Supreme Court of India
Anant Madaan vs State Of Haryana And Others on 25 January, 1995
Equivalent citations: 1995 AIR 955, 1995 SCC (2) 135
Author: M S V.
Bench: Manohar Sujata (J)

PETITIONER:
ANANT MADAAN

Vs.

RESPONDENT:
STATE OF HARYANA AND OTHERS

DATE OF JUDGMENT25/01/1995

BENCH:
MANOHAR SUJATA V. (J)
BENCH:
MANOHAR SUJATA V. (J)
JEEVAN REDDY, B.P. (J)

CITATION:
1995 AIR 955 1995 SCC (2) 135
JT 1995 (1) 612 1995 SCALE (1)396

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by SUJATA V. MANOHAR, J.- Leave granted.

2.These four appeals by special leave challenge a judgment of the High Court of Punjab and Haryana upholding the validity of the eligibility criteria prescribed for the year 1994 for the entrance test to be conducted for the State of Haryana for the purposes of admission to medical and dental colleges in the State of Haryana. These appellants along with a large number of other petitioners challenged these eligibility criteria of 1994 before the Punjab and Haryana High Court. Being aggrieved by the decision of the Punjab and Haryana High Court substantially upholding the eligibility criteria, while striking down a portion of the corrigendum, four of these petitioners have filed these appeals by special leave.

3.Till 1993 the eligibility conditions required, inter alia, that a candidate should be a resident/domiciled in the State of Haryana and was required to produce a certificate of Haryana

domicile/residence as prescribed in those Rules. In 1994, the eligibility conditions were changed. The relevant parts of these eligibility conditions prescribed in 1994 are as follows:

> "(i)The candidates who have studied 10th, 10+1 and 10+2 classes as regular candidates in recognised institutions in Haryana...
>
> (ii)The children/wards ... of the employees appointed on regular basis of Haryana State Government/Members of All-India Services borne on Haryana cadre/statutory bodies/corporations established by or under an Act of the State of Haryana whether posted in Haryana or outside...
>
> (iii) The children/wards... of the employees of Indian Defence Services/Paramilitary Forces belonging to Haryana State at the time of entry into service as per their service records.....

Thereafter a corrigendum was issued by the State of Haryana granting eligibility to children/wards of the employees belonging to Haryana who had studied 10th, 10+1 and 10+2 classes as regular candidates in recognised institutions in Chandigarh subject to their fulfillment of other eligibility conditions and further providing that they should submit a certificate of Haryana residence/domicile as per State Government Rules along with an affidavit by the parent/guardian that the candidate had not appeared or was not appearing in the entrance test of any State or Union Territory other than Haryana.

4. The petitioners before the Punjab and Haryana High Court had challenged the eligibility conditions of 1994 insofar as they require that candidates should have studied for the 10th, 11th and 12th standards as regular candidates in recognised institutions in Haryana. They had also challenged the corrigendum. The two learned Judges of the Punjab and Haryana High Court who heard these writ petitions differed. Hence the petitions were referred to a third Judge who concurred with one of the Judges and held that the condition requiring a candidate to have studied in the 10th, 10+1 and 10+2 classes in recognised institutions in Haryana was valid. The condition in the corrigendum which required an affidavit from the parent or guardian of the candidate that the candidate was not appearing or had not appeared in the entrance test of any State or Union Territory was, however,struck down as arbitrary and unreasonable. In the present appeals, however,we are not concerned with the corrigendum.

5. Out of a large number of petitioners whose petitions were decided by the Punjab and Haryana High Court by its judgment dated 30-8-1994 (being the judgment of the third learned Judge to whom the matter was referred because of the difference of opinion between the two teamed Judges), only four petitioners are before us as appellants. These are: Anant Madaan in appeal arising from SLP (C) No. 16093 of 1994, Bharat B. Dua in appeal arising from SLP (C) No. 16149 of 1994; Nandita Kalra in appeal arising from SLP (C) No. 18871 of 1994 and Shalini Jain in appeal arising from SLP (C) No. 20602 of 1994. Anant Madaan has passed his 10+1 and 10+2 examinations from New Delhi. According to him, his parents are residents of Haryana. Bharat Dua passed his ICSE (10th standard) examination as well as 10+1 and 10+2 examinations from Bishop Cotton School, Shimla in

Himachal Pradesh. According to this appellant, his parents are residents of Haryana. Nandita Kalra has passed her 10th, 10+1 and 10+2 class examinations from New Delhi. Both her parents are also residing in New Delhi. Her father is in the Department of Science and Technology while her mother is a Professor. According to her, though her parents reside in New Delhi on account of their work, they are domiciled in Haryana. Shalini Jain has passed her 10th, 10+1 and 10+2 class examinations from New Delhi. Her parents, according to her, are residents in Haryana. According to all these appellants the condition which requires the candidates to have passed their 10th, 10+1 and 10+2 class examinations from recognised institutions in Haryana is arbitrary and discriminatory because it excludes children of parents who may be residents of or who may be domiciled in Haryana but who may have sent their children to schools or colleges outside Haryana for a variety of reasons. They have also challenged this requirement on the ground of hardship. All these candidates wanted to appear for the entrance test conducted by the Maharshi Dayanand University, Rohtak, Haryana.

