

M. R. Mini (Minor) Represented by her Guardian and Father M. P. Rajappan

Vs

State of Kerala and Another

Writ Petition No. 1220 of 1979

(V. R. Krishna Iyer, R. S. Patha JJ)

28.01.1980

JUDGMENT

KRISHNA IYER, J. -

1. The petitioner, an aspirant for admission to the M.B.B.S. course in one or other of the medical colleges in Kerala, has failed to qualify for selection from the Kerala University pool, not having secured high enough marks, and has failed to fall within the Calicut University pool, not having been a student of that University.
2. What is urged, as a claim for inclusion, is that had she been treated as a Calicut University student her marks would have been sufficient to gain admission and since she belongs to the Malabar region, which is broadly served by the Calicut University, she should be given the benefit of Calicut University students and consequential admission - a mixture of district-wise backwardness and university-wise preference to reach the desired advantage.
3. We cannot agree. Under the existing scheme, the classification, for purposes of quota is university-wise, not territory-wise. Belonging to backward Calicut District is not the same as being an alumnus of the Calicut University. Maybe, the State could have classified candidates university-wise, backward region-wise or otherwise, separately or in any constitutionally permissible combination. We are not here concerned with the prospects of the petitioner under any different admission scheme or reservation project. Mystic maybes are beyond judicial conjecture. Once we hold that the university-wise allocation of seats is valid the misfortune of the petitioner is *damnum sine injuria*, if we may use that expression in this context. Every adversity is not an injury. Judicial remedy cannot heal every wound or cure every sore since the discipline of the law keeps courts within its bounds.
4. We do not preclude the State from taking any other pragmatic formula or evolving any selection calculus, constitutionally permissible, so as to promote equality against the backdrop of social justice. Indeed, we have, by our judgment in *Dr. Jagdish Saran v. Union of India* (Writ Petition No. 214 of 1979, decided on January 28, 1980), explained the parameters, the criteria and the correct measures which must be initiated to marry equality to excellence, solemnised constitutionally.
5. Too long has the State been seeking ad hoc solutions and improvising remedies where comprehensive studies and enduring recipes are the desideratum. To keep the education situation uncertain across the nation and the fate of students of higher education tense or in suspense with annual challenges in court or agitational exercises in the streets is dangerous procrastination fraught with negative results where a creative undertaking of responsibility to find an enduring answer to a

chronic problem is the minimum that the country expects of the concerned State instrumentality.

6. We dismiss this petition subject to the observations we have made above, leaving it to the Kerala State and its Universities not to contribute to the litigative nursery of medical candidates but to face the task of shaping a firm policy governed by constitutional guide-lines, not other pressures.

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