



HIGH COURT OF UTTARAKHAND AT NAINITAL

**HON'BLE JUSTICE SRI MANOJ KUMAR TIWARI AND
HON'BLE JUSTICE SRI SUBHASH UPADHYAY**

Writ Petition (S/B) No. 319 of 2020

Dr. Prashant Saini

--Petitioner

Versus

State of Uttarakhand and others

--Respondents

Presence:-

Mr. T.A. Khan, Senior Advocate assisted by Mr. Mohd. Haznain Raza,
Advocate for the petitioner

Mr. P.S. Bisht, Additional Chief Standing Counsel for the State

The Court made the following:

JUDGMENT: (per Hon'ble Justice Sri Manoj Kumar Tiwari)

1. By means of this writ petition, petitioner has sought the following reliefs:

“To issue a writ, order or direction in the nature of mandamus commanding the respondents no. 1 to 3 to make the payment of Rs. 23,45,900/-to the petitioner with regard to the expenses incurred in getting the education of “Master of Dental Surgeon” course in the Dental College of Respondent No. 4.”

2. Fact on which there is no dispute is that petitioner was appointed as Dental Surgeon through Public Service Commission in the year 2010-2011. At the time of his appointment, he was having B.D.S. qualification. Since he wanted to upgrade his qualification, he took admission in M.D.S. course in a private college, namely, Seema Dental College & Hospital, Rishikesh after qualifying the entrance test. Principal Secretary, Medical Department relieved the petitioner for pursuing M.D.S. course with the condition that he will have to bear the expenses incurred while pursuing M.D.S. course.



3. Petitioner contends that since other government doctors are being paid all benefits including expenses incurred while pursuing Post Graduation course, therefore denial of similar treatment to petitioner is unjust.

4. A counter affidavit has been filed by Dr. Shailja Bhatt Joshi, Director General, Medical Health and Family Welfare, Uttarakhand, stating that on petitioner's request, State Government granted permission to petitioner for participating in the entrance test for M.D.S course with the condition that after selection, leave will be sanctioned to him as per applicable rules. Condition mentioned in O.M. dated 20.06.2015 that the fee for M.D.S. course would have to be paid by petitioner from his own source, is also referred.

5. It is further submitted that petitioner got admission not against a seat reserved for Government Dental Surgeons but against an open seat in private institution, therefore, State is not liable to pay the fee deposited by petitioner for pursuing M.D.S. course. It is further submitted that 15 seats in different Postgraduate courses in Government Medical Colleges in State of Uttar Pradesh, are allocated to Government Doctors serving in State of Uttarakhand and the State of Uttarakhand nominates Government Doctors for admission against those seats.

6. Para 9, 10 and 14 of the counter affidavit are extracted below:

"9. That in the year 2002 for increasing the number of Specialist Doctors, the Government vide Government Order dated 14.8.2002 reserved certain seats in the HIMS Jolly Grant, Dehradun for pursuing the PG/ diploma course of the Medical Officers of PMHS Cadre Cadre, in which the norms



were fixed for nominating/selecting the Medical Officers, whereas the petitioner was granted permission to pursue the Post Graduation degree course in private college, which is not against the seats earmarked/reserved by the Government Order dated 14.8.2002 is being filed herewith and marked as Annexure No. CA-5 to this affidavit.

10. That the Government in the year 2003, 2009 and 2014 issued the Government Orders for nominating the Medical Officers of the State of Uttarakhand for pursuing the Post Graduation degree/diploma course (in service training), however, the petitioner has not been allotted the seat earmarked for the department for pursuing the Post Graduation degree/diploma course (in service training).

14. That in reply to the contents of para no. 5 of the writ petition, it is stated that the Government Order dated 19.12.2014 has been issued for in service training in which for the selected candidates the compensation of Rs. 15 lacs has been fixed, whereas as the petitioner was selected for pursuing the course against the open seat that too in private institution, therefore, the provisions of the aforesaid Government Order is not applicable on the petitioner.”

7. Learned counsel for the petitioner has drawn attention of this Court to Government Order dated 19.12.2014 (Annexure-2 to the writ petition) for contending that all expenses of Government Doctors, who are sent for Postgraduate Medical Courses, were to be borne by State Government and as such Doctors will also be entitled to study leave on full pay.

8. Learned State Counsel submits that said Government Order deals with the case of Government Doctors, who are nominated by State of Uttarakhand for admission in P.G. Courses in different Government Medical Colleges of State of Uttar Pradesh. He submits that State of Uttar Pradesh has allowed 15 seats in P.G. Course for Government Doctors serving in State of Uttarakhand. After the selection for those P.G. seats, State of Uttarakhand makes nomination for admission of Government Doctors against 15 seats reserved for them in Government Medical College



of State of Uttar Pradesh.

9. He submits that case of the petitioner is entirely different as he took admission not against a seat reserved for Government Doctors but against an open seat. He further submits that petitioner took admission in private medical college and while granting permission to him, State Government made it clear that he will have to bear the expenses including tuition fee and State Government will not give any financial help to him.

10. Learned State Counsel submits that petitioner accepted the condition mentioned in O.M. dated 20.06.2015, took admission in Seema Dental College and 2 years after completing the course, he has filed this writ petition, seeking reimbursement of the amount which he spent while pursuing P.G. Course. Thus he submits that petitioner is estopped from seeking reimbursement of the amount when he was told earlier that he would not be paid any amount for pursuing any M.D.S. course.

11. Learned counsel for the petitioner contends that since in the past Government Doctors who took admission in P.G. Medical Course during 2002 to 2007 were given reimbursement of the amount they spent while pursuing P.G. Medical Course, therefore petitioner is also entitled for similar benefit.

12. We are not impressed by the contention raised by petitioner. As submitted by learned State Counsel, there are certain P.G. seats in Government Medical Colleges in State of Uttar Pradesh which are earmarked for Government Doctors serving in State of Uttarakhand.



Government Doctors who are nominated for admission against those seats are governed by different Government Policy as the selection, admission etc. against those seats is controlled by State Government and the fee structure is also determined by agreement between State of Uttar Pradesh and State of Uttarakhand.

13. A Government Doctor, who takes admission against an open seat in a Private Medical College, cannot claim parity with the Government Doctors who are sent for admission against seats reserved for Government Doctors. Moreover, petitioner was made aware vide O.M. dated 20.06.2015 that he will have to bear the expenses of pursuing M.D.S. course. He took admission in the course knowing fully that he will not be reimbursed the expenses incurred while pursuing the course, therefore he cannot now contend that the amount he spent while pursuing M.D.S. course be reimbursed to him.

14. Thus, relief claimed by petitioner cannot be granted. The writ petition fails and is dismissed.

MANOJ KUMAR TIWARI, J.

SUBHASH UPADHYAY, J.

Dt: 9th June, 2025
Kaushal