6. The Registrar, Maharshi Dayanand University, who is the second respondent before us, has filed a counter-affidavit setting out inter alia, the circumstances in which the eligibility conditions came to be changed in 1994. He has stated in the affidavit that various representations were received asking for changes in the eligibility criteria in order to curb a practice which had grown, by which admissions were sought by residents from outside the State of Haryana on the basis of bogus domicile certificates at the cost of genuine residents of the State of Haryana. The second respondent has also pointed out that the University was, on account of these bogus certificates, even today involved in several litigations pertaining to candidates who had arranged forged domicile certificates and obtained admissions on the basis of such certificates. It was felt that the criteria were required to be changed so that genuine residents of the State of Haryana could be granted admission and unnecessary litigation avoided. Thereupon, the Director, Medical College, Rohtak constituted a three- member committee to consider the various memoranda submitted by the President, Bar Association of Rohtak, President of the University College Students' Association and Government College for Women Students' Association, Secretary, Haryana State Medical Teachers' Association and letters from some other representatives of the public of Haryana which had been addressed to the Health Ministry of the State Government. The Committee consisted Dr D.R. Yadav, Professor and Head, Department of Forensic Medicine, Dr (Mrs) Usha Dhall, Professor and Head, Department of Anatomy and Dr D.R. Arora, Associate Professor, Department of Microbiology, Medical College, Rohtak. The Committee examined the whole issue at length. It also examined the eligibility conditions for admission to MBBS/BDS courses stipulated in the neighbouring States of Rajasthan, Delhi and the Union Territory of Chandigarh. It recommended changes in the criteria for admission to MBBS/BDS courses in the State of Haryana. It recommended that the candidates should have studied for the last three years before the qualifying examination, continuously as regular candidates, in a recognised institution in the State. The Committee pointed out that this would ensure that candidates who were genuine residents in the State alone would be eligible for the admission test. It also referred to a similar condition in the prospectus issued by the University of Rajasthan and the University of Delhi as also by the Punjab University for admission to Chandigarh Medical College.

7. The recommendations of the Committee were forwarded to the University by the Director, Medical College, Rohtak. Thereafter the members of the medical faculty of the

respondent-University also made a similar representation to the University to make changes in the eligibility criteria. The matter was referred by the Vice-Chancellor of the respondent University to the Admission Committee which also recommended, inter alia, the above test as well as the other tests which have been finally incorporated in the 1994 eligibility criteria. The decision of the Admission Committee was forwarded to the Commissioner and Secretary to Government of Haryana, Health and Medical Education Department. Thereafter the prospectus for the year commencing 1994 was issued by the respondent University which prescribes the above eligibility criteria under challenge.

8. In view of the above facts, we have to consider whether the condition requiring a candidate to have studied in 10th, 10+1 and 10+2 classes in a recognised institution in the State of Haryana, can be considered as arbitrary or unreasonable. It is by now well settled that preference in admissions on the basis of residence, as well as institutional preference is permissible so long as there is no total reservation on the basis of residential or institutional preference. As far back as in 1955, in the case of D.R Joshi v. State of Madhya Bharat1, this Court making a distinction between the place of birth and residence, upheld a preference on the basis of residence in educational institutions.

9. In the case of Jagadish Saran (Dr) v. Union of India2 this Court reiterated that regional preference or preference on the ground of residence in granting admission to medical colleges was not arbitrary or unreasonable so long as it was not a wholesale reservation on this basis. This Court referred to various reasons why such preference may be required. For example, the residents of a particular region may have very limited opportunities for technical education while the region may require such technically qualified persons. Candidates who were residents of that region were more likely to remain in the region and serve their region if they were preferred for admission to technical institutions in the State, particularly medical colleges. A State which was short of medical personnel would be justified in giving preference to its own residents in medical colleges as these residents, after qualifying as doctors, were more likely to remain in the State and give their services to their State. The Court also observed that in the case of women students, regional or residential preference may be justified as their parents may not be willing to send them outside the State for medical education. We, however, need not examine the various reasons which have impelled this Court to uphold residential or institutional preference for admission to medical colleges. The question is settled by the decision of this Court in Pradeep Jain (Dr) v. Union of India3. This Court has observed in that judgment: (SCR p. 981 : SCC p. 687, para 19) "We are, therefore, of the view that a certain percentage of reservation on the basis of residence requirement may legitimately be made in order to equalise opportunities for medical admission on a broader basis and to bring about real and not formal, actual and not merely legal, equality. The percentage of reservation made on this count may also include institutional reservation for students passing the PUC 1 (1955) 1 SCR 1215: AIR 1955 SC 334 2 (1980) 2 SCC 768 :(1980) 2 SCR 831 3 (1984) 3 SCC 654: (1984) 3 SCR 942 or pre-medical examination of the same university or clearing the qualifying examination from the school system of the educational hinterland of the medical colleges in the State.....

