

PETITIONER:
DR. DINESH KUMAR & ORS.

Vs.

RESPONDENT:
MOTILAL NEHRU MEDICAL COLLEGE

DATE OF JUDGMENT 08/07/1985

BENCH:
BHAGWATI, P.N.
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BHAGWATI, P.N.
SEN, AMARENDRA NATH (J)
MISRA RANGNATH

CITATION:
1985 AIR 1415 1985 SCR Supl. (2) 1
1985 SCC (3) 542 1985 SCALE (2) 69

ACT:

Constitution of India, Articles 12 and 32 - Medical Colleges Admission - Writ Petition - Allowed - Difficulty in implementing judgment - Directions sought - Whether to be given Municipal Corporation - Whether 'State' - Medical Colleges run by Municipal Corporations - Whether bound by directions.

HEADNOTE:

In the Civil Miscellaneous Petitions it was pointed out that neither the Government of India nor the Medical Council of India was in a position to hold an All India Entrance Examination for the purpose of filling in 30% seats of the open category in the 1st year M.B.B.S. Course and 50% of the open seats in the Post-Graduate Course until the year 1986. The implementation of the directions given by this Court earlier should not be, therefore, insisted upon for the current academic year 1985, because otherwise each State Government will have to hold an entrance examination causing hardship and inconvenience to the students. Moreover, many State Governments are not yet ready to hold such examinations.

Allowing the petitions,

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HELD: 1. Save and except in those cases where entrance examination has already been held by any State Government or Government of any Union Territory or any University pursuant to the directions given earlier, such directions shall be implemented only from the academic year 1986 and shall not be effective for the current academic year 1985. Where, however, the entrance examination has already been held or was being held even before the delivery of the main judgment on 22.6.84, this order shall not affect the validity of such examination which might have already been held or which may be held hereafter. [3 A-B]

2. If any admissions have been made in the implementation of the directions they shall not be affected nor shall they be invalidated. [3 E]

2

3. Every Municipal Corporation is a local authority and hence a State within the meaning of Article 12 of the

Constitution and, therefore, Medical Colleges run by Municipal Corporations are bound by these directions. [3F]

JUDGMENT:

ORIGINAL JURISDICTION : CMP. Nos. 23448-52 & 24719A of 1985.

(In W.P. Nos. 348-52 of 1985)

WITH

CMP. Nos. 24472-73 & 24473A of 1985

(In W.P. No. 6091 etc. of 1983)

(Under Article 32 of the Constitution of India)

Anil B. Divan, L. M. Singhvi, T. R. Andhyarajina, S. S. Ray, G. Vishwanatha Iyer, A. V. Sawant, P. H. Parekh, Dalveer Bhandari, M. F. Saldhana, M. N. Shroff, Mrs. & Mr. Karanjawala, Ashok Mahajan, Sunita Kriplani, S. K. Gambhir, P. K. Pillai, F. D. Damania, F. N. P. D'Mello, D. N. Misra, B. R. Agarwala, Miss Vijayalakshmi Menon, Girish Chandra, R. N. Poddar, G. A. Shah, Ravi Wadhvani, S. K. Beri, B. D. Sharma, D. K. Sinha, J. R. Das, S. K. Nandi for the appearing parties and Miss A. Subhashini for State of H. P. & A. P.

The Order of the Court was delivered by

BHAGWATI, J. All intervention applications are allowed.

There are several civil miscellaneous petitions before us arising out of the main Judgment delivered by us on June 22, 1984 and the supplementary judgment given on May 1, 1985 and the order passed on July 26, 1984. It has been pointed out to us by the applicants in these civil miscellaneous petitions that in view of the fact that neither the Government of India nor the Medical Council of India is in a position to hold an All India Entrance Examination for the purpose of filling in 30% seats of the open category in the 1st year M.B.B.S. Course and 50% of the open seats in the Post-Graduate Course until the year 1986, it is necessary that the implementation of the directions given by us earlier should not be insisted upon for the current academic year 1985, because otherwise each State Government will have to hold an entrance examination and it will cause hardship and inconvenience to the students to go from place to place at these examinations held by various State Governments and moreover, many of the State Governments are not yet ready to hold such examinations and there is not only confusion but almost a chaotic

3

situation prevailing in the matter. We, therefore, direct that, save and except in those cases where entrance examination has already been held by any State Government or any Government of Union Territory or any University pursuant to the directions given by us in our judgment, such directions shall be implemented only from the academic year 1986 and shall not be effected for the current academic year 1985. Where, however, the entrance examination has already been held or was being held even before the delivery of our main judgment on June 22, 1984 this order made by us shall not affect the validity of such examination which might have already been held or which may be held here after. We may again make it clear that the implementation of our directions shall not be effective for the current academic year 1985 in regard to those Universities where entrance examination has not already been held or was not being held prior to the delivery of our main judgment on June 22, 1984. We are making this order so that hardship and inconvenience to the students may be avoided, because primarily our

concern is to ensure protection of the interest of the students. While making this order we would once again emphasize that the directions given by us shall be effective from the next academic year 1986 and not from the current academic year 1985 and the modalities of holding of All India Entrance Examinations by the Medical Council of India or by any other appropriate authority shall be discussed and finalised and appropriate directions given at the time when these matters are heard on July 22, 1985. We may also add that if any admissions have been made in implementation of the directions given by us, they shall not be affected nor shall they be invalidated.

Mr. Damania appearing on behalf of the applicants in CMP. No. 24472/85 has sought clarification from the Court whether the directions given by us earlier in our judgment are also binding on the Medical Colleges run by the Municipal Corporations. Every Municipal Corporation is a local authority and hence a State within the meaning of Article 12 of the Constitution and therefore Medical Colleges run by Municipal Corporations are bound by the directions given by us.

We would direct that copies of this order shall be forwarded immediately to all the State Governments, Governments of all Union Territories, Central Government and also to the Medical Council of India.

A.P.J.

Petition allowed.