

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. *ROHIT KUMAR* CWP No. 394 of 2018
Dated 07.09.2018
...Petitioner
Vs.
Pt. B.D. SHARMA UNIVERSITY OF HEALTH SCIENCES, ROHTAK
AND OTHERS ...Respondents
2. *RAJATDEEP SINGH* CWP No. 890 of 2018
...Petitioner
Vs.
Pt. B.D. SHARMA UNIVERSITY OF HEALTH SCIENCES, ROHTAK
AND OTHERS ...Respondents
3. *ZORINPUH RALTE* CWP No. 901 of 2018
...Petitioner
Vs.
Pt. B.D. SHARMA UNIVERSITY OF HEALTH SCIENCES, ROHTAK
AND OTHERS ...Respondents
4. *RAVLEEN KAHLON AND ANOTHER* CWP No. 1570 of 2018
... Petitioners
Vs.
STATE OF HARYANA AND OTHERS ...Respondents
5. *MOHIT SAROHA* CWP No. 1993 of 2018
...Petitioner
Vs.
STATE OF HARYANA AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

Present: Mr. Sumit Dua, Advocate
for the petitioner in CWP No. 394 of 2018.

Mr. Ishwar Lal, Advocate
for the petitioner in CWPs No. 890 and 901 of 2018.

Mr. Sanjay Tangri, Advocate,
for the petitioner in CWP No. 1570 of 2018.

Mr. Jasbir Mor, Advocate
for the petitioner in CWP No. 1993 of 2018.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Teevar Sharma, Advocate,
for respondent-University.

Mr. M.S. Longia, Advocate,
for the respondent-DCI.

RAKESH KUMAR JAIN, J. (Oral)

This order shall dispose of five civil writ petitions bearing **CWP No. 394 of 2018** titled as Rohit Kumar Vs. Pt. B.D. Sharma University of Health Sciences, Rohtak and others, **CWP No. 890 of 2018** titled as Rajatdeep Singh Vs. Pt. B.D. Sharma University of Health Sciences, Rohtak and others and **CWP No. 901 of 2018** titled as Zorinpuii Ralte Vs. Pt. B.D. Sharma University of Health Sciences, Rohtak and others, **CWP No. 1570 of 2018** titled as Ravleen Kahlon and Another Vs. State of Haryana and others, **CWP No. 1993 of 2018** titled as Mohit Saroha Vs. State of Haryana and others, as the issue involved in all the five writ petitions is similar. However, for the sake of convenience, the facts are being extracted from **CWP No. 1570 of 2018**.

The petitioners took admission in September, 2014 in B.R.S. Dental College and Hospital, Panchkula (Respondent No. 6) to pursue 5-year Dental Surgery Course which includes four years of academics and one year of internship. Respondent No. 6-Institute is affiliated to the Pandit Bhagwat Dayal Sharma, University of Health Sciences, Rohtak (Respondent No. 5). There are three subjects in the first year course of Bachelor in Dental Surgery namely; General Anatomy including Embryology and Histology (**BD01**); General Human Physiology & Biochemistry (**BD02**) and Dental Anatomy, Embryology & Oral Histology (**BD03**). At the time when the petitioners took admission in the year 2014, the Regulations called “Revised BDS Course Regulations, 2007 for the Degree of Bachelor of Dental Surgeon (hereinafter referred to “Regulations of 2007”) was in operation by virtue of notification dated 25.07.2007 in which it is provided that “*any student who does not clear the first BDS University Examination in all subjects within 3 years from the date of admission, shall be discharged from the Course.*”

The Dental Council of India (for short ‘the DCI’) notified the revised BDS Course (7th Amendment) Regulations, 2015, (for short “Regulations of 2015”) on 25.02.2015 and the following substitution was made:-

“Any student who does not clear the BDS Course in all the subjects within a period of 9 years, including one year Compulsory Rotatory paid Internship from the date of admission shall be discharged from the Course.”

The DCI sought clarification from the Government of India about the retrospective implementation of the Regulations of 2015 and was informed by the Government of India vide its letter No. V.12012/4/2003-DE(Pt.) [FTS-113342] dated 11.09.2017 that it has been decided not to accept the proposal for retrospective implementation of the Regulation of 2015 by inserting the said proviso. Thus, it was decided and clarified by the DCI that the provisions of the Regulations 2015 will be applicable to the students admitted after the date of notification i.e. 23.05.2015 but the students admitted between 10.09.2007 and 23.05.2015 i.e. under the Regulations of 2007 and before the commencement of the Regulations of 2015, will be governed by the Regulations of 2007 itself.

The dispute in this case is that the petitioners who had though taken admission in BDS Course in September, 2014 and could not clear first year in 3 three years were not permitted to take the exams. The question is thus, as to whether Regulations of 2015 would be applicable to the case of the petitioners who had availed all the three chances of clearing the first year of the BDS course till the Regulations of 2015 became operative?

