

Dr. Dinesh Kumar & Ors. A vs Motilal Nehru Medical College, ... on 25 September, 1987

Equivalent citations: 1988 SCR (1) 351, 1987 SCC (4) 459

Author: Misra Rangnath

Bench: Misra Rangnath, M.M. Dutt

PETITIONER:

DR. DINESH KUMAR & ORS. A

Vs.

RESPONDENT:

MOTILAL NEHRU MEDICAL COLLEGE, ALLAHABAD & ORS.

DATE OF JUDGMENT 25/09/1987

BENCH:

MISRA RANGNATH

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MISRA RANGNATH

DUTT, M.M. (J)

CITATION:

1988 SCR (1) 351

1987 SCC (4) 459

JT 1987 (3) 658

1987 SCALE (2) 656

ACT:

Professional Colleges-Medical Colleges-Admission to
Post Graduate Courses-Structuring of courses-Common pattern
and uniform system-Necessity for-Holding of all India
examination for reserved seats-Directions by Court. C

HEADNOTE:

Sequel to the main judgment delivered on June 22, 1984
by this Court in Dr. Pradeep Jain, etc., etc. v. Union of
India and others, [1984] 3 SCR 942 regarding admission for
fixed percentage of seats in different courses of study in
the medical faculties on an All India basis, the question of
finalising the scheme for holding the All India Examination
to fill up 25% seats reserved on the basis of institutional
preference for admission to the post graduate courses like
MDS, MS etc. came up before this Court.

Laying down a detailed programme relating to
selection examination, the Court,

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HELD: Apart from finalising the schedule for holding of the selection examination, three aspects of the matter, viz. (1) structuring the Post Graduate courses, (2) the question of diploma being a qualification for admission to such courses as in Tamil Nadu, and (3) provision in regard to super specialities, like M.D. and other higher degrees require consideration. [354D]

In some States at present the post graduate course is for a term of two years with housemanship of one year while in other States it is a full term of three years. If a common pattern is directed to be adopted immediately there may be some difficulty. A uniform practice has to be evolved so that the discipline would be introduced. The present arrangement will, therefore, continue for a period of five years. i.e., upto 1992. [354E-F]

For admission beginning from 1993, there would be only one pattern, namely, a three year course without any housemanship. All

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Universities and institutions shall take timely steps to bring about such A amendments as may be necessary in accord with this direction before the end of 1991 so that there may be no scope for raising of any dispute. The uniform pattern has to be implemented for 1993. [354F-G]

It is proper that one uniform system is brought into operation throughout the country. The system now prevailing in the State of Tamil Nadu regarding the diploma shall continue until 1992 from 1993 there would be no necessity for the diploma to be a qualification for admission to post graduate courses. [354G-H; 355A]

In regard to super specialities and other higher degrees, the number of such seats are not many and, therefore, there is no necessity to make any directions in regard to admissions therefor at present and until necessity arises it is not appropriate that the Court should consider that question. [355B]

The announcement for holding of examination for the selection of 1988 shall be made on October 1, 1987. As already decided, the examination shall be conducted by the All India Institute of Medical Sciences, New Delhi. [355G]

JUDGMENT:

ORIGINAL JURISDICTION: Civil Misc. Petition No. 7667 of 1987.

In Writ Petition Nos. 348-352 of 1985.

(Under Article 32 of the Constitution of India). Madan Lokur for the Petitioners.

G. Viswanatha Iyer, P.K. Pillai, M.K.D. Namboodary for the State of Kerala J.R. Das and D.K. Sinha for the State of West Bengal. A.K. Ganguli, Mariapputham for the State of Himachal Pradesh.

A.M. Khanwilkar and A.S. Bhasme for the State of Maharashtra.

K.H. Nobin Singh for the State of Karnataka. B.R. Aggarwala, and Ms. S. Manchanda for Medical Council of India.

D.N. Devedi, R.P. Srivastava, Mrs. Halida Khatun and Ms. A. Subhashini for the Union of India.

P.H. Parekh, E.K. Jose, B.D. Sharma, M.I. Khan, D.N. Devedi, R.P. Srivastava, P. Parmeshwaran, Mrs. S. Dikshit, A.V. Rangam, R. Bana, M. Veerappa, B.R. Aggarwal, B.D. Sharma, R.C. Verma, C.V. Subba Rao, D.K. Sinha, J.R. Dass, M.E. Sardhana, S.K. Nandy, A.S. Bhasme, A.M. Khanwilkar, P.P. Singh, R.K. Mehta, T.V.S. Chari, A.K. Sanghi, M.N. Shroff, D. Goburdhan, Suryakant, H.K. Puri, M.K.D. Namboodary, B.P. Singh, K. Ramkumar, E.M.S. Anam T.V. Ratnam, L.R. Singh, D.R. Agarwal, R.S. Sodhi Mrs. Sushma Suri, A. Subba Rao, Prabir Choudhary, D.N. Mukherjee, S.K. Mehta, M.K. Garg, P. Parmeshwarn M. Karanjawala, L.K. Pandey, K. Rajindera Choudhary, P.C. Kapur, Pramod Swarup, T. Sridharan, Rajesh, N.M. Ghatate, Ravi P. Wadhvani, S.K. Gambhir, D.N. Mishra for the other appearing parties.

