

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

LPA No. 187/2024 c/w

LPA No. 178/2024

Reserved on: 13.11.2025

Pronounced on: 27.11.2025

Uploaded on: 27.11.2025

Whether the operative part or full
judgment is pronounced: FULL

Dental Council of India

**Through its Secretary In-charge,
Aiwan-e-Galib Marg, Kotla Road,
Delhi-110001**

...Petitioner(s)/Appellant(s)

Through: Mr Tahir Majid Shamsi, DSGI with
Ms Rehana Qayoom, Adv. in LPA No. 187/2024
Mr. Bilal Ahmad Malla, Adv. in LPA No. 178/2024

Vs.

- 1. Insha Ashraf Bhat,
D/o Mohammad Ashraf Bhat,
R/o Ashajipora, Anantnag.**
- 2. Farzana Tabasum,
D/o Fayaz Ahmad Beigh,
R/o Bumthun, Anantnag.**
- 3. Afeet Un Nisa,
D/o Mohammad Maqbool Bhat,
R/o Anantnag.**
- 4. Union of India Ministry of Human Resources,
Through its Secretary, New Delhi.**
- 5. Principal, Jodhpur Dental College,
General Hospital, Jhanwar Road, Jodhpur
Rajasthan.**
- 6. All India Council for Technical Education,
Through its Chairman, 7th Floor,
Chander Lok Building, Janpath New Delhi.**
- 7. State of J&K through Commissioner/Secretary
to Govt. Higher Education Department, Civil
Secretariat, Jammu/Srinagar.**

**8. Inter-Ministerial Committee through its
Secretary, Shastri Bhawan, New Delhi.**

...Respondent(s)

Through: Mr. Anupan Raina, Sr. Adv. with Mr. Sheikh Umar Farooq, Adv. Mr.
Ankur Parihar, Adv. and Ms Osheen Bhat, Adv. for R-1
Mr. Bilal Ahmad Malla, Adv. for R-6 in LPA No. 187/2024
Mr Tahir Majid Shamsi, DSGI with Ms Rehana Qayoom, Adv. for R-4, 6
and 8 in LPA No. 178/2024

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

J U D G M E N T

Per Sanjeev Kumar, J

1. These intra-Court appeals by the appellants, i.e., All India Council for Technical Education and Dental Council of India, are directed against a common order and judgment dated 14.12.2023 passed by the learned Single Judge of this Court ["writ Court"] in OWP No. 2183/2015 whereby the writ Court has allowed the writ petition filed by the respondents herein.

2. Briefly stated, the facts leading to the filing of the instant appeals are that the Government of India, launched a Special Scholarship Scheme ("SSS") 2014–15 for the students of the erstwhile State of Jammu and Kashmir. The said scheme provided that the students of Jammu and Kashmir who had passed the 12th Class examination and had an annual income for the year 2013–2014 less than Rs. 6.00 lakhs would be eligible for availing the benefit of the scheme, as a consequence whereof, the respondents 1 to 3 herein ["private respondents"] duly applied for the said scholarship at the facilitation centres established by the Government of J&K. It is claimed by the private respondents that they having secured 88%, 56% and 77.2% marks respectively, appeared for counseling on the scheduled dates, whereupon they came to be selected for undergoing the BDS course at Jodhpur Dental College in the month of April 2014. Pursuant to their

selection, the private respondents got admission and deposited the requisite fee with the Jodhpur Dental College. The private respondents claim to have undergone the BDS Course in the aforesaid Dental College. They passed the first-year examination in the month of May 2015. On deposit of requisite fee and charges, they were promoted to second year of BDS. While they were pursuing their 2nd year course in the College aforesaid, they received notices dated 27.10.2015 from their College providing therein that they had been discharged from pursuing the BDS course in pursuance of a decision taken by the Dental Council of India on 27.08.2015 on the ground that they had not appeared in the competitive entrance examination [“CET”] for undergoing the BDS Course.

3. Aggrieved by the action of the College, the private respondents filed a writ petition i.e., OWP No. 2183/2015 before the Writ Court challenging, inter alia, the decision of the Dental Council of India taken on 27.08.2015 and consequential orders passed by the Jodhpur Dental College.

4. The said writ petition was opposed by the Union of India. In the objections filed by the Union of India, the launch of the scheme for providing Special Scholarship to the students of J&K was admitted, subject to the verification of antecedents of the students and the eligibility criteria. It was also admitted that the private respondents though eligible to avail the scholarship scheme, did not adhere to the revised procedure adopted for the grant of scholarship for the year 2014–15, as the respondents No. 2 and 3 herein did not attend the counseling session at all for allotment of seats, though respondent No. 1 herein attended the counseling and was allotted Engineering Branch in Vaishno College of Engineering. It was also averred in the objections that since only a few students had joined the allotted

institutes, and many students had taken admission in various colleges/institutions of their own, the State Government was requested to collect and verify the details of such students, and upon furnishing details of such students numbering 914, the benefit of scholarship in question was extended to them in the 16th IMC Meeting.

