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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 336/2017 & CM APPL. 16932/2017

ANHAD RAJ SINGH Appellant

Through: Mr. Hemant Sharma, Adv.

versus

DENTAL COUNCIL OF INDIA & ANR Respondents

Through: Mr. T. Singhdev, Ms. Biakthansangi
Das, Ms. Puja Sarkar and Mr. Tarun
Verma, Advs. for R-1.
Ms. Anju Gupta and Mr. Roshan Lal
Goel, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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08.05.2018

The appellant is aggrieved by the denial of his request for migration from a dental college in Solan, Himachal Pradesh (where he was admitted to initially) to another college at Ludhiana, Punjab.

The Dental Council had relied upon its Regulations (Dental Council of India Revised BDS Course Regulations, 2007) to contend that the migration of a candidate is not based merely upon the *inter se* convenience or agreement of the college (where the appellant is undergoing academic course) and college to which he seeks migration but rather also on the existence of extreme compassionate conditions.

The appellant/petitioner had urged that after he joined dental

college at Solan he contracted chronic bronchitis as a result of prevalence of widespread pollen. It was therefore urged that the Dental Council of India ought to permit migration given that the college at Solan and the College at Ludhiana were both willing to offer further arrangement. The learned Single Judge however, rejected the writ petition basing upon the interpretation given by the Dental Council of India in the Regulations.

The appellant's counsel relies upon the documents along with the request for migration and contends that the bronchitis in this case was contracted after the student joined the course. It was submitted that in these peculiar circumstances the condition with respect to the existence of extreme compassion was fulfilled. It was also submitted that the elaboration of what constitutes 'extreme compassionate' in Note-2 to the concerned Regulations (Regulation IV of the Regulations of 2007), is unduly restrictive.

The concerned provision in the Dental Council Regulations i.e. Regulation IV reads as follows:-

"IV. Migration:

1. Migration from one dental college to another is not a right of a student. However, migration of students from one dental college to another dental college in India may be considered by the Dental Council of India. Only in exceptional cases on extreme Compassionate grounds, provided the following criteria are fulfilled. Routine migrations on other ground shall not be allowed.

(2) Both the colleges, i.e. one at which the student is studying at present and one to which migration is sought, are recognized by the Dental Council of India.

(3) The applicant candidate should have passed first professional BDS examination.

(4) The applicant candidate submits his application for migration, complete in all respects, to all authorities concerned within a period of one month of passing (declaration of results) the first professional Bachelor of Dental Surgery (BDS) examination.

(5) The applicant candidate must submit an affidavit stating that he/she will pursue 240 days of prescribed study before appearing at IInd professional Bachelor of Dental Surgery (BDS) examination at the transferee dental college, which should be duly certified by the Registrar of the concerned University in which he/she is seeking transfer. The transfer will be applicable only after receipt of the affidavit.

Note 1:

(i) Migration is permitted only in the beginning of IInd year BDS Course in recognised Institutions.

(ii) All applications for migration shall be referred to Dental Council of India by the college authorities. No Institution/University shall allow migration directly without the prior approval of the Council.

(iii) Council reserves the right not to entertain any application which is not under the prescribed compassionate grounds and also to take independent decisions where applicant has been allowed to migrate without referring the same to the Council.

Note 2: Compassionate ground criteria.

(i) Death of supporting guardian.

(ii) Disturbed conditions as declared by Government in the Dental College area.”

It is quite evident that the Dental Council of India can permit migration of the students from one dental college to another only if they can demonstrate the existence of some condition that can fall within the criteria of extreme compassion. Note-2 of the Regulations in fact elaborates and at the same time restricts the discretion of the Dental Council, inasmuch as, it enumerates only two conditions i.e. death of the supporting guardian or prevalence of the disturbed conditions as declared by Government in the area where the dental college is located.

The Court is not today considering the challenge to these conditions; rather the appellant at one level is in fact seeking the aid of general Regulations permitting the Dental Council of India to authorise migration on grounds of extreme compassion.

In these circumstances, the exercise of discretion by the Dental Council, which took into account the medical records of the appellant, cannot be found faulted with – as was correctly held by the learned Single Judge.

For the foregoing reasons, the Court is of the opinion that there is no merit in the appeal and the same is accordingly dismissed along with the pending application.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MAY 08, 2018/rc

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