



In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 17801 of 2024

Date of Decision: 31.07.2024

Jasleen Kaur

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Sheel Nagu, Chief Justice.
Hon'ble Mr. Justice Anil Kshetarpal.**

Present: Mr. Ranjivan Singh and Mr. Risham Raag Singh, Advocates
for the petitioner(s).

Anil Kshetarpal, J.

1. By filing this writ petition under Article 226/227 of the Constitution of India, the petitioner prays for the following substantive reliefs:-

"i) *For issuance of a writ of Certiorari declaring the provision of 7th Amendment to BDS Course Regulations, 2007 ultra vires and unconstitutional being violative of Article 41 to the extent that it restricts the duration of completing 4 years BDS Course Examinations (including One Year Compulsory Rotatory Paid Internship) within 9 years in a mechanical/rigid manner and does not provide for undergoing the said One Year Internship beyond the stipulated period of 9 years, in case the candidate passes his/her last examination in a Mercy Chance (beyond the period of 8 years) in view of his/her mitigating circumstances.*

ii) *Further for issuance of a writ of Certiorari quashing the Letter dated 01.07.2024 (P-19) and Letter dated 21.05.2024*

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(P-14) as issued by the Dental Council of India (DCI) i.e. Respondent No. 3 whereby the claim/request of the Petitioner for undergoing/continuing One Year Compulsory Rotatory Internship at the Campus of Respondent No. 5 has been rejected primarily on the pretext of 7 Amendment of the BDS Course Regulations, 2007 (P 5) [made effective w.e.f. 27.04.2015] in an unjust and unfair manner overlooking the fact that she was given a Mercy Chance vide Letter dated 22.01.2024 (P-6A) to complete her BDS Course beyond 8 years owing to COVID-19 Pandemic and mitigating family circumstances (P-4).

iii) Further for issuance of a writ of Mandamus directing the Respondents in general and Respondent No. 2 in particular to permit the Petitioner to continue her ongoing One Year Compulsory Rotatory Internship at the Campus of Respondent No. with due permission of the Respondent University since 27.04.2024 which has been stopped abruptly without any Intimation/Notice to the Petitioner AND to award her the BDS Degree upon completion of the said Internship.”

2. The petitioner herein joined the undergraduate Degree course in Bachelor of Dental Surgery (hereinafter referred to as “BDS”) on 30.09.2015 in respondent No.4- college which is affiliated to respondent No.2- University. The total duration of the course is four years plus one year (internship). She made first attempt to clear the first year of BDS course in the month of May/June, 2016, however, failed to clear the entire examination. However, in November/December, 2016, she was successful in

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the second attempt. For second year of the aforesaid course, she appeared in November/December, 2017, but failed to clear all the papers. She was asked to reappear and successfully cleared her second year in May/June 2018 in second attempt. She has successfully completed her third year in first attempt in November/December, 2018. For the final year of BDS course, she has made as many as eight unsuccessful attempts from November/December, 2019 to May/June, 2023. Ultimately, she was given a mercy chance i.e. ninth attempt in November/December, 2023, in which she passed.

3. She claims that in June, 2019, her mother suffered a severe heart ailment and started remaining chronically ill. Subsequently, in the month of March, 2020, the curriculum of the university got adversely affected due to outbreak of COVID-19 pandemic and the academic sessions including the examination/results got delayed.

4. On 25.07.2007, the Dental Council of India notified the regulations for the Decree of Bachelor of Dental Surgery which have been amended from time to time. These regulations are called “the Dental Council of India Revised Bachelor of Dental Surgery Course Regulations, 2007”. In this writ petition, the petitioner assails the validity of the following regulation which was notified on 27.04.2015 i.e. before she joined BDS course:-

“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.”

5. This Court has heard the learned counsel representing the petitioner at length and with his able assistance, perused the paper-book.

6. The learned counsel representing the petitioner contends that the mercy chance given to the petitioner for appearing in fourth year of the Bachelor of Dental Surgery examination is of no use because she has not been permitted to complete her rotatory internship. He submits that the petitioner, due to her mother's serious ailment, has failed to clear the examination and the aforesaid regulation is resulting in harsh and unreasonable treatment to her. He relies upon an interlocutory order passed by the High Court of Gujarat at Ahmedabad in ***Special Civil Application No. 707 of 2024 (Saiyed Nuzhatshirin Raziuddin v. State of Gujarat)***.

7. From the facts already noticed, it is evident that in the first year as well as the second year of the BDS course, the petitioner has failed to clear the examination in first attempt. Thereafter, she has made as many as eight unsuccessful attempts before clearing her fourth year examination in November/December, 2023. She has appeared in the fourth year's examination on a mercy chance.

8. It would not be appropriate to declare the regulation arbitrary and unreasonable only on account of the facts of a particular case. The aforesaid regulation is applicable uniformly in the entire country. The regulation has been notified by an Expert Body. The total duration of the course including internship is five years, whereas the candidates have been given liberty to clear the examination within a period of nine years. In other



examination and internship. This Bench does not find that the period of nine years is unreasonable in any manner.

9. While examining the validity or correctness of the regulation which is a delegated legislation, the Court cannot go into individual difficulties unless it is proved that the regulation is apparently arbitrary and unreasonable and it would not be appropriate to strike it down on the basis of individual suffering as facts of each and every case differ.

10. It is settled that a statutory provision cannot be struck down merely because it causes inconvenience to any person. Reliance in this regard is placed on the judgments rendered by the Supreme Court in *Basawaraj and Another v. Special Land Acquisition Officer (2013) 14 Supreme Court Cases 81* (emphasis laid in para No. 12). In this judgment, while making the aforesaid observations, the Supreme Court has also relied upon the judgments rendered in *Chandigarh Admn. v. Jagjit Singh (1995) 1 SCC 745*; *Anand Buttons Ltd. v. State of Haryana (2005)9 SCC 164*; *K.K.Bhalla v. State of M.P. (2006) 3 SCC 581* and *Fuilit Kaur v. State of Punjab (2010)11 SCC 455*. The Supreme Court has also reiterated the similar observations in *Pathapati Subba Reddy (Died) by L.Rs and Others v. Special Deputy Collector (LA) 2024 SCC Online SC 513* (emphasis laid in para 24). Reliance is also placed on the judgment rendered by the Supreme Court in *P.N.Krishna Lal and Others v. Govt. of Kerala and Another 1995 Supp.(2) Supreme Court Cases 187* (emphasis laid in para 52 and 53).

10. The learned counsel representing the petitioner does not dispute

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that despite the outbreak of COVID-19 pandemic, not only the classes were held, but examinations were also held. Undoubtedly, there was some delay due to the outbreak of COVID-19 pandemic, however that itself is not sufficient to declare that the regulation is unreasonable and arbitrary.

11. This Court has carefully read the order dated 23.01.2024 passed by the High Court of Gujarat. In that case, only notice for final disposal, returnable for 12.02.2024, was issued, which would not be binding on this Court for the purpose of final decision of the writ petition.

12. Keeping in view the foregoing discussion, the present writ petition is dismissed.

(Anil Kshetarpal)
Judge

(Sheel Nagu)
Chief Justice

July 31, 2024

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No