The following order of the Court was delivered:

ORDER By the main judgment of this Court delivered on 22nd June, 1984 in Dr. Pradeep Jain etc. etc. v. Union of India & Ors., [1984] 3 SCR 942 this Court decided that admission for a fixed percentage of seats in different courses of study in the Medical Faculties should be on an All India basis. Dealing with Post Graduate Courses such as MDS and MS and the like and taking into consideration broader aspects of equality of opportunity and institutional continuity in education which as its own value and relevance, this Court took the view that though residential requirement within the State should not be a ground for reservation in admissions to Post Graduate Courses, a certain percentage of seats may be reserved on the basis of institutional preference in the sense that a student who has passed MBBS course from a Medical College may be given preference for admission to Post Graduate Course in the same Medical College or University, but such reservation on the basis of institutional preference should not in any event exceed 50 per cent of the total number of seats available for admissions to the Post Graduate course. By a subsequent order made on 21st of July, 1986 it has been directed that the total number of seats for admission to Post Graduate courses in each Medical College or institution on the basis All India Entrance Examination shall be limited to 25 per cent. Thereafter we had given direction in regard to finalising the courses of study and holding of All India Entrance Examination both for the MBBS as also the Post Graduate Courses. So far as the Bachelor's counsel is concerned, by order dated August, 1987, we have finalised the matter. The question of finalising the scheme in regard to Post Graduate courses had been left to be dealt with separately. We have

heard counsel for the Union of India, the Medical Council of India and such of the other parties as chose to appear when the matter came up on 18th September, 1987, and we have perused the papers relevant to the matter.

Three aspects of the matter require consideration of this Court apart from the question of finalising the schedule relating to holding of the selection examination and those are: (1) structuring the Post Graduate courses (2) the question of diploma being a qualification for admission in Post Graduate course as prevailing in the State of Tamil Nadu and (3) Provision in regard to super specialities like MD and other higher degrees.

It appears that in some States at present the Post Graduate course is for a term of two years with housemanship of one year while in other States it is a full term of three years. We find that many of the States are of the view that this situation should continue. If a common pattern is directed to be adopted immediately there may be some difficulty. A uniform practice has to be evolved so that the discipline would be introduced. We accordingly allow the present arrangement to continue for a period of five years i.e. upto 1992 inclusive. For admission beginning from 1993 there would be only one pattern, namely, a three year course without any housemanship. All Universities and institutions shall take timely steps to bring about such amendments as may be necessary to bring statutes, regulations, and rules obtaining in their respective institutions in accord with this direction before the end of 1991 so that there may be no scope for raising of any dispute in regard to the matter. The uniform pattern has to be implemented for 1993.

It is proper that one uniform system is brought into vogue throughout the country. The justification for such a course has been appropriately emphasised both in the main judgment as also in the intermediate order made by us and there is no necessity to reiterate the reasoning now. We, however, allow the system now prevailing in the State of Tamil Nadu regarding the diploma until 1992. From 1993 there would be no necessity for the diploma to be a qualification for admission to Post Graduate courses.

We do not intend to make any provision in our order in regard to super specialities and other higher degrees. The number of such seats are not many. We are of the view that there is no necessity to make any directions in regard to admissions therefor at present and until necessity arises it is not appropriate that the Court should consider that question.

What remains now to be dealt with is the finalisation of the programme relating to the selection examination. As already decided the selection examination shall be conducted by the All India Institute of Medical Sciences, New Delhi. The announcement for holding of the selection examination shall be made on the 1st of October of every year and a full four weeks' time would be made available to

candidates for making their applications. After the applications are received not later than six weeks from October, the same would be scrutinised and duly processed and admit cards would be issued. Examination shall be held on the second Sunday of January. The results of examination shall be announced within four weeks from holding of the examination. Admission shall commence two weeks after the declaration of results. The last date for taking admission shall be six weeks from the date of the announcement of results but the Head of every institution shall be entitled to condone delay upto seven days for reasons shown and grounds recorded in special cases. The courses of study shall commence in every institution providing such study throughout the country from Second May. Notification Announcing Examination publication of result and allotment of place of admission (keeping preferences in view and our directions regarding preference of lady candidates in places of proximity to residence) shall be published in two successive issues of one national paper in English having large circulation in every State and at least in two local papers in the language of the State as quickly as possible.

We have already directed that the scheme for post Graduate course shall be operative in 1988, we accordingly direct that for the selection of 1988, the announcement for holding of examination be made on 1st of October, 1987.

All directions necessary for the Post Graduate courses are now complete. We direct the Union of India, the Medical Council of India, the State Governments, Universities, Medical Institutions and all other authorities that may be involved in implementation of the scheme to give full effect to the orders and direction made by this Court in the proper spirit so that the scheme may become operative as directed. We make it clear that no application for any modification of matters already covered by our order henceforth shall ordinarily be entertained.

A copy of this order shall be communicated forthwith to the Chief Secretary of every State and Union Territory for compliance. A copy of it be also sent to the Director General, All India Radio and Doordarshan for appropriate publicity of the order in general interest. N.P.V.