

The Karnataka Selection Of Candidates For Admission To Medical, Dental And Engineering Courses (Special Provisions) Act, 2004

KARNATAKA

India

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Act 24 of 2004

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Karnataka Selection of Candidates for Admission to Medical, Dental and Engineering Courses (Special Provisions) Act, 2004(Karnataka Act No. 24 of 2004)Statement of objects and Reasons - The Hon'ble Supreme Court in its judgement in Islamic Academy of Education & others Vs State of Karnataka sought to regulate admissions to professional courses through two Judicial Committees, one for overseeing admissions and the other for approving fee structure in professional institutions, pending enactment of appropriate law by Parliament. These directives, the Apex Court declared, shall be the law of the land. The State Government appointed the Justice S.Venkataraman Committee for overseeing admissions to professional colleges in the State and the Justice A.B.Murgod Committee for fixing the fee structure.In the TMA Pai case, the 11 Judges Bench of the Supreme Court had directed that it was the State Government which had to fix the quota or seat sharing ratio between the Government and the managements in private un-aided professional colleges. The State Government after due consideration determined the seat sharing ratio between the Government and the managements at 75:25. This was based upon an assessment of the local needs and after taking into consideration the fact that for the last ten years from 1994-95 at least 75% of the seats in professional colleges were filled by the State CET. The State Government also took into consideration the fact that in 2004, the State CET Cell had received 1,09,314 applications whereas the Association of un-aided professional colleges had received only 20,072 applications. The total number of seats available in medical, dental and engineering colleges is appropriately 41,000.Subsequently the Association appealed to the Justice S.Venkataraman Committee which after detailed examination of the merits on both sides, upheld the seat sharing ratio of 75:25 fixed by the Government.The Association appealed against the decision of the Justice S.Venkataraman

Committee before the two judges Bench of the Supreme Court which decided on 15.7.2004 to refer the matter to a larger Bench but passed an interim order without going into the merits of the case, fixing the quota at 50:50. The CET Cell had commenced the counseling of the students on 8.7.2004 on the basis of 75:25 quota. The interim order of the Supreme Court on 15.7.2004 led to the suspension of the counseling by the CET Cell. It was also noticed that the applications received by the Association were not adequate to fill up 50% of the seats in all cases. Hence exercising its inherent powers endorsed by the Supreme Court in the TMA Pai case and the Inslamic Academy of Education case, the State Government has decided to fix the quota, itself to meet the exigency. The Justice A.B.Murgod Committee, which was appointed under the orders of the Supreme Court to determine the fees of all the professional colleges had fixed the fees for the medical and dental colleges. These were challenged in more than forty writ petitions before the High Court. These writ petitions are still pending. In the meantime the Justice A.B.Murgod Committee resigned on 19.7.2004, thereby adding to the uncertainty. It is incumbent on the State Government to adhere to the time limits fixed for admission to medical seats by the Supreme Court in Medical Council of India Vs Madhu Singh and others in its order dated: 11.9.2002. The students also require to have some certainty with regard to the fees, more so in the wake of the resignation of Justice Murgod and other members of the Committee. The State Government met the representatives of the managements several times to evolve a workable formula to resolve the issue, particularly with regard to fees, but with no result. The Government therefore feels it necessary and expedient to bring out a special law in order to finalise the seat selection process to professional courses for the current academic year only i.e., the year 2004-05. The Bill has retained the quota at 75:25 based on the local needs upheld by the Justice Venkataraman Committee and the fact that the counseling had already commenced on this basis. The Bill provides for charging fees as determined by the Justice Murgod Fee Determination Committee. The law is enacted as a purely temporary measure to alleviate the difficulties faced in this transitional year. Hence the Bill. (LA Bill No.22 of 2004) (Entry 25 of list III of the Seventh Schedule to the Constitution of India) (First published in the Karnataka Gazette Extra-ordinary on the thirtieth day of July 2004) An Act to make special provisions for the selection of candidates and admission to professional institutions in the State. Whereas it is expedient to provide for selection of candidates for admission to professional institutions in the State and for matters incidental thereto and connected therewith, in the light of principles laid down by the Constitution Bench in the TMA Pai's case and subsequent pronouncements. Be it enacted by the Karnataka State Legislature in the fifty-fifth year of Republic of India, as follows:-

1. Short title, commencement and application.

(1) This Act may be called the Karnataka Selection of Candidates for Admission to Medical, Dental and Engineering Courses (Special Provisions) Act, 2004. (2) It shall come into force at once. (3) This Act shall apply to selection of candidates for admission to Professional Institutions for the Academic year 2004-05.

