

Supreme Court of India

Ms. Swati Gupta vs State Of U.P. & Ors on 2 February, 1995

Equivalent citations: 1995 SCC (2) 560, JT 1995 (2) 438

Author: R Sahai

Bench: Sahai, R.M. (J)

PETITIONER:

MS. SWATI GUPTA

Vs.

RESPONDENT:

STATE OF U.P. & ORS.

DATE OF JUDGMENT 02/02/1995

BENCH:

SAHAI, R.M. (J)

BENCH:

SAHAI, R.M. (J)

SEN, S.C. (J)

CITATION:

1995 SCC (2) 560 JT 1995 (2) 438

1995 SCALE (1) 480

ACT:

HEADNOTE:

JUDGMENT:

## ORDER

1. The petitioner who appeared for the Combined Pre- Medical Test of 1994 held in the State of U.P. challenged a circular issued by the Lucknow University based on a letter dated 17th May 1994 issued by the Secretary, Government of U.P. It was claimed that reservation of 65% general seats in the medical colleges was violative of the constitutional guarantee Under Articles 16, 14, 19 and 21 of the Constitution and the ratio laid down by this Court in Indira Sawhney & Ors. v. Union of India & Ors. (1992) Supp. 3 SCC 217. After the petition was filed the Government issued another notification on 17.12.1994 clarifying its stand in respect of reservations. The relevant portions of it are extracted below:

"In continuation of G.O. No.2697/Sek14/V/- 94/III/93 dated 17.5.94 on the above subject, I am directed to say clarifying the Govt.

policy that horizontal reservation be granted in all medical colleges on total seats of all the all the courses to be filled through combined Pre Medical Test [C.P.M.T.] 1994 a s given below :-

1.	Real dependents of freedom fighters	05 percent
2.	Sons/daughters of deceased/disabled soldiers	02 percent
3.	Physically handicapped candidates	02 percent
4.	Candidates belonging to hill areas	03 percent
5.	Candidates belonging to Uttaranchal areas	03 percent

The above reservation would be 'horizontal', and the candidates of the above categories selected on the basis of merit would be kept under the categories of Scheduled Caste/ Scheduled Tribes/ Other Backward Classes/ General to which they belong. For example. if a candidate dependent on a Freedom Fighter selected on the basis of reservation,belongs to the Scheduled Caste, he will be adjusted against the seats reserved for scheduled caste. Similarly, if a physically handi- capped candidate selected on the basis of reservation belongs to other bakward class or general category, he would be adjusted against the seats reserved for other backward classes or general category.

[a] Scheduled caste candidates -21 percent] 30 per cent [b] Scheduled tribe candidates -02 percent] seates ] in each [c] Other backward ] category class candidates-27 percent] reserved for ladies"

In the earlier circular the provision for reservation which is relevant read as under:-

"Out of the total seats being filled up through the C.P.M.T. 1994, 35% seats are reserved for the candidates belonging to the general category and remaining 65% seats shall be for the reserved categories which are limited to the percentage mentioned against the following categories of the candidates :-

Percentage of the reserved seats.

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#### Reserved Categories

- 1.Backward Classes 27 (of them 30% reserved per cent for ladies.)
- 2.Hilly area 3 per (of them 30 per cent cent reserved for ladies.)
- 3.Uttarakhand Area 3 % (30% reserved for ladies.)
- 4.Scheduled Caste 21 % (30% for ladies)

5.Schedule Tribes 2 % (30% reserved for ladies.)

6.Actual dependents 5 % (30% percent reserved of the freedom fighters for ladies.)

7.Daughter/sons of soldiers 2 % (30% reserved for who became handicapped or ladies) killed in action/war.

8.For handicapped candidates 2 % (30% reserved for ladies.)

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65 per cent

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The remaining seats will be of the general category in which 30 % reservation will be for the ladies. "

2.Reservation of 65% resulting in reducing the general category to 35% was undoubtedly violative of Article 16. Further by reserving 30% of the general seats for ladies the general category shrunk to 5%. But these glaring infirmities have been rectified by the amended circular. Reservation of 30% for ladies has now been confined to paragraph (3) of the amended circular. Dr. Dhawan, the learned senior counsel appearing for the State clarified that he has instructions to make a statement on the amended circular that now there is no reservation for ladies in the general category.

3. Similarly, the other defect in the circular reserving 35% seats for general category has been removed. The vertical reservation is now 50 % for general category and 500 % for scheduled caste, scheduled tribes and backward classes. Reservation of 15% for various categories mentioned in the earlier circular which reduced the general category to 35% due to vertical reservation has now been made horizontal in the amended circular extending it to all seats. The reservation is no more in general category. The amended circular divides all the seats in C.P.M.T. into two categories one, general and other reserved. Both have been allocated 50%. Paragraph 2 of the circular explains that candidates who are selected on merit and happen to be of the category mentioned in Paragraph 1 would be liable to be adjusted in general or re- served category depending on to which category they belong, such reservation is not contrary to what was said by this Court in Indira Sawhney (supra). Whether the reservation for such persons should have been made or not was not challenged, therefore, this Court is not required to examine it.

4. In the result this petition is disposed of by directing that in view of the circular issued by the Government on 17.12.1994 clarified by paragraph (2) the grievance of the petitioner cannot be said to The interim order passed by this Court staying the declaration of results is discharged.