

CASE NO.:
Appeal (civil) 5223 of 2003

PETITIONER:
The State of Madhya Pradesh & Ors.

RESPONDENT:
Vs.
Gopal D. Tirthani & Ors.

DATE OF JUDGMENT: 28/07/2003

BENCH:
R.C. Lahoti & Ashok Bhan.

JUDGMENT:

J U D G M E N T

@ S.L.P. (C) NO.10820 OF 2003

With
CIVIL APPEAL NOS. OF 2003
(@ SLP (C) Nos.10903-10904/2003, 10879/2003)

R.C. Lahoti, J.

Leave granted in all the Special Leave Petitions.

Imparting instruction and giving education was philanthropy - a pious duty - in the past, and later a service. In recent times it has developed into a business and now it stands recognized as an industry. A sizeable amount of litigation centres around medical education. The national wealth of available seats is scarce while the aspirants, desirous of sharing such wealth, are numerous. Every attempt at laying down criteria for choosing the more deserving out of the several aspirants is subjected to challenge before the Constitutional Courts of the country. This time it is the State of Madhya Pradesh which is at the receiving end and the issue is quota of seats for in-service candidates. Carving out a quota for in-service candidates by the State Government, assigning weightage for rural service, sub-classification within classification for women candidates who have rendered rural service, and holding of a separate eligibility test for determining the merit of in-service candidates as distinguished from open category candidates, are the issues canvassed before the High Court and reiterated before this Court by the parties especially the State of Madhya Pradesh. For the purpose of this judgment it is not necessary for us to enumerate the facts of each individual petition as there were many before the High Court. It would suffice to note the bones of contention in the backdrop of a few bare essential events in their chronological order.

In the State of Madhya Pradesh, as it exists today, subsequent to the reorganization effected on November 1, 2000, leading to carving out of the State of Chhattisgarh, there are five Universities imparting medical education at under-graduate and post-graduate levels of studies. There are 620 under-graduate seats while the seats at post-graduate level of studies are 537, consisting of degree and diploma courses both. A quota of 89 seats is earmarked for in-service candidates, i.e., the doctors in the employment of the State Government.

Madhya Pradesh, a State with a large land spread, still lives in

villages. The number of inhabited villages is 51,806 divided into 313 Blocks for the purpose of health services administration. There are 8835 sub-health centers which are the smallest rural units of public health service covering a population of 3000 in tribal areas and 5000 in general or non-tribal areas. At each sub-health centre, an ANM (auxiliary nurse midwife) and a multi purpose male health worker is posted. There are 1194 primary health centres which are rural health units providing curative medical care and preventive health care covering a population of around 50,000 of which 20,000 is tribal. One MBBS medical officer with para-medicos is posted at PHCs. There are 229 community health centers situated at Block/Tehsil Headquarters. Ideally, post graduate medical officers in Surgery, Obstetrics & Gynaecology, Anaesthesia, Medicine and specialized in Paediatrics under overall supervision of a block medical officer need to be posted at each such community health centre (CHC). Then there are 169 first referral units (FRU) which are community health centers equipped with new-born care equipment, surgical equipment for emergency obstetric care and care of high risk neonates. Post graduate medical officers specially having qualified in Obstetrics & Gynaecology, Anaesthesia and Paediatrics are required to be posted at such first referral units so as to prevent mother and infant casualties. The total sanctioned posts in the cadre of medical officers called Assistant Surgeons, which includes Physicians as well, is 4670 against which only 3865 posts are presently occupied. The occupants include those medical officers who are recruited as a temporary measure on contract basis for a short term. 805 posts are lying vacant. As to the posts which require PG Degree/Diploma, the position is as under:-

Cadre	
Strength	
Posted	
Vacant	
Class-I Specialists	
739	
530	
209	
Class-I Specialists in CHCs	
258	
82	
176	
Medical Officers Class-II with	
PG Degree	
1606	