2. Definitions.

- The words and expressions used in this Act shall have the same meaning assigned to them as in the Karnataka Educational Institutions (Prohibition of Capitation Fee) Act, 1984 (Karnataka Act 37 of

The Karnataka Selection Of Candidates For Admission To Medical, Dental And Engineering Courses (Special Provisions) Act, 2004 1984) and the Karnataka Selection of Candidates for Admission to Professional Institutions Rules, 2004.

3. The sharing of seats in respect of Government seats and Management seats.

- Having regard to the local needs and notwithstanding anything contained in any law for the time being in force or in any judgement decree or order of any Court or authority, the sharing of seats between the Government and Managements in respect of private aided, un-aided minority and non-minority professional institutions shall be as follows, namely:-

(a) Aided Professional Institutions;

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| (i)Government seats | Ninety-five percent. |
| (ii)Management seats | Five percent. |

(b) Un-aided Non-minority Professional Institutions,-

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| (i)Government seats | Seventy five percent. |
| (ii)Management seats | Twenty five percent. |

(c) Un-aided Minority Professional Institutions

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| (i)Government seats | Fifty percent. |
| (ii)Management seats | Fifty percent. |

4. Management seats shall be filled on merit.

- The Management seats in non-minority institutions and minority institutions shall be filled on the basis of merit through a Common Entrance Test conducted by the State CET Cell or by Association of Private Professional Colleges. Associations of minority institutions, religious or linguistic may conduct their own Common Entrance Test. The Overseeing Committee shall supervise and ensure that the common entrance tests conducted by the Associations are done in a fair and transparent manner.

5. Reservation applicable to Government seats.

- The reservation of seats shall apply to all seats in Government quota in accordance with rule 14 of the Karnataka Selection of Candidates for Admission to Professional Institutions Rules, 2004.

6. Fee fixed for Professional Course for the academic year 2004-05.

- The fee payable for the different professional courses in both Government quota and Management quota for the academic year 2004-05 shall not exceed the fee fixed by the Fee Determination Committee. This includes the tentative fee fixed for engineering courses.

7. Invalidation of admissions made in violation of the Ac.

- All admissions made in violation of the provisions of this Act for the academic year 2004-05, whether made before or after the commencement of this Act, shall be invalid.

8. Penalties.

- Whoever contravenes the provisions of this Act or the provisions of the Karnataka Selection of Candidates for Admission to Professional Institutions Rules, 2004 shall on conviction and without prejudice to any penalty specified in any other Act or Rules shall be punishable with fine which may extend to five lakh rupees.

9. Cognizance of offences.

- No court shall take cognizance of any offence under this Act except on a complaint made in writing by an Officer authorized by the Government by notification published in this behalf in the official Gazette.

10. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against any Officer of the Government for anything done in good faith or intended to be done under this Act.

11. Removal of difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may by general or special order, do anything not inconsistent with the provisions of this Act for removing the difficulty.

12. Power to make rules.

(1)The Government may, by notification in the official Gazette, make rules not inconsistent with the provisions of this Act for the purpose of carrying into effect the provisions of this Act.(2)Every Order made under section 10 and every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature if it is in session and if it is not in session in the session immediately following for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiration of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the order or rule or in the annulment of the order or rule, the order or rule shall from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled as the case may be; so , however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

13. Applicability of Karnataka Selection of Candidates for Admission to Professional Institutions Rules, 2004.

- In respect of any matter not covered under this Act, the provisions contained in the Karnataka Selection of Candidates for Admission to Professional Institutions Rules, 2004 shall apply.