

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1824 of 2015**

1. Sandeep Kumar S/o Shri Sumer Ram, Aged About 26 Years R/o C I M S Boys Hostel, M B B S Final Part 1, Bilaspur, District Bilaspur (Chhattisgarh)
2. Sumit Bhagat, S/o Shri Parasnath Ram Bhagat, Aged About 25 Years R/o C I M S Boys Hostel, M B B S Final Part 1, Bilaspur, District Bilaspur (Chhattisgarh)
3. Shikhar Patanwar, S/o Shri V. S. Patanwar, Aged About 26 Years M B B S Final Part 1, R/o Kapil Nagar New Sarkanda, Bilaspur, District Bilaspur (Chhattisgarh)
4. Prakhar Patanwar, S/o Shri V. S. Patanwar, Aged About 23 Years M B B S Final Part 1, R/o Kapil Nagar New Sarkanda, Bilaspur, District Bilaspur (Chhattisgarh)
5. Rahul Hiradhar, S/o Shri R. N. Hiradhar, Aged About 24 Years M B B S Final Part 1, R/o G6 Phase - I Near Anand Education Academy Vijaypuram Colony Sarkanda, Bilaspur, District Bilaspur (Chhattisgarh)
6. Yogesh Bariha, S/o Shri Phagulal Bariha, Aged About 25 Years M B B S Final Part 1, R/o Guru Vihar Colony House No. 44 Sarkanda, Bilaspur, District Bilaspur (Chhattisgarh)
7. Rakesh Sahu, S/o Shri Laxman Prasad Sahu, Aged About 27 Years M B B S Final Part 1, R/o Gupta Hostel Madhya Nagari Chowk (Near The G. B. Diagnostic Center), Bilaspur, District Bilaspur (Chhattisgarh)
8. Uday Prakash Bhagat, S/o Shri B. K. Bhagat, Aged About 26 Years M B B S Final Part 1, R/o Rajendra Nagar Near Bajpayee Chamber, Bilaspur, District Bilaspur (Chhattisgarh)
9. Sailendra Kumar Sahu, S/o Shri Chhabri Ram Sahu, Aged About 26 Years M B B S Final Part 1, R/o Behind Shri Ram Hospital Nehru Nagar, Bilaspur, District Bilaspur (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Medical Education Department, Mahanadi Bhavan, Mantralaya, Naya Raipur, Post Office & Police Station, Naya Raipur, District Raipur (Chhattisgarh)

2. Ayush And Health Science University, G. E. Road, Raipur (Chhattisgarh)
3. Chhattisgarh Institute Of Medical Sciences, Through The Dean, Main Road Sadar Bazaar, Bilaspur, District Bilaspur (Chhattisgarh)

---- Respondent

For Petitioners : Shri Prateek Sharma, Advocate.
For Respondent/State : Shri Adhiraj Surana, Deputy Govt. Advocate.
For Respondent No.2 : Shri NK Vyas, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

19/11/2015

1. The petitioners are students of MBBS Final Year course in the Chhattisgarh Institute of Medical Sciences, Bilaspur (CIMS). Their challenge is to the question No.1(b) of first paper and question Nos.2(a), 2(b), 2 (c) and 4(c) of the second paper of MBBS, Final, Part-I, Community Medicine subject on the ground that the said questions were out of syllabus.
2. It is urged that the said questions were out of syllabus, therefore, the petitioners are entitled for 20 bonus marks and as a consequences, they be declared pass in the examination. The matter pertains to the subject of Community Medicine for which syllabus has been filed as Annexure-R-2/1. In the said syllabus, the following is provided in paper I & II respectively:-

“Community medicine

Paper-1

- Man & Medicine – Towards health for all
- Concept of health & disease
- Preventive medicine in Obstetrics, Paediatrics & Geriatrics
- Nutrition & health
- Social sciences & health
- Environment & health
- Hospital waste management
- Disaster management
- Occupational Diseases
- Mental health
- Health planning & management
- Health care of the community
- International health

Paper-II

- General epidemiology
- Screening
- Communicable & Non-communicable diseases
- National health programme
- Demography & Family welfare programme
- Genetics
- Biostatistics
- Health Education.”

3. The lectures for each of the topic covered in the syllabus has been planned in the manner depicted in the document annexed as Annexure-R-2/1 titled as Lecture Wise Distribution of Topic. The relevant questions in regard to which dispute has been raised in the present writ petition are question No.1 (b) of the first paper which requires the candidates to make an action plan to attain Environmental Sanitation of a primary school at village level; similarly question No.2(a) requires the candidates to substantiate the answer with reasons about immunization against killer diseases of the childhood is cost effective; Q. 2(b) ASHA is good example of community participation; Q. 2(c) blanket treatment

is essential for the control of Trachoma and in question No.4 (c), the candidates were required to write short notes on qualitative and quantitative Data and its presentation.

4. The petitioners raised an objection before the College along with the report of HoD wherein the HoD had opined that the above stated questions were out of syllabus. The College in turn referred the matter to the University whereupon the University appointed the Committee of Subject Experts to examine the issue. The Expert Committee has submitted a report vide Annexure- R-2/2 opining thus:-

“A) MBBS Final Part 1 Exam June 2015 Community Medicine Paper (Q1 B) पूछा गया प्रश्न, विश्वविद्यालय के कम्युनिटी मेडिसिन के सिलेबस के अंतर्गत Chapter-Health Care of Community (School Health) and Environment Sanitation से लिया गया है ।

B) MBBS Final Part 1 Exam June 2015 Community Medicine Paper-II 2, A,B,C & 4C विवरण निम्नानुसार है –

(Q2A) This Question covers vaccine preventable diseases & it's national Health Programme.

(Q2B) This question is taken from NRHM:- Community participation in Primary Health Care.

(Q2C) This question Covers National Health programme related to communicable diseases (Trachoms control)

(Q4C) This question is taken from Biostatistics.

उपरोक्त सभी प्रश्न निम्नलिखित के कम्युनिटी मेडिसिन में सिलेबस के अंतर्गत आते हैं । अतः इस पर कोई कार्यवाही की आवश्यकता नहीं है ।

5. It is settled that once an issue like the present one which is essentially of academic nature has been considered and decided by the experts, this

Court should not interfere under Article 226 of the Constitution of India. {See : **Basavaiah (Dr.) Vs. Dr. H.L. Ramesh and Others**¹ and **Guru Nanak Dev University Vs. Sanjay Kumar Katwal and another**².

6. Shri Prateek Sharma, learned counsel for the petitioners would vehemently argue that when the HoD of the College has opined that the questions were out of syllabus and the said topics having never been covered during the study in the CIMS, the petitioners should be given benefit of bonus marks. He would submit that the expert committee should have afforded opportunity of hearing to the petitioners.
7. Countering the submissions, Shri Vyas, learned counsel for the University would submit that the experts were not deciding any issue which was directly against the petitioners; they were deciding a particular topic entrusted to them by the University to examine whether or not the questions were covered by the syllabus. Therefore, the experts having not taken any action against the petitioners on their own, there was no need to afford opportunity of hearing to the petitioners.
8. In the considered opinion of this Court, the experts were only doing the job entrusted to them by the University. They have rendered an opinion only on academic issue and have not proposed any action against any individual, therefore, principles of natural justice are not attracted in the given fact situation.

¹ (2010) 8 SCC 372

² (2009) 1 SCC 610

9. For the foregoing, the issue being purely of academic nature and there is opinion of the experts finding that the questions were asked from within syllabus, no interference in this writ petition is warranted.

10. The writ petition is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve