

CASE NO.:
Contempt Petition (civil) 398 of 2004

PETITIONER:
Dr.Manu Bamal & Anr.

RESPONDENT:
Shri J.V.R. Prasada Rao & Ors.

DATE OF JUDGMENT: 07/05/2004

BENCH:
R.C.LAHOTI, B.N. AGRAWAL, ASHOK BHAN & DR. AR.LAKSHMANAN.

JUDGMENT:
J U D G M E N T

O R D E R

IN
WRIT PETITION (C) NO.29 OF 2003

In view of the order passed today in I.A. No.8 of 2004 in CWP No.29 of 2003 the prayer for initiation of contempt proceedings cannot be entertained. The petition is dismissed.

R.C. LAHOTI

B.N. AGRAWAL

ASHOK BHAN

DR. AR. LAKSHMANAN

New Delhi;
May 7, 2004

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO.189 OF 2004

Dr.Prashant Yadav & Ors. Petitioners

Versus

Union of India & Ors. Respondents

O R D E R

In view of the order passed today in I.A. No.8 of 2004 in CWP No.29 of 2003, the present petition is rendered infructuous. Dismissed.

R.C. LAHOTI

B.N. AGRAWAL

ASHOK BHAN

DR. AR. LAKSHMANAN

New Delhi;
May 7, 2004

IN THE SUPREME COURT OF INDIA

CIVIL WRIT JURISDICTION

I.A.Nos.6-7 & 8 in W.P.(C) NO.29/2003

Saurabh Chaudri & Ors.

\005Petitioners

Versus

Union of India & Ors.

\005Respondents

(With I.A. Nos. 9,10, 11, 12, 13 and 14 of 2004)

O R D E R

Several applications have been filed seeking clarifications in, and/or directions for implementing, the judgment of this Court dated November 4, 2003 in W.P.(C) No.29 of 2003 \026 Saurabh Chaudri & Ors. Vs. Union of India & Ors. and connected cases (since reported as (2003) 11 SCC 146).

The issue arising for decision was: whether any reservation, be it based on residence or on institutional preference, is constitutionally permissible in PG courses of study. The conclusions arrived at by the Court may briefly be summed up as under:-

(1) All-India quota of PG seats should be 50% (instead of 25% as prevailing hitherto) which should be filled up by common entrance test.

(2) The original scheme as framed by this Court in Dr. Pradeep Jain's case (1984) 3 SCC 654 should be continued unless replaced by a Central Legislation in preference to the scheme laid down by this Court in Dr. Dinesh Kumar's case (1986) 3 SCC 727.

(3) Institutional preference to be given to medical students for the purpose of admission against PG seats in All-India Institute of Medical Sciences should remain confined to 50% of the total seats in MBBS and the decision of this Court in AIIMS Students Union Vs. AIIMS (2002) 1 SCC 428 should continue to hold the field.

The examination for admission against All-India quota seats is conducted by All India Institute of Medical Sciences (hereinafter, 'AIIMS'). The prospectus for holding All-India Entrance Examination for MD/MS/PG Diploma and MDS Courses

2004 was issued by the AIIMS and was available for sale on and from Sept.22, 2003. Therein it was declared that the competitive entrance examination on All-India basis was being held for admission to 25% open merit seats in various post-graduate courses. Public advertisement in this regard was issued on September 16, 2003. The last date for receipt of applications was October 27, 2003. The examinations were held on January 11, 2004. The result was declared on March 4, 2004. The AIIMS commenced counselling for the purpose of allotting 25% PG seats. At this point of time, several applications have come to be filed. IA No.8 of 2004 has been filed by the Union of India submitting that it would be proper to confine the percentage of seats for the All-India quota to 25%, i.e., the percentage based whereon the process for selection and admission had already commenced before the date of judgment of this Court. There are several other similar applications filed by a few students who have applied for admission against quotas other than All-India quota. IA No.7 of 2004 has been filed by a batch of students seeking admission against All-India quota for directing the Union of India to make available 50% seats under the All-India quota consistently with the judgment of this Court. There are other similar applications.

We have heard the learned Solicitor General and all other learned counsel appearing for the several applicants. It is not disputed at the Bar that the process of admission commenced with the release of prospectus and public advertisement in September, 2003 and at that point of time the seats available under the All-India quota were only 25% and this is how the examination was planned and obviously the medical graduates also must have made applications seeking admissions against 25% seats. The law has been settled by the Constitution Bench of this Court through its judgment dated November 4, 2003. However, this Court has nowhere in its judgment made the declaration of law applicable to the process of admission which had already commenced. Indeed, there is no direction made to the contrary either, i.e., as to the prospective applicability of the judgment and prospective overruling of the decision of this Court in Dr. Dinesh Kumar's case (supra). This has prompted the several applications being filed and the position, therefore, needs to be clarified so as to clear the doubts.

In our opinion, it would be appropriate to hold and direct the decision in Dr. Saurabh Chaudri's case being made applicable only prospectively and thus exclude from the operation thereof the process of admission which had already commenced and was nearing finalisation when the judgment came to be pronounced.

Accordingly, it is directed that the allotment of seats under All-India quota, the process as to which had commenced pursuant to the advertisement dated September 16, 2003 shall remain confined to 25% only. As a consequence, IA No.8 of 2004 filed by the Union of India and IA Nos.9, 12, 13 and 14 seeking similar relief, and taking the same stand as has been taken by the Union of India, are allowed.

IA Nos. 6, 7 and 10 seeking implementation of 50% All-India quota for the current year and taking stand contrary to the one taken by the Union of India are dismissed.

IA No.11 seeking substitution of words 'post-graduate course' in place of 'MBBS course' in para 74 of the judgment (as reported in SCC) is totally uncalled for. It is also rejected.

The interim order of stay on counselling is vacated. The same shall now be resumed.

JUDIS