In this regard, learned counsel for the petitioners has relied upon a decision of the Kerala High Court in the case of Abdul Rahim and others Vs.

State of Kerala and others passed in WP (C) No. 18090 of 2016 (I) decided on 17.12.2016 and a judgement of the Division Bench judgment of the Bombay High Court (Aurangabad Bench) rendered in the case of Bhakti Vs. State of Maharashtra and others passed in Writ Petition No. 13510 of 2017 decided on 06.03.2018.

On the other hand learned counsel for the respondents has reiterated its stand taken in the reply to contend that the petitioners cannot take the advantage of the Regulations of 2015 as it would not operate retrospectively and shall remain governed by the Regulations of 2007. It is submitted that the decision has been taken by the DCI on the basis of the letter of the Government of India by which it has been clarified that the Regulations of 2015 would not be applicable retrospectively and on the basis thereof, DCI had clarified to all the concerned authorities that the Regulations of 2015 would be applicable to the students admitted after the date of notification but the students who had been admitted from 10.09.2007 to 23.05.2015 shall be governed by the Regulations of 2007.

I have heard learned counsel for the parties and perused the record with their able assistance.

The question involved in this case was similarly placed before the Division Bench of the Bombay High Court, Aurangabad Bench in the case of *Bhakti (Supra)* in which it was held that the DCI had the authority to make such provisions while exercising powers under Section 20 of the Dentists Act, 1948 and the said amendment has been approved by the Central Government but in respect of applicability of Regulations of 2015, it was held that : -

“30. The principles of interpretation of statute are well settled. Normally, the court has to interpret the statute as per the literal meaning of the words used. The words are to be understood as they are used in the light of the object of the enactments. The statutes and the amendments

are prospective in nature. However, the amendments in the form of declaratory nature or the amendments effected for substitution of the original provisions have to be construed as applicable from the date of the earlier provisions. Till the introduction of the amendment, the old provision will prevail, but from the date of amendment, the old provision will no more exist and will not govern anybody.

- 31. In the present case, the old provision provided for condition to pass out 1st year BDS within three years. Those who have not passed out 1st year BDS examination within three years before the amendment dt. 27.04.2015 will be governed by the old provisions and will have no right to take advantage of the new provisions. However, the students who are studying in 1st year BDS and have failed one or two times but have not yet completed period of three years before amendment will be entitled to benefit of amended provisions. If on the date of amendment, they are still studying without completion of period of three years of 1st year BDS they will be governed by the amended provisions which are in the nature of substitution.*
- 32. The old provisions will become non-existent. The petitioners in this case belong to this category. They have joined the college in September-2014 and were still in BDS on the date of amendment on 27.04.2015 but they have not completed period of three years in first year BDS. Thus, they were not disqualified under the old provisions. We therefore hold that their subsequent failure to complete first year BDS in a period of three years from the date of their admission will not affect their right of pursuing the studies. They will be governed by new provision which provides that they will have to complete the entire course including internship within a period of nine years. The amended provision will be applicable to all students studying B.D.S. Course as on 27.04.2015 if they were not cleared or disqualified earlier as per old provision.*
- 33. It is axiomatic that, the students who have completed first year BDS within a period of less than three years before introduction of amendment dt. 27.04.2015, would not be further subjected to new condition that the entire course will have to be completed by them within nine years. DCI in communication dt.28.04.2017 has rightly clarified that, the students who have fulfilled earlier condition will not be subjected to fulfill another condition.*

34. *The Secretary to DCI in communication dt. 19.01.2016 based on discussion and deliberation with the members of DCI has taken a stand that the students who have joined before 27.04.2015 would be governed by the old provisions. This stand is contrary to the basic rules of interpretation of statutes as explained in various supreme court rulings. Merely because the petitioners had joined BDS course on 01.09.2014, they will not be continued to be governed by the old provision which in view of the substitution is no more in existence. Therefore, the said communication will not affect the interpretation of the amended provisions. Similarly, the communication dt. 06.11.2017 made by Maharashtra University of Health Sciences, Nashik, based on the communication by DCI holding the present petitioners as ineligible for the examination of Winter 2017, is not sustainable and needs to be quashed.*
35. *In the light of the above findings, we allow the writ petitions and direct respondents no. 3, 4 & 5 to allow the petitioners to prosecute their BDS course and to appear for the examinations to be held without considering the time limit fixed before the amendment dt. 27.04.2015 but subject to the time limit fixed by amendment dt. 27.04.2015. We direct the respondents not to cancel the admissions of the petitioners by applying the provisions of time limits as per provision existing before the amendment.”*

In this regard, similar view has also been expressed by the Kerala High Court in the case of *Abdul Rahim (Supra)*.

Thus, in view of the aforesaid, all the writ petitions are hereby allowed.

Photocopy of this order be placed on the file of the connected case(s).

07.09. 2018

Ess Kay

**(RAKESH KUMAR JAIN)
JUDGE**

Whether speaking / reasoned :

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Yes / No

Whether Reportable :

Yes / No