This Court held in that case that reservation to the extent of 70% on this basis would be permissible. This percentage of reservation was subsequently increased to 85% by this Court in the case of Dinesh Kumar (Dr) v. Motilal Nehru Medical College4. This Court in that case directed an entrance

examination on an all-India basis for the remaining 15% of seats.

10.In the present case, the reservation which has been made on the basis of candidates having studied for the preceding three years in recognised schools/colleges in Haryana is in respect of these 85% of seats. It excludes 15% seats which have to be filled in on an all-India basis. This eligibility criterion, therefore, is in conformity with the decisions of this Court referred to above. It cannot, therefore, be considered as arbitrary or unreasonable or violative of Article 14 of the Constitution.

11.The appellants drew our attention to a decision of this Court in Meenakshi Malik v. University of Delhi5 where the father of the candidate was in government service. He was posted by the Government outside India. As the parents were compelled to go outside India, the children were also required to go with their parents. This Court considered this as a hard case. It held that the qualifying condition that the candidate should have received the last two years of education in a school in Delhi, should be relaxed in that case as the candidate was compelled to leave India for a foreign country by reason of the posting of her parents by the Government to such foreign country. The Court observed that there was no real choice in the matter for such a student and hence the rigour of the condition prescribing that the last two years of education should be received in Delhi should be relaxed in that case.

12.None of the appellants who are before us are in a position similar to that of the appellant in the above case. In fact, the parents of Anant Madaan, Bharat B. Dua and Shalini Jain are in Haryana. In the case of Nandita Kalra the parents have voluntarily taken employment outside the State of Haryana. They are not in the same situation as the parents of Meenakshi Malik5. Therefore, the relaxation which was given by this Court in the case of Meenakshi Malik5 cannot be given to any of the appellants before us.

13.The appellants have also cited before us some judgments of the High Courts. We need not, however, examine them since the matter is concluded by the above decisions of this Court. The eligibility condition, therefore, which requires that the candidate should have studied 10th, 10+1 and 10+2 classes from a recognised institution in the State of Haryana is neither 4 (1986) 3 SCC 727 :(1986) 3 SCR 345 5 (1989) 3 SCC 112: (1989) 2 SCR 858 arbitrary nor unreasonable and the Punjab and Haryana High Court has rightly upheld the same.

14.Learned counsel for Nandita Kalra who appears in appeal arising from SLP (C) No. 18871 of 1994 has submitted that the second and third conditions in the eligibility criteria which make an exception (1) in favour of children/wards of employees of the Haryana State Government or children/wards of employees of All-India Services borne on Haryana cadre or of statutory bodies and corporations constituted under an Act of the State of Haryana as also (2) in favour of the children or wards of personnel of defence services and paramilitary services belonging to the Haryana State at the time of entry into service as per the service record, are discriminatory. He has submitted that there is no valid basis for making a distinction between these employees and employees in private service outside the State of Haryana. The learned third Judge of the Punjab and Haryana High Court whose judgment decides the conflict between the two differing Judges of the Punjab and Haryana High Court has pointed out in his judgment that he is not called upon to

express any view on that issue since it is not a question on which either of the two other Judges had expressed any opinion. He has observed that no decision is called for on this question. Since this issue has not been either discussed or decided by any of the three Judges of the Punjab and Haryana High Court whose judgments are before us, we are not called upon to examine this question. The decision in the case of Deepak Sibal v. Punjab University6 was cited before the Punjab and Haryana High Court. But, as observed by the learned third Judge of the Punjab and Haryana High Court, it was cited only in the context of the challenge to the corrigendum. We are not required to examine, in the present appeals, any challenge to the corrigendum. Hence, it is not open to the appellant in Appeal No. 1068 of 1995 arising from SLP (C) No. 18871 of 1994 to now challenge before us the second and third eligibility conditions.

15.In the premises, the appeals are dismissed. In the circumstances, there will be no order as to costs.