

CWP-12518 -2014
Date of Decision : 09.02.2015

Khayati Moudgil **Petitioner**

versus

Union of India and others

..... Respondents

CORAM HON'BLE MR. JUSTICE K.KANNAN

4. Whether reporters of local newspaper may be allowed to see judgment?

5.To be referred to reporters or not?

6. Whether the judgment should be reported in the digest?

Present: Mr. Rakesh Sobti, Advocate
for the petitioner.

Ms. Shubhra Singh, Advocate for UOI

Mr. Keshav Gupta, AAG, Haryana for respondents-State.

Mr. Ashok Kumar, Advocate
for respondent No.3.

Mr. Harsh Aggarwal, Advocate
for respondent No.5.

Mr. Rajinder S. Rana, Advocate
for respondent No.6.

K.Kannan, J (Oral)

The petitioner brings a challenge to a notification issued on 13.06.2007 under which the Pharmacy Council had informed all institutions conducting diploma courses in Pharmacy "not to approve Open School of any state under Sub Regulation 5 of Regulation 5 of Education Regulations of 1991 for admission to D.Pharm course. The petitioner's case is that she had done her

10+2 Education from Open School and took the admission to D. Pharm, B.Pharm, Pharm.D and Pharm.D (Post Baccalaureate) for the purpose of registration as a Pharmacist. The petitioner had taken the entrance examination and admitted on merit in the year 2008, completed the course in 2012 and sought for registration with the Pharmacy Council. The petitioner's request was declined making reference to the non-approval of Open School of any State.

The petitioner would contend that having been allowed to continue the course and having been awarded the degree as well, the counsel cannot decline the registration as a Pharmacist and the decision not to recognize open school ought to be quashed. The arguments is that no reasons had been given for the Pharmacy Council not to approve the Open School of any State under Sub Regulation 5 of Regulation 5 of the Education Regulation.

The counsel appearing for the Union and the State Pharmacy Council would refer to a challenge brought to the same notification at the time of denial of admission to the Pharmacy course by a student in CWP No.11427 of 2008 titled as Babita and others Vs. Pharmacy Council of India and others. The Division Bench held that there was no illegality in the action of not recognizing the educational qualification and observed that the pharmacy council of India after giving thoughtful consideration to the courses conducted from open schools have decided not to recognize courses done from National Open

Schools and hence found no reason to interfere with the same. Still later, a Single Judge of this Court made reference to the said decision and held in CWP No.4295 of 2012 and another titled Sajjan Kumar and others Vs. Pharmacy Council of India that the persons who have qualified the degree courses would still not be allowed to have the registration done with Pharmacy Councils, on the same reasoning as adopted in Babita and and others and in another judgment by the Patna High Court in Registrar-cum-Secretary Pharmacy Council Vs. Bablu Kumar and others.

The counsel for the petitioner would try to make a distinction to the decision of the Division Bench by pointing out that the Bench was considering the case of a student seeking for admission in a Pharmacy course and he did not deal with the person seeking for registration with the pharmacy council. I find this argument to be an attempt to make a distinction without a difference, for, the ultimate line of reasoning was that the decision of the Pharmacy Council not to recognize Open School education or 10+2 for registration of the council could not be interfered with. The counsel for the petitioner also refers me to the decision of Karnataka High Court that held the Pharmacy Council's decision to be not correct and they have actually set aside the decision of the Pharmacy Council. As much as I would feel sorry for a student who having completed the course cannot have the benefit of registration of the Pharmacy Council, I will be bound by the decision of the Division Bench of this Court and a decision of this Court by a Civil Judge as equally persuasive

value. Judicial discipline dictates that I conform to the view held by this Court by larger Bench and not follow the decisions of Karnataka and Gujarat decision cited by the counsel for the petitioners.

The writ petitions are, accordingly, dismissed.

A photocopy of this order be placed on the file of other connected case.

(K. KANNAN)
JUDGE

February 09, 2015

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