5. The reply filed by All India Council for Technical Education to the petition, was almost on similar lines as the objections filed by the Union of India. It was, however, stated that the private respondents claiming the benefit of the scholarship scheme in question, had got themselves admitted in the College aforesaid of their own, though they had applied online in terms of the revised guidelines of 2014–2015 and had also got their documents verified. They were declared provisionally eligible and called for counseling for the medical stream only. It was stated that only respondent No. 1 herein attended the counseling, whereas respondents No. 2 and 3 did not attend the said counseling, and the respondents herein got themselves admitted in the College aforesaid without any recommendation/allotment by the Central Counseling Centre, Srinagar, and upon coming to know about the said admission availed by the respondents, the Dental Council of India, in terms of letter dated 23.10.2015, directed the College aforesaid to discharge the respondents from the College.

6. In the objections filed by the Dental Council of India, it was stated that the admission in the BDS course is governed and regulated by revised DCI/BDS Course Regulations of 2007, and that the respondents obtained admission for undergoing BDS course in the aforesaid College in violation of the said regulations, though it was admitted that the respondents did figure in the list of students who had applied for availing Special Scholarship

Scheme launched by the Government of India. In the reply filed by the State of J&K (now UT of J&K), the launch of the scheme by the Union of India was admitted, and it was reiterated that the scheme was launched in the year 2011-12 providing special scholarship for 5000 students per year (250 for medical students, 250 for engineering students, and 4500 for general degree courses), and that since in 2011-12 only 38 students availed the benefits of the scheme, as such the State Government was called upon by the Union of India to give wide publicity to the scheme so that the target of 5000 scholarships could be achieved. In furtherance thereof, during the year 2013-2014, upon revision of the guidelines, 3747 students got the benefit of the scheme, and it came to be decided by the Union of India that for the year 2014-15 onwards, the entire process of admission under the scheme would be administered by All India Council for Technical Education through the process of counseling. Accordingly, AICTE conducted the process of counselling in the months of August-September 2014 and more than 2000 admissions were made. From the year 2014, the State Government entrusted the implementation of the scheme to the Secretary to Government of J&K, Higher Education Department, and consequently 2120 students were granted provisional admissions in various courses upon undertaking a counseling process. It was stated that the State Government had a limited role in the whole process and that since some of the students had obtained admissions of their own in the colleges of their choice, as such, they were not extended the benefits of scholarship.

7. The aforesaid writ petition was considered by the writ Court, and vide order and judgment dated 14.12.2023, the writ Court allowed the writ

petition. It is this judgment of the writ Court which is the subject matter of challenge before us in these appeals.

8. We have heard learned counsel for the parties and perused the material on record.

9. From a perusal of the judgment impugned, it comes to the fore that the writ Court has allowed the writ petition of the respondents on the analogy of the judgment dated 26.03.2018 passed by a Division Bench of this Court in LPA (OW) No. 12/2018, which was relied upon by the respondents herein before the writ Court on the ground that the said judgment squarely covered their case.

10. The writ Court, while allowing the writ petition of the respondents, has held that it sees no reason to take a view different from the view taken by the Division Bench in the judgment supra, as the private respondents form and constitute one class with those students who stand protected by the Division Bench. The writ Court has observed that the Division Bench had not restricted the protection granted therein as a one-time exception only to the petitioners of that case, but had intended the same to all similarly situated students.

11. The judgment of the writ Court has been challenged by the appellants on the ground that the writ Court has passed the order in disregard of the facts and circumstances of the present case and without correctly appreciating the position of law, and thus the impugned judgment is inconsistent with and contrary to the legal position. It is submitted that the Court should not interfere in matters involving academic expertise, as the Hon'ble Supreme Court of India, in a catena of judgments, has held that it

would not be proper for the Court to sit in judgment over decisions of expert bodies relating to academic matters, since such issues do not fall within the domain of judicial expertise. It is argued that in the instant case, when an expert body, namely the Dental Council of India, had already examined the issue, it was not open to the writ Court to interfere. It is further argued that the persons who examined the matter were experts in the field of dental education and the concerned subject, and with their vast experience and technical expertise, they were in a better position to appreciate the matter.

12. In support of their submissions, the appellants have relied upon various judgments of the Hon'ble Supreme Court regarding the limited scope of judicial interference in academic matters, including ***Basavaiah v. Dr. H.L. Ramesh*, (2010) 8 SCC 372; *University Grants Commission v. Neha Anil Bobde*, (2013) 10 SCC 519; and *Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh Kumar Sheth*, (1984) 4 SCC 27**, and submit that the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters, in preference to those formulated by professionals possessing technical expertise and rich experience in the day-to-day functioning of educational institutions and the departments controlling them.

13. From narration of events leading to the filing of these appeals and respective stand of the parties before the Writ Court, there seems to be not much dispute on facts.

14. The Prime Minister of India, on 18th August 2010, constituted an Expert Group under the chairmanship of Dr. G. Rangarajan to formulate job plan for the youths of the then State of Jammu and Kashmir. The Expert

Group offered numerous innovative suggestions for employment generation and recommended various measures to tackle the problem of unemployment amongst the youths of Jammu and Kashmir. One of the recommendations made by this Expert Group was to frame a Special Scholarship Scheme which would be applicable for courses in Government Colleges/Universities, Engineering Institutions, Medical Colleges and some selected private institutions to be identified by the Government on the basis of some objective criteria. It was recommended that the basis of scholarship would be merit-cum-means. With a view to enabling the students from J and K to get admissions in these institutions through the normal selection process subject to parental income being below Rs. 4.5 lakhs per annum, the Cabinet Committee on Economic Affairs approved special scholarship scheme for J and K on the lines of recommendations made by the expert group and total layout for the scheme was provided to the tune of Rs. 1200 crores, of which Rs. 88 crore was to be incurred in the financial year 2012-2013. These guidelines were revised by the Ministry of Human Resources Development Department of Higher Education for the academic year 2013-14 and 2014-15. The appellant-All India Council for Technical Education [AICTE] was made the implementing agency of the said scheme.

15. With a view to avoiding that the students do not rush to the identified institutions for admissions of their own or on the advice of agents, the scheme was revised to provide that no admission would be granted without going through centralized counselling and after proper allotment of colleges/universities. It is thus not disputed before us that a candidate to avail the benefit of scholarship under the revised guidelines was to seek admission only after attending the centralized counselling and having proper

allotment of the college or university as the case may be. It is not disputed by the private respondents [“writ petitioners”] before the Single Bench that other than respondent No. 1 namely Insha Ashraf Bhat, the other two respondents did not attend the counselling nor were they ever allotted any college much less Jodhpur Dental College and General Hospital Jodhpur, Rajasthan. The respondent No. 1 who attended the counselling was also not allotted the aforesaid college. It is thus beyond pale of any discussion that all the three respondents took admission in BDS Course in the Jodhpur Dental College, Rajasthan without counselling/without having been allotted the aforesaid college. The admission of the contesting respondents was thus unauthorized and without any sponsorship by the AICTE or the Government of Jammu & Kashmir.

16. This would mean that the private respondents having not been sponsored by AICTE/ J & K Government have disentitled themselves to the benefit of scholarship scheme promulgated by the Government of India for their admission are not in tune with the revised guidelines issued by the Ministry of Human Resource Development Department of Higher Education for academic year 2013-2014 .

17. In view of the aforesaid, the only question that begs determination in this case would be whether in the absence of any sponsorship or allotment of institute by the AICTE or the Government of India, the admissions taken by the private respondents and given by the Jodhpur Dental College are legally permissible; and whether the impugned communications cancelling the registration/admission of the private respondents in BDS Course in Jodhpur Dental College are legally sustainable. The answer to these questions is not far to seek.

18. It is not debatable that with a view to maintaining the standards of dental education imparted by various Dental Colleges/Institutions in the Country, the Parliament has framed Dentists Act, 1948. Under the Dentists Act 1948, the Dental Council of India has been constituted which is entrusted with a statutory duty to take all necessary steps as are required for maintaining the highest standards of dental education in all Dental Colleges in the country.

19. In terms of Section 21 of the Dentists Act, 1948, the Dental Council of India is empowered with the prior approval of the Union of India to frame regulations for laying down minimum standards of infrastructure, educational qualification, experience of teachers and other requirements for conduct of Dental Courses.

20. It is not in dispute and is a trite law that the regulations made under Section 20 of the Dentists Act 1948 like the Regulations framed by the Medical Council of India under Indian Medical Council Act are binding on all University and Colleges conducting Dental/Medical Courses. [See ***Dr. Preeti Srivastava vs. State of MP and others (1999) 7 SCC 120***]. The regulations provide for admission to the BDS Courses only to the candidates who appear and get selected in PC/PMT and not otherwise. Admittedly, none of the candidates, i.e., the private respondents have appeared in Competitive Entrance Examination conducted for admissions to the BDS Courses. It is also not forthcoming as to on what basis and particularly when there was no sponsorship by either AICTE or the Government of Jammu and Kashmir, the Jodhpur Dental College gave admissions to the contesting respondents.

21. Viewed thus, it cannot be said that the admissions taken by the private respondents in the BDS Courses in Jodhpur Dental College had any sanctity of law. The Writ Court has, by and large, accepted this stand of the appellants. However, the learned Single Judge has allowed the writ petition purely on equitable consideration having regard to a Division Bench judgment of this court rendered in LPAOW No. 12/2018 c/w LPAOW 13/2018, whereby the judgment passed by the learned Single Judge in OWP No. 701/2015 **Sania Ishaq and Ors. Vs. Union of India**, dated 7th June 2017, was upheld.

22. We have carefully gone through the judgment passed by the learned Single Judge in **Sania Ishaq and Ors.** where the learned Single Judge, having regard to the object of the Special Scholarship Scheme approved by the Cabinet Committee on Economic Affairs, as also the fact that no uniform procedure had been followed in sponsoring the candidates for admission to various courses, took an equitable view in the matter. The learned Single Judge was of the view that the admissions taken by the writ-petitioners in the aforesaid writ petition were not in consonance with law, yet protected the same by way of one-time exception. Mind it, this judgment was also pertaining to the candidates who had taken admissions of their own in various colleges and universities for academic session 2014-2015.

23. In the instant case also, the private respondents took admission in BDS course for the academic session 2014-15 in Jodhpur Dental College, of-course, without having been sponsored by the AICTE or the Government of Jammu and Kashmir. Their admissions are per se not covered by the Special Scholar Scheme promulgated by the Government of India.

24. It is true that the admissions were taken by the private respondents in the BDS Course in the Jodhpur Dental College purely at their own risk and responsibility, yet the Jodhpur Dental College, being aware of their obligation not to admit the candidates without undergoing the CET, allowed such candidates to take admission, probably motivated by the money considerations. The Dental Council of India has rightly objected to these admissions, but does not seem to have taken any action against the Jodhpur Dental College as envisaged under the Dentists Act, 1948 and the regulations framed there-under. That apart, the private respondents have now undergone the entire BDS course, maybe under the orders of this court and it would be too harsh to denude them of their degrees. It would be a sheer waste of medical education.

25. We cannot lose sight of the fact that when the private respondents took admissions in BDS Course in Jodhpur Dental College, they were only 10+2 and had hardly attained majority.

26. In such circumstances, and particularly in view of no clear stipulation contained in the advertisement notification issued by AICTE for sponsoring candidates for admissions under special scholarship package promulgated by the Government of India, the private respondents took a risk and pursued their BDS Course in the Jodhpur Dental College. The college which was under an obligation not to admit such students, also admitted and permitted them to pursue the course.

27. In this background, we are of the considered opinion that it would be too late in the day to denude the contesting respondents of the fruits of their hard labour put by them in pursuing and completing the BDS course. It is not the case of anybody that the contesting respondents were not possessing

the eligibility qualification to seek admission, nor is there any allegation that the Jodhpur Dental College is not a college duly recognized by Dental Council of India for importing dental education. The education imparted to the contesting respondents by Jodhpur Dental College cannot therefore be questioned on its quality or standards. Under somewhat similar set of circumstances, the learned Single Bench of this court in its judgment rendered in Sania Ishaq which is also upheld by the Division Bench has taken a compassionate view in the matter and acting purely on equities and as a one-time exception permitted the similarly situated candidates to pursue their courses. We do not wish to take a contrary view. We are however, inclined to take a view that the private respondents who were never sponsored by the AICTE /the Government of Jammu and Kashmir for their admissions in BDS Course in Jodhpur Dental College, as such, they would not be entitled to the benefit of scholarship under the Special Scholarship Scheme promulgated by the Government of India. To reiterate, the contesting respondent No. 2 and 3 did not participate in the centralized counselling conducted by AICTE, and respondent No. 1 who participated the counselling was never allotted a seat in BDS in the Jodhpur Dental College.

28. In these circumstances, asking the appellants to release scholarship in favour of the contesting respondents would be tantamount to putting premium on their misadventure and wilful violation of the scheme. Purely on the grounds of equity and deriving inspiration from the earlier Division Bench judgment of this court, we intend to invoke the equitable jurisdiction vested in this court under Article 226 of Constitution of India and provide that the admissions of the private respondents in the BDS Course in the Jodhpur Dental College shall be treated as valid admission and direct the

Principal, Dental College Jodhpur, Rajasthan to issue Degree Certificates in favour of the contesting respondents provided they have successfully undergone, completed and qualified the BDS Course, the communications of appellant-Dental Council of India dated 27th of October 2015 issued in respect of the contesting respondents, notwithstanding.

29. The direction of the Writ Court issued to the AICTE, State of Jammu & Kashmir (now the Union Territory of Jammu Kashmir) and Inter-Ministerial Committee through its Secretary Shastri Bhavan, New Delhi for release of scholarship is set aside.

30. The judgment of the Writ Court is, thus, modified only to the aforesaid extent and the appeals disposed of, accordingly.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:
27.11.2025
Altaf

Whether approved for reporting? Yes