

**Court No. - 39**

**Case :-** WRIT - C No. - 4437 of 2022

**Petitioner :-** Akash

**Respondent :-** State Of U.P. And 5 Others

**Counsel for Petitioner :-** Harsh Vikram,Dharm Vir Jaiswal

**Counsel for Respondent :-** C.S.C.,Avanish Mishra,Mohit Singh,Rohit Pandey

With

**Case :-** WRIT - C No. - 13519 of 2022

**Petitioner :-** Shivansh Pandey And 3 Others

**Respondent :-** State Of U.P. And 5 Others

**Counsel for Petitioner :-** Krishna Mohan Misra,Sr. Advocate

**Counsel for Respondent :-** C.S.C.,Avanish Mishra,Mohit Singh,Rohit Pandey

With

**Case :-** WRIT - C No. - 31480 of 2023

**Petitioner :-** Surya Pratap Singh

**Respondent :-** State Of U.P. And 5 Others

**Counsel for Petitioner :-** Raj Mohan Saggi,Shri Krishan Yadav

**Counsel for Respondent :-** C.S.C,Rohit Pandey

**Hon'ble Saumitra Dayal Singh,J.**

**Hon'ble Rajendra Kumar-IV,J.**

1. Heard Shri Gajendra Pratap Singh, learned Senior Advocate, assisted by Shri Harsh Vikram, Shri H.R. Mishra, learned Senior Advocate, assisted by Shri Akshay Kumar Srivastava, Shri Krishna Mohan Mishra, Shri Krishna Yadav and Shri Raj Mohan Saggi, learned counsel for the petitioners, Shri Rohit Pandey, learned counsel for the respondent nos. 3 and 4, Shri Vivek Kumar Singh, learned counsel appearing for the respondent no. 6, Shri Mohit Singh, learned counsel for the respondent no. 5 and Shri Arimardan Singh Rajpoot, learned Additional Chief Standing Counsel for the State-respondent.

2. Present petitions have been filed by two individual petitioners and one set of 4 petitioners, all of whom had been duly admitted to the M.B.B.S. course at Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly (hereinafter referred to as the 'medical college'), a private medical college. The dispute appears to have arisen with respect to 3rd professional examination of the petitioners. In that, initially all the petitioners were declared unsuccessful in the internal examination conducted by the medical college. All the petitioners protested that result. They represented to the University.

3. Shri Rohit Pandey would inform, at the relevant time, the University had required the medical college to make available to it the answer sheets of the petitioners for the internal examination relevant to the 3rd professional exam. Thus, reference has been made to the complaint made by the petitioners in September-October, 2021. It is the case of the University, acting on such complaint, it had called for the answer copies of the petitioners. In paragraph-26 of the counter affidavit filed by the University, it has been clearly averred that the medical college failed to make available to the University answer sheets of the petitioners for the above described internal examination. Therefore, the University was precluded from addressing the grievance voiced by the petitioners.

4. It being undisputed between the parties that the medical college is affiliated to the University, at present, acting under its governing Ordinance, the University authorised and got conducted fresh internal examination relevant to the 3rd professional exam of the petitioners by authorising another medical college namely Mahatma Jyotiba Phule Rohilkhand University, Bareilly, which is also an institute recognised by the National Medical College.

However, it is not in dispute that all the petitioners cleared that examination. They were allowed to complete their course and studies such that they appeared in the external examination for the 3rd professional exam conducted by the University and they were also allowed internship at the relevant medical college under interim orders granted by this Court. All the petitioners are thus seen to have completed their studies. There never was any dispute as to their entitlement to their admission. The only dispute with respect to conduct of the internal examination and their result therein appears to have been resolved in terms of the further examination got conducted at none other than a college of the affiliating University. Last, there is no dispute that the internship has also been completed by all the petitioners.

5. Therefore, the fact that the internal examination normally have been conducted by the medical college itself and the further fact that such examination was eventually got conducted by the said medical college in which except two petitioners, the other petitioners did not appear, pale into insignificance, at this belated stage.

6. Though we are not inclined to lay down by way of principle in law that a student admitted in medical college may normally be permitted to appear at internal examinations at another college, at the same time we find that no useful purpose would be served in requiring the petitioners to appear at the 3rd professional internal examination that may now required to be conducted by the medical college where they had been admitted. The requirement to pass that examination is found to have been substantially complied with in view of the facts noted above. Two years have passed since then and there is no dispute brought to the Court as to the competence or otherwise of the petitioners or their eligibility to be

accorded a degree. They cleared external examination conducted by the University, strictly in accordance with law.

7. In the peculiar facts and circumstance of the case, all the writ petitions are **disposed of** with the direction, the University shall issue necessary degree to the petitioners within a period of two weeks from today.

**Order Date :- 12.10.2023**

SA

**(Rajendra Kumar-IV, J.)      (S.D. Singh, J.)**