-3 & 4/University of Delhi.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

%

01.10.2015

CM No.15610/2015 (modification of order dated 12.07.2013)

1. This is an application which seeks modification of order dated 12.07.2013 in line with the order passed by the Supreme Court in the case of a co-accused in Civil Appeal No.5371/2015, titled : Sonal Vs. Union of India and Ors. The order of the Supreme Court passed in the said civil appeal is dated 13.07.2015.

2. Briefly, the application has been filed in the background of the following facts :-

2.1 By virtue of an order dated 12.04.2013, respondent no.4

rusticated the applicant/petitioner from respondent no.2/college for a period of three years in terms of clause 4(b) read with clause 5 of Ordinance XV-B of the Ordinance of the University, with effect from 2013. This rustication came with a caveat that it could dissolve at an earlier point in time depending on the outcome of the Criminal Case, being : RC 219/2011 – E007, in the matter of : CBI Vs. Mahipal Singh and Ors.

2.2 It is in this case that the petitioner alongwith other accused is facing prosecution.

2.3 Admittedly, a charge-sheet has been filed though, no charges have been framed, as yet.

2.4 As indicated above, the Supreme Court in the case concerning one of the co-accused (i.e. Ms. Sonal) passed an order dated 13.07.2015 in civil appeal no.5371/2015. The operative part of the said order reads as follows :-

“...In these circumstances, we allow this appeal with the following directions :-

(1). The result of the appellant shall be declared forthwith.

We may point out at this stage that the result was brought to this court in a sealed cover and after perusing the result, we found that the appellant has passed in the final year examination as well. Therefore, as a consequence thereof, she would be entitled for grant of MD degree also. However, at present, she would be given only provisional MD degree.

(2). The aforesaid degree shall be subject to the outcome of the criminal case pending against the appellant. If the appellant is convicted in the criminal case and / or findings are arrived at in the said matter to the effect that the

appellant could get the admission in the MD course by practising the foul means as alleged in the charge-sheet, the effect thereof would be that the admission of the appellant to the MD course shall stand cancelled. As a consequence, it would be permissible for the respondent-authorities to nullify the MD course undertaken by her and cancel the provisional MD degree granted to her.

(3). In case, the appellant is discharged and / or acquitted in the aforesaid criminal proceedings, the appellant shall be given final degree of the MD course..”

2.5 It is not disputed before me by the counsel for the respondents that the applicant/petitioner has passed her M.S. Exam. Dr. Sudha Prasad, Dean of the Faculty of Medical Sciences, is present in court, at the request of this court, made on the previous occasion. She has affirmed the said position.

2.6 Dr. Sudha Prasad says that a “provisional certificate” can be issued by the concerned Institute/ Respondent no.2 to the applicant/petitioner subject to other conditionalities put in place by the Supreme Court in the aforementioned civil appeal concerning Sonal Vs. Union of India and Ors.

2.7 To be noted, the Supreme Court uses the expression ‘provisional degree’ and not ‘provisional certificate’. Therefore, I do not intend to derogate from that position.

2.8 Accordingly, the following directions are issued in conformity with order of the Supreme Court.

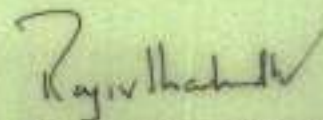
3. The order dated 12.07.2013 is modified to the following extent :-

- (i). The applicant / petitioner will be issued a provisional M.S. degree.
- (ii). The aforesaid degree will be subject to the final outcome of the aforementioned criminal case in which the applicant / petitioner is arrayed as an accused.
- (iii). In case the applicant/petitioner is convicted in the said criminal case and / or findings are arrived at in the matter to the effect that she had got admission in the M.S. course by practising the foul means as imputed in the charge-sheet, her admission to the M.S. course shall stand cancelled. As a consequence of such a finding being reached by the concerned criminal court, the respondents will be at liberty to nullify the M.S. course undertaken by the applicant / petitioner and cancel the provisional M.S. Degree, conferred on her.
- (iv). In the event, the applicant/petitioner were to be discharged and / or acquitted in the aforementioned criminal proceedings, she shall be conferred with a final MS degree.

4. The captioned application is allowed, in the aforesaid terms.

4.1 Order dated 12.07.2013 will stand modified to the extent, indicated above.

5. Dasti.


RAJIV SHAKDHER, J

OCTOBER 01, 2015

yg