

PETITIONER:
MANIPAL ACADEMY OF HIGHER EDUCATION

Vs.

RESPONDENT:
STATE OF KARNATAKA

DATE OF JUDGMENT 26/11/1993

BENCH:
MOHAN, S. (J)
BENCH:
MOHAN, S. (J)
JEEVAN REDDY, B.P. (J)

CITATION:
1994 SCC (2) 200 1993 SCALE (4) 690

ACT:

HEADNOTE:

JUDGMENT:
ORDER

1. We have heard both Mr Kapil Sibal, Senior Advocate and Mr B.V. Acharya, learned Advocate-General of the State of Karnataka at length. We have also had the benefit of the arguments on behalf of the University Grants Commission.

2. As on today a good deal of academic year had passed. The grant of status as "Deemed University" in favour of the petitioner has resulted in complexities. In order that the rights of the students to get admitted, may not be further delayed, we pass the following order only in respect of the academic year 1993-94 as an ad hoc measure.

(1) The State of Karnataka has placed before us a table showing range of marks obtained in PUC or equivalent examination by students admitted to first MBBS course in Kasturba Medical College, Bangalore and Kasturba Medical College, Manipal during this academic year 1993-94 on the basis of a common entrance test. That table shows 52 students have obtained above 90% marks, 100 students have scored above 80% but below 90% of marks. In addition to this, there are also students belonging to Scheduled Caste and Scheduled Tribe.

(2) Though the list was drawn from an intake of 275 students which represented the State Government's right to allot at 50% treating the institution as Minority Institution as it was originally pleaded. That position has changed now. It is fairly admitted by the learned Advocate-General that 75 students out of that list have been accommodated. It is the submission of Mr Kapil Sibal that the petitioner-institution (namely Manipal Academy of Higher Education) wants to maintain excellence of standards. Hence it should not

be compelled to admit students who had scored less than 80% of the marks. Keeping that in view we hereby direct that the petitioner's institution shall admit the 180 students in all. We make it clear that this 180 does not include the 75 students already admitted. It is further made clear that this 180 shall include all students belonging to Scheduled Castes and Scheduled Tribes irrespective of the percentage of marks they had obtained in the qualifying examination subject of course, that they have qualified the test. Both the learned counsel are agreed that the total seats available with the petitioner's institution are 400. Therefore, 400 minus 180 viz. 220 shall be admitted on the basis of the common entrance test both for MBBS and BDS courses, conducted on "an All India basis" by the Medical Council of India. The said Medical Council of India has hereby directed to conduct the examination on or before December 20, 1993 and publish a result by December 26, 1993.

(3) The students selected by the Government of Karnataka namely 180 above-referred to other than Scheduled Caste and Scheduled Tribe as well as the students who take the examination on an All India basis as conducted by the Medical Council of India, shall be admitted only in the order of merit.

203

(4) The students belonging to Scheduled Castes and Scheduled Tribes shall be admitted free. After admitting them whatever seats remain out of 180 they shall be divided into two halves on the basis of merit. The first half shall be required to pay Rs 8000 (rupees eight thousand only) per annum (fee fixed by the Government) and the second half shall pay Rs 1,40,000 per annum (fee fixed in other cases by us). This fee of Rs 1,40,000 fixed by us for second half of the students mentioned above is purely tentative.

(5) In relation to the students who become successful and eligible for admission on the basis of All India entrance test, we do not fix the fees for the reason we are directing the University Grants Commission to fix the fees on or before December 26, 1993 positively. A report regarding the fee structure fixed in obedience to this order shall be forwarded to this Court on or before December 26, 1993. These students on such fixation shall be required to pay that fees alone. Equally, the second half of those 180 students minus Scheduled Caste and Scheduled Tribe students will also be required to pay that fee as fixed by the University Grants Commission. On that basis, if any refund is due, it is open to them to get such refund. Equally if any further fee is required to be paid by them, it is open to the petitioner's institution to demand the same.

(6) The University Grants Commission while fixing the fee structure shall have regard to

following (i) the judgment in Unnikrishnan case' (ii) this order wherein we have directed that all students belonging to Scheduled Castes and Scheduled Tribes shall be admitted free and further have regard to the fact that the first half of the students are required to pay only at the rate of Rs 8000 as fixed by the Government of Karnataka. The University Grants Commission shall fix the fee on the material supplied by the petitioner and the State of Karnataka (if it so desires to furnish) independently on merits. However, on such fixation this Court will decide the question as to the reasonableness of the fee structure.

(7) Such of those students as selected by the State of Karnataka on the basis of the qualifying test who could not be admitted into the petitioner's institution in view of our above order, shall be accommodated in other colleges by the State of Karnataka if necessary by creating additional seats in the Government Medical Colleges.

3. The above order applies only to MBBS course.

(8) As regards Bachelor of Dental Science (BDS) course, the students allotted by the State of Karnataka as on date shall be admitted by the petitioner's institution. For the remaining seats such of those students who are successful in the "All India" entrance test referred to in paragraph 2 above and who are desirous of joining BDS course, shall be admitted on the basis of merit. The students drawn up from the list of State of Karnataka and allotted to BDS course and admitted by the petitioner's institution shall pay Rs 8000 or Rs 1,00,000 (fees fixed by

204

the Government of Karnataka) depending upon the category to which the particular student is allotted. In relation to the students admitted on the basis of All India entrance examination, we are not fixing the fee structure but again direct the University Grants Commission to fix the fee independently on or before December 26, 1993 and submit a report thereon.

4. Regarding the College of Nursing there is a dispute as to the number of students allotted. The same principle as applicable to BDS course, shall be applicable. Whoever has been allotted by the State of Karnataka as on today, and admitted by the petitioner's institution shall pay Rs 10,000 and Rs 15,000 depending upon the category to which the student is allotted. For the remaining seats, it is open to the petitioner's institution to conduct its own examination on "an All India basis". Admission shall be made purely on the basis of merit except of course in the case of Scheduled Caste and Scheduled Tribe students on payment of Rs 15,000 per annum.

5. In the end, we make it clear the implementation of the order and the supervision in relation to each of the matters mentioned above, shall be done by the Secretary for Education, Government of Karnataka herself. The copy of this order shall forthwith be communicated to the Medical

Council of India for complying with this order. We record the presence of the Secretary, University Grants Commission in the Court.

6. List the matters on January 11, 1994 at 1.30 p.m. in Court.

209

JUDIS