

CASE NO.:

Writ Petition (civil) 5 of 2001
Writ Petition (civil) 13 of 2001
Writ Petition (civil) 38 of 2001
Writ Petition (civil) 50 of 2001
Special Leave Petition (civil) 104 of 2001

PETITIONER:

ABHINAV AGGARWAL & ANR.

Vs.

RESPONDENT:

UNION OF INDIA & ORS.

DATE OF JUDGMENT: 08/02/2001

BENCH:

S. Rajendra Babu, & K.G. Balakrishnan.

JUDGMENT:

J U D G M E N T

RAJENDRA BABU, J. :

L...I...T.....T.....T.....T.....T.....T.....T...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 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 :-

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

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 Honble Supreme Court in Dr. Parag Gultas case and is subject to further order of the Honble Supreme Court) and if he/she also fulfills all the following three conditions :-

(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.

(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.

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 |

(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.

After decision in Dr. Parag Gupta vs. 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%)
- 2 Gujarat Institutional
3. Maharashtra Institutional
4. U.P. Institutional Residence (15%)
5. West Bengal Institutional
6. Assam
Residence
7. Goa
Residence
8. Karnataka
Residence
9. Tamil Nadu
Residence
10. Haryana Institutional or
Residence
11. H.P. Institutional or Residence
12. Kerala Institutional or

Residence

13. M.P. Institutional or

Residence

14. Orissa Institutional or

Residence

15. Punjab Institutional or

Residence

16. Rajasthan Institutional or

Residence

17. Bihar Institutional or

Residence

18. Pondicherry 25% all-India quota + 37.5% institutional of available seats + 37.5% of available seats open.

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 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. 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 Kumars 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 Guptas case in this regard and it is 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 Jains case read with Dr. Dinesh Kumars case. When the directions given by this Court in Dr. Parag Guptas 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 Singhs 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 Guptas case. The institutions in which the petitioners did their MBBS course are not covered by the judgment or scheme formulated in Dr. Pradeep Jains 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. Pradeep Jains 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. Jagdish 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; Sanjay Ahlawat v. Maharishi Dayanand University, 1995 (2) SCC 762, we stated in Dr. Parag Guptas case, as follows :-

These decisions lead us to the following principles: though universitywise preference is permissible, college-wise

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 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 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 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.

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 Guptas 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 Guptas case was applicable only to those selected pursuant to 15% All India quota provided under a scheme framed in Dinesh Kumars case. It is submitted that in these cases independent of Dr. Parag Guptas case, the Petitioners case has to be examined as to whether the Petitioners are discriminated against other students in their home 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, 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 medical colleges.

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 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.

JUDIS