

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (C) NO. 1996 OF 2015

Prity Singh, D/o Shri Uday Pratap Singh, aged about 25 years, C/o Girls Hostel, Maitri College of Dentistry and Research Centre, G.E. Road, Anjora, District Durg (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Health and Family Welfare, Mahanadi Bhawan, Naya Raipur, District Raipur (C.G.)
2. Ayush and Health Science University Chhattisgarh, through the Registrar, G.E. Road Raipur, District Raipur (C.G.)
3. Maitri College of Dentistry & Research Centre, through its Dean, G.E. Road, Anjora, District Durg (C.G.)
4. Dental Council of India, through the Secretary, Aiwan-e-Galib Marg, Kotla Road, Temple Lane, New Delhi - 110002.

... Respondents

For Petitioner	:	Mr. Jitendra Pali, Advocate.
For Respondent No.1-State	:	Mr. Prafull Bharat, Additional Advocate General.
For Respondent No.2	:	Mr. N.K. Vyas, Advocate.
For Respondents No.3	:	Mr. Kshitij Sharma, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per NAVIN SINHA, C.J.

04/12/2015

1. The Petitioner was a candidate at the Bachelor of Dental Science Examination during the Session 2014-15 in the General category. She secured 149 out of 300 marks equivalent to 49.66%. The minimum eligibility requirement for her category was 50%. She fell short by 0.34% but was granted admission by the college and started pursuing the course from August, 2014. In December, 2014, the college sent her candidature to the University for enrolment as a student of the University which would have facilitated her to appear in the examination to be conducted and obtain the recognized qualification.

2. The Petitioner is aggrieved by order dated 9.9.2015 passed by the University denying enrolment on the ground that she had not secured the minimum 50% marks in the qualifying examination.

3. Learned Counsel for the Petitioner submits that there are no allegations of having obtained the admission by any kind of fraud or misrepresentation. The marks of the Petitioner in the qualifying examination were available before the authorities who granted her admission. The admission was therefore granted on basis of rounding off of the marks to 50%. The Petitioner has completed the first year of the course and is now eligible to appear in the examination to be conducted by the University. The impugned order adversely affects her career prospects and she would stand to lose a year as she would have to appear in the fresh entrance examination. In the peculiar facts of the case, justice and equity demand that the marks secured by the Petitioner may be rounded off and she may be deemed to have obtained 50% marks in the qualifying examination. This aspect of the matter has not been considered by the authorities at all. Appropriate orders may therefore be passed rounding off her marks treating her to be a candidate who obtained the minimum qualifying marks so as to save her career and academic session.

4. Counsel for the University submitted that admissions are governed by the Chhattisgarh Medicine and Dental Medicine Admissions Prior to Graduation Rules, 2014 (hereinafter referred to as 'the Rules'). There is no provision for relaxation or rounding off of marks. It may be unfortunate but the law will have to take its course. Sympathy cannot be sufficient justification to invoke the jurisdiction

under Article 226 of the Constitution contrary to the rules for grant of relief.

5. We have considered the submissions on behalf of the parties and perused the Rules also.

6. The Petitioner secured 49.66% in the qualifying examination as against the requirement under the Rules of 50%. There are no allegations of any fraud or misrepresentation of any kind practiced by her to obtain the admission. The college granted the admission considering that she was falling short by 0.34% only. Presumably, the college acted on the principle of rounding off of the marks. The Petitioner then pursued her studies and completed first year of the course and is now eligible to appear at the examination. The Rules do not contain any provision for rounding off. If enrolment in the University is denied it virtually amounts to annulment of the admission as she would not be eligible to appear at the University examination and obtain valid qualifications. The admission granted to her was not to the prejudice of any other.

7. What would be just and equitable in a case would depend on the facts and circumstances of each case. There can be no generalised or standard principle.

8. The State Government would be the final authority with regard to any policy issues concerning the admission under Rule 16. To our understanding, it is clearly a discretionary power given in the Respondents to be exercised in accordance with law and reason. It is oft said that law and life run together and an interpretation of law devoid of life may become oppressive defeating the very purpose of the law. Because there is a discretionary power in the Respondents, it will not

be proper exercise of jurisdiction by us to take decisions on their behalf. The only appropriate orders to be passed by us in the facts and circumstances of the case is to direct the State Government to exercise its discretionary jurisdiction under Rule 16 on just and equitable principles so that the rules for admission are not interpreted in stultified manner which would leave one seat vacant in the college in the entire academic session of four years to the benefit of none.

9. We are informed that the examination is to commence on the 15th December, 2015. The State Government is directed to take a decision on the representation within a maximum period of one week from the date of its receipt.

10. If the Respondents propose to pass an order adverse to the Petitioner, it is required to be reasoned and speaking in nature to facilitate judicial review, if the need arises.

11. The writ petition is disposed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge