

ABHINAV AGGARWAL AND ANR.

A

v.

UNION OF INDIA AND ORS.

FEBRUARY 8, 2001

[S. RAJENDRA BABU AND K.G. BALAKRISHNAN, JJ.]

B

*Education—Higher Education—*

*Post graduate medical courses—Admission—Criteria—Institutional preference—Legality of—Delhi University—25 per cent of seats filled on all-India basis against which any student from anywhere in the country could compete and get selected—Remaining 75 per cent of seats reserved for State quota—Petitioners hailing from Delhi having qualified MBBS course from colleges situated in different parts of the country—Admission sought in post graduate medical courses in Delhi University under the 75% State quota—Denial of—Contention that petitioners had studied outside their home State under the 15 per cent all-India quota—Tenability of—Admission rules having been framed pursuant to decisions of Supreme Court rendered bearing in mind the scope of Article 14 of the Constitution vis-a-vis the local needs—Held, it is not permissible or appropriate to disturb the admission rules or to interfere with the process of selection being made to consider the cases of the petitioners—Uniformity in the matter of admission to post graduate medical courses—Attainment of—Held, wrought with many complexities—In the instant case process of selection not interfered with.*

C

D

E

**Petitioners who hail from Delhi completed MBBS course from colleges situate in different parts of the country. They sought admission to post graduate medical courses in Delhi University under the 75% Delhi University quota seats. However, they were held not entitled to seek admission against the 75% reserved State quota as they had studied outside their home State under the 15% all-India quota. They were, thus, denied the opportunity to compete in the entrance examination held by the Delhi University for admission to post graduate courses. Aggrieved, they have filed the present petition.**

F

G

**On behalf of the petitioners, it was contended that different criteria adopted by different States encroached upon the right of the students who had qualified MBBS by passing necessary entrance examinations and who**

H

**A** migrated to other States from their home State; that such students did not get an opportunity for advancement of their career in their home State as they were debarred from admission on account of different criteria, either on account of reservation, on the ground of residential requirement in the migrating State or on the ground of institutional preference adopted by the State or Union Territories or Universities; that the students who were classmates of the petitioner were eligible to pursue post graduate courses in their respective home States but the petitioner in their own home State were being denied the opportunity to compete in the entrance examination to seek admission in post graduate courses; that they got admission in M.B.B.S. after passing the entrance examination on the basis of all-India entrance examination conducted by the respective institutions and, therefore, negation of opportunity to the petitioners to compete in the entrance examination was in gross violation of the fundamental rights as guaranteed under Article 14 of the Constitution; that the criteria set out by different States to fill in the 75% State quota to admission to post graduate medical courses did not achieve any uniformity; that to strike a balance between the students who continued studies in their home States and those students who had pursued studies in other Universities or States who were invidiously discriminated should be allowed to compete in their home States where they had rules to pursue their post graduate studies.

**E** On behalf of the Delhi University, it was contended that in respect of Delhi University reservation was made in respect of 25% of the seats which were kept to be filled by on all-India basis against which any student from anywhere in the country was entitled to compete and get selected and only the remaining 75% were reserved as permitted by Supreme Court in some previously decided cases; that petitioners having studied outside their home State under the 15% all-India quota were not entitled to seek admission in Delhi University against the 75% Delhi University Seats; that admission in the institutions in which the petitioners did their M.B.B.S. Course was not made on all-India entrance examination being conducted by the Central Board of Secondary Education on behalf of the Director General of Health Services.

**G** Dismissing the petitions, the Court

**H** HELD : 1. When the admission rules have been framed pursuant to the decisions of the Supreme Court and those decisions have been rendered bearing in mind the scope of Article 14 of the Constitution vis-a-vis the local needs, it is not permissible or appropriate to disturb that scheme. It would be

ideal for the States/authorities concerned to achieve uniformity by adopting appropriate criteria in the matter of admission to post graduate courses in medical colleges. However, the question of attaining uniformity in the matter of admission in post graduate medical courses in all medical colleges is wrought with many complexities. In view of the law declared by Supreme Court and directions issued pursuant thereto, schemes have been framed by respondents' institutions. Hence, the process of selection being made to consider the cases of the petitioners cannot be interfered with.

[946-H; 947-A; 946-G; F; 947-A]

*State of Uttar Pradesh v. Vineet Singh*, [2000] 7 SCC 262, applied.

*Dr. Parag Gupta v. University of Delhi and others*, [2000] 5 SCC 684, relied on.

*Dr. Pradeep Jain and others v. Union of India and others*, [1984] 3 SCR 942; *Dr. Jagadish Saran v. Union of India*, [1980] 2 SCC 768; *State of Rajasthan v. Dr. Ashok Kumar Gupta*, [1989] 1 SCC 93; *Anant Madaan v. State of Haryana*, [1995] 2 SCC 135; *Dr. Dinesh Kumar v. Motilal Nehru Medical College*, [1986] 3 SCC 727 and *Sanjay Ahlawat v. Maharishi Dayanand University*, [1995] 2 SCC 762, referred to.

CIVIL ORIGINAL JURISDICTION : Writ Petition (C) No. 5 of 2001.

(Under Article 32 of the Constitution of India)

With

W.P.(C) No. 13/2001, SLP (C) No. 104/2001, W.P. (C) No. 38/2001 and W.P.(C) No. 50/2001.

Yogeshwar Prasad, S. Balakrishnan, P.P. Rao, Dinesh Dwivedi, Anis Suhrawardy, Sandeep Garg, S. Mehdi Imam, M.C. Dhiragra, Ms. Rachna Gupta, M.K.D. Namboodiry, Subramonium Prasad, Sree Narian Jha, Ashok K. Srivastava, A. Mariarputham, Ms. Aruna Mathur, Anurag D. Mathur, Ajay K. Agrawal, Sanjay R. Hegde and Satya Mitra for the appearing parties.

The Judgment of the Court was delivered by

**RAJENDRA BABU, J.** The petitioners in these cases claim to hail from Delhi and have completed MBBS course from colleges situate in different parts of the country. They state that they passed entrance examination held by the concerned Governments of the States in which the colleges situate or

A the entrance test conducted by such colleges; that the classmates of the petitioners who studied in Delhi and continued their study in the medical courses also in one or the other medical college have an advantage over the petitioners as they are being considered for admission to PG medical courses in Delhi University by providing for institutional preference. The Delhi University has prescribed the conditions for admission as follows :-

B *Requirement for admission to Post-Graduate Degree Courses : (A)*

C 1. Candidate must have completed satisfactorily one year of compulsory rotating internship after passing the final M.B.B.S. examination from the University of Delhi on or before 31.3.2001 and must have full registration with the State Medical Council/Medical Council of India.

D 2. The candidate who has passed the MBBS examination from a University other than Delhi University, having been allotted to the same under the 15% All India Quota by the Director General of Health Services would also be eligible if he/she is permanent resident of the National Capital Territory of Delhi, (The proviso has been incorporated as per the direction of the Hon'ble Supreme Court in Dr. Parag Gupta's case and is subject to further order of the Hon'ble Supreme Court) and if he/she also fulfils all the following three conditions :-

E (i) He/She has passed 10+2 examination from National Capital Territory of Delhi.

(ii) He/She is a permanent resident of the National Capital Territory of Delhi.

F (iii) He/She has passed the MBBS examination from a University other than Delhi University, having been allotted to the same under the 15% All India Quota by the Director General of Health Services if he/she is permanent resident of the National Capital Territory of Delhi.

G *Note : (i) A candidate must produce any one of the following documents to prove his/her permanent residence in the National Capital Territory of Delhi :*

(a) Ration Card

(b) Voters Identity Card

(c) Passport

(d) Driving license

H (ii) The Candidate must submit documentary proof for serial no. (i) & (iii)."

There are similar rules in the State of Uttar Pradesh and the contentions raised by some of the petitioners who hail from Uttar Pradesh are identical. A

After decision in *Dr. Parag Gupta v. University of Delhi & Ors.*, [2000] 5 SCC 684, various States have adopted different criteria of reservation which may be tabulated as follows :-

1. Delhi	Institutional	Residence (15%)	B
2. Gujarat	Institutional		
3. Maharashtra	Institutional		
4. U.P.	Institutional	Residence (15%)	C
5. West Bengal	Institutional		
6. Assam		Residence	
7. Goa		Residence	D
8. Karnataka		Residence	
9. Tamil Nadu		Residence	
10. Haryana	Institutional or	Residence	E
11. H.P.	Institutional or	Residence	
12. Kerala	Institutional or	Residence	
13. M.P.	Institutional or	Residence	F
14. Orissa	Institutional or	Residence	
15. Punjab	Institutional or	Residence	
16. Rajasthan	Institutional or	Residence	G
17. Bihar	Institutional or	Residence	
18. Pondicherry	25% all-India quota + 37.5% institutional of available seats + 37.5% of available seats open.		H

- A The contention put forth before us is that different criteria adopted by different States encroach upon the right of the students who have qualified MBBS by passing necessary entrance examinations and who migrated to other States from their home State do not get an opportunity for advancement of their career in their home State as they are debarred from admission on account of different criteria, either on account of reservation, on the ground of residential requirement in the migrating State or on the ground of institutional preference adopted by the State or Union Territories or Universities. Though in a small area the States of Uttar Pradesh and Delhi relax the condition of institutional preference by making provision for residence in respect of 15% all-India quota in which none of the petitioners fall. The
- B tabulation would disclose that some States allow admission to postgraduate medical courses only to the residents, whereas some States allow admission to postgraduate medical courses to such students who have qualified from any medical college even from outside the home States and some other States allow admission to postgraduate medical courses only to those students who have qualified from the medical colleges situate within the State or University.
- C Delhi University provides admission to postgraduate medical courses to students who have qualified MBBS from Delhi University and also to such students who have qualified MBBS from outside Delhi under the 15% all-India scheme as formulated in *Dr. Dinesh Kumar's* case. The petitioners who have qualified from different colleges are denied the opportunity to compete in the entrance examination held by the Delhi University for admission to postgraduate courses, while the State of Rajasthan, Haryana and Punjab allow admissions also to residents who have qualified MBBS from any medical college for which admission is conducted on the basis of all-India entrance examination or otherwise. Thus the students who are classmates of the petitioners are eligible to pursue postgraduate courses in their respective home States but the petitioners in their own home State are being denied the opportunity to compete in the entrance examination to seek admission in postgraduate courses in universities in Delhi and Uttar Pradesh. Their claim is that they got admission in MBBS after passing the entrance examination on the basis of all-India entrance examination conducted by the respective institutions and, therefore, negation of opportunity to the petitioners to compete in the entrance examination is in gross violation of the fundamental rights as guaranteed under Article 14 of the Constitution. The contention put forth is that the criteria set out by different States to fill in the 75% State quota to admission to postgraduate medical courses does not achieve any uniformity. Strong reliance is placed on *Dr. Parag Gupta's* case in this regard and it is
- H contended that to strike a balance between the students who continued

studies in their home States and those students who had pursued studies in other universities or States who are invidiously discriminated should be allowed to compete in their home States where they have rules to pursue their postgraduate studies.

In reply, the contention put forth is that in respect of Delhi University the scheme of admission is what was considered in *Dr. Jagdish Saran's* case and reservation is made in respect of 25% of the seats which are kept to be filled by on all-India basis against which any student from anywhere in the country is entitled to compete and get selected and only the remaining 75% are reserved as permitted by this Court in *Dr. Pradeep Jain's* case read with *Dr. Dinesh Kumar's* case. When the directions given by this Court in *Dr. Parag Gupta's* case were sought to be applied in a general manner to all students who had studied outside the State in medical colleges and sought for admission in their home State, it was noticed by this Court that such a course was not permissible and this position was clarified in *Vineet Singh's* case. The petitioners having studied outside their home States under the 15% all-India quota are not entitled to seek admission in Delhi University against the 75% per cent Delhi University seats by invoking the decision in *Dr. Parag Gupta's* case. The institutions in which the petitioners did their MBBS course are not covered by the judgment or scheme formulated in *Dr. Pradeep Jain's* case and admission in the said institutions is not made on all-India entrance examination being conducted by the Central Board of Secondary Education on behalf of the Director General of Health Services pursuant to the judgment and directions of this Court in *Dr. Pardeep Jain's* case. Therefore, it is submitted that the petitioners are not entitled to seek admission in postgraduate medical courses in Delhi University under the 75% Delhi University quota seats.

After considering the cases in *Dr. Jagadish Saran v. Union of India*, [1980] 2 SCC 768; *State of Rajasthan v. Dr. Ashok Kumar Gupta*, [1989] 1 SCC 93; *Anant Madaan v. State of Haryana*, [1995] 2 SCC 135; *Dr. Dinesh Kumar v. Motilal Nehru Medical College*, [1986] 3 SCC 727 and *Sanjay Ahlawat v. Maharishi Dayanand University*, [1995] 2 SCC 762, we stated in *Dr. Parag Gupta's* case, as follows :-

“These decisions lead us to the following principles: though universitywise preference is permissible, collegewise preference is not. 70% to 80% reservation has been sustained even where the students from different universities appear at a common entrance test. After the decisions in *Dr. Pradeep Jain* and followed by *Dinesh Kumar*

A the practice all over the country was to make 15% of the seats in MBBS course and 25% of the seats in postgraduate medical courses in all the government medical colleges in the country available on the basis of merit alone. Students from anywhere in the country can compete for these seats which are allotted on the basis of an all-India test conducted by the designated authority. The rule of preference on

B the basis of domicile or requirement of residence is not bad provided it is within reasonable limits and does not result in reserving more than the aforesaid percentage. Where the students from different universities appear at a common entrance test the rule of universitywise preference loses its relevance. The explanations of difference in

C evaluation, standards of education and syllabus lose much of their significance when admission is based upon a common entrance test. At the same time, the right of the State Government to regulate the process of admission and their desire to provide for their own students should also be accorded due deference. In the light of these principles, we examine the facts arising in the present case.”

D

In a way the decision in *State of Uttar Pradesh v. Vineet Singh*, [2000] 7 SCC 262, covers the matter in dispute. In that case extending the principle in *Dr. Parag Gupta's* case, the High Court of Allahabad had directed to allow taking entrance examination in respect of all students who had migrated to other States and sought for admission in their home States. This Court explained that the decision in *Dr. Parag Gupta's* case was applicable only to those selected pursuant to 15% All India quota provided under a scheme framed in *Dinesh Kumar's* case. It is submitted that in these cases independent of *Dr. Parag Gupta's* case, the Petitioners' case has to be examined as to whether the Petitioners are discriminated against other students in their home

E States. The question of attaining uniformity in the matter of admission in PG medical courses in all medical colleges is wrought with many complexities. Students who have studied outside Delhi are also eligible to the 25% All India quota provided under the scheme for admission to PG medical courses. In view of the law declared by this Court and directions issued pursuant thereto,

F schemes have been framed by respondents' institutions. We reiterate that it would be ideal for the States/authorities concerned to achieve uniformity by adopting appropriate criteria in the matter of admission to PG courses in

G medical colleges.

H When the admission rules have been framed pursuant to the decisions of this Court to which we have adverted to and those decisions have been

rendered bearing in mind the scope of Article 14 of the Constitution *vis-à-vis* A  
the local needs, we do not think, it is permissible or appropriate for us to  
disturb that scheme. Hence, we decline to interfere with the process of  
selection being made to consider the cases of the petitioners.

The petitions, therefore, stand dismissed.

M.P.

Petitions dismissed. B