

Meenakshi Malik vs University Of Delhi & Ors on 1 May, 1989

Equivalent citations: 1989 AIR 1568, 1989 SCR (2) 858, AIR 1989 SUPREME COURT 1568, 1989 RAJLR 264, (1990) 5 SERVLR 159, 1989 (3) SCC 112

Author: R.S. Pathak

Bench: R.S. Pathak, Misra Rangnath, M.M. Dutt

PETITIONER:
MEENAKSHI MALIK

Vs.

RESPONDENT:
UNIVERSITY OF DELHI & ORS.

DATE OF JUDGMENT 01/05/1989

BENCH:
PATHAK, R.S. (CJ)
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PATHAK, R.S. (CJ)
MISRA RANGNATH
DUTT, M.M. (J)

CITATION:
1989 AIR 1568 1989 SCR (2) 858
1989 SCC (3) 112 JT 1989 Supl. 162
1989 SCALE (1)1153

ACT:

Constitution of India: Article 32--Universities--Medical colleges-Admission--Local candidates--Reservation of seats----Condition----Last two years of education in a school in Delhi--Whether unreasonable and in-applicable to students leaving India with their parents on the parent being deputed to a foreign country.
Administrative Law: Rules--Reasonableness--Necessity of.

HEADNOTE:

The petitioner was born and studied upto class IX in Delhi. In 1982 she left for Nigeria, along with her parents, where her father went on deputation. There she passed the General Certificate of Education Ordinary Level, conducted by University of London, which was recognised by the Central Board of Secondary Education, New Delhi as equivalent to

Class XI in India. She returned to India along with her family in 1984.

After passing the All India Senior School Certificate Examination in 1985, she appeared for entrance examination for admission to one of the three Medical Colleges in Delhi and passed the test. But she was denied admission because she had not satisfied the further condition that the last two years of education should be had in a school in Delhi. Aggrieved by the denial of admission, the petitioner filed a writ petition in this Court. By an order dated 31st July, 1987 this Court allowed the Writ Petition and directed the respondents to admit her in one of the three Delhi Medical Colleges in the first year course prescribed for the M.B.B.S. Degree.

Giving reasons for the said order, this Court,

HELD: 1. Rules are intended to be reasonable, and should take into account the variety of circumstances in which those whom the rules seek to govern find themselves. [861C]

2. The qualifying condition that a candidate appearing for the

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entrance examination for admission to a Medical College in Delhi should have received the last two years of education in a school in Delhi is unreasonable when applied in the case of those candidates who were compelled to leave India for a foreign country by reason of the posting of the parent by the Government to such foreign country. There is no real choice in the matter for such a student, and in many cases the circumstances of the student do not permit her to continue schooling in India. Theoretically it is possible for a student to be put into a hostel to continue her schooling in Delhi but in many cases this may not be feasible and the student must accompany the parent to the foreign country. [860H, 861A]

3. The rigour of the condition prescribing that the last two years of education should be, received in a school in Delhi should be relaxed, and there should be no insistence on the fulfilment of that condition, in the case of students of parents who are transferred to a foreign country by the Government and who are therefore required to leave India along with them. Therefore, the denial of admission to the petitioner to a seat in one of the Medical Colleges in Delhi was unreasonable. [861B, 861E]

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition (Civil) No. 1050 of 1986.

(Under Article 32 of the Constitution of India). A.C. Gulati, S.K. Goel, S.K. Bansal and L.C. Goyal for the Petitioner.

T.S.K. Iyer, Mariarputham, Ms. A. Mathur, M. Veerappa, Pramod Swarup, K. Ramkumar, R. Bana, A. Subba Rao, S.K. Bhattacharya, Ms Urmila Kapoor and Ms. Janki for the Respondents.

The Judgment of the Court was delivered by PATHAK, CJ. On 31 July, 1987, we allowed this writ petition and directed the respondents to admit the petitioner, Meenakshi Malik, in one of the three Delhi Medical Colleges in the first year course prescribed for the M.B.B.S. Degree. We said that the reasons would be pronounced later. We proceed to do so now.

The petitioner was born in Delhi on 8 September, 1967. Her father, Shri O.P. Malik, was employed in the National Council of Educational Research and Training, Sri Aurobindo Marg, New Delhi and her mother, Smt. Kanta Devi Malik was employed in the Government Girls Senior Secondary School, Mehrauli, New Delhi. The petitioner attended the Junior Public School, Shakti Nagar, upto Class II and the Cambridge School, Siri-niwaspuri, New Delhi, upto Class IX until 19 January, 1982. The petitioner's father was placed on deputation in January 1982 with the Government of Nigeria to serve in its Ministry of Education through the Ministry of Home Affairs, Department of Personnel and Administrative Reforms, Government of India, New Delhi. The petitioner, who was a minor at the time, had to accompany her parents along with her minor brother. In Nigeria, the petitioner continued her education as an overseas candidate and appeared for the examination conducted by the University of London in Kanduna, Nigeria, and she passed the General Certificate of Education Ordinary level (GCE--'O' level) which is recognised by the Central Board of Secondary Education, New Delhi, as equivalent to Class XI in India.

On completing the period of his deputation on 8 April, 1984 the petitioner's father returned to India with his family. The petitioner was admitted to Class XII in the Delhi Public School, Mathura Road, New Delhi. The Central Board of Secondary Education permitted her admission to that Class. The petitioner appeared in the All India Senior School Certificate Examination conducted by the Central Board of Secondary Education, New Delhi, in March, 1985 and passed the examination. The petitioner then sat for the Entrance Examination for admission to one of the three Medical Colleges in Delhi, and she obtained 750 marks. The candidates who obtained an equal number of the marks or even less were granted admission, but the petitioner was denied admission. She fell for consideration in the quota of seventy per cent of the seats reserved for candidates who had passed the qualifying examination from the University of Delhi or the Central Board of Secondary Education or the Council for the Indian School Certificate Examination from recognised schools conducting regular classes in the Union Territory of Delhi. But she was denied admission because she had not satisfied the further condition that the last two years of education should be had in a school in Delhi. Aggrieved by the denial of admission, the petitioner filed the present writ petition.

It seems to us that the qualifying condition that a candidate appearing for the Entrance Examination for admission to a Medical College in Delhi should have received the last two years of education in a school in Delhi is unreasonable when applied in the case of those candidates who were compelled to leave India for a foreign country by reason of the posting of the parent by the Government to such foreign country. There is no real choice in the matter for such a student, and in many cases the circumstances of the student do not permit her to continue schooling in India. It is, of course, theoretically possible for a student to be put into a hostel to continue her schooling in Delhi. But in

many cases this may not be feasible and the student must accompany a parent to the foreign country. It appears to us that the rigour of the condition prescribing that the last two years of education should be received in a school in Delhi should be relaxed, and there should be no insistence on the fulfilment of that condition, in the case of students of parents who are transferred to a foreign country by the Government and who are therefore required to leave India along with them. Rules are intended to be reasonable, and should take into account the variety of circumstances in which those whom the rules seek to govern find themselves. We are of opinion that the condition in the prescription of qualifications for admission to a medical college in Delhi providing that the last two years of education should be in a school in Delhi should be construed as not applicable to students who have to leave India with their parents on the parent being posted to a foreign country by the Government.

Accordingly, the denial of admission to the petitioner to a seat in one of the Medical Colleges in Delhi must be held to be unreasonable. It is not disputed that if the condition of schooling for the last two years in a school in Delhi is removed from the way, the petitioner would be entitled to admission in a Medical College in Delhi. In the circumstances, the petitioner is entitled to an order directing the respondents to admit her to one of the Medical Colleges in Delhi.

T.N.A.

Petition Allowed.