

Kumari Suneeta Ramchandra Koyalamudy

Vs

State of Maharashtra and Another

Civil Appeal No. 628 of 1986

(D. P. Madon, G. L. Oza JJ)

13.03.1986

JUDGMENT

MADON, J. -

1. This appeal by special leave granted by this Court is directed against the judgment and order of the Nagpur Bench of the Bombay High Court whereby the High Court dismissed with no order as to the costs the writ petition under Article 226 of the Constitution of India (being Writ Petition No. 1683 of 1985) filed by the appellant seeking admission in the Medical College, Nagpur.

2. The facts giving rise to this appeal require to be briefly stated. The appellant's father, who is in the service of the Central Government and was working in the Geological Survey of India, was transferred on March 3, 1983, from Hyderabad in the State of Andhra Pradesh to Nagpur in the State of Maharashtra. In 1983 the appellant passed the SSC examination of the Board of Secondary Education, Andhra Pradesh, in first division. After coming to Nagpur along with her father she joined Hislop College, Nagpur, from where she passed in 1985 the HSC (XII standard) examination of the Maharashtra State Board of Secondary and Higher Secondary Education, Nagpur Divisional Board, Nagpur, in first division, this being one of the qualifying examinations for admission to the medical colleges in the State of Maharashtra. Accordingly, she applied for admission to the MBBS course at the two government colleges which are at Nagpur, namely, the Nagpur Medical College and the Indira Gandhi Medical College. Under the rules, the application forms for admission to these colleges are to be sent to the Dean, Medical College, Nagpur, who is the second respondent before us. She based her claim for admission upon Rule C(6)(ii) of the Medical Colleges of the Government of Maharashtra Rules for Admission, 1985-86 (hereinafter referred to as "the 1985-86 Rules"). Not having secured admission to either of the said two medical colleges at Nagpur, she filed a writ petition before the Nagpur Bench of the Bombay High Court which was dismissed by the High Court negating the construction sought to be placed upon the said Rule C(6)(ii) by the appellant. It is against this judgment and order that the present appeal by special leave is filed.

3. Though a number of contentions have been raised in the petition for special leave, in view of the interpretation we are placing upon Rule C(6)(ii) of the 1985-86 Rules, it is unnecessary to go into any other question. The 1985-86 Rules are an annexure to the Government of Maharashtra Resolution in the Medical Education and Drugs Department No. MPD-1084/7575/MED-4 dated December 21, 1984. This resolution shows that the rules for admission into the medical colleges were revised and substituted by the 1985-86 Rules in view of certain judgments of the Bombay High Court, namely, the judgments in Writ Petitions Nos. 1753 of 1982, 2360 of 1983 and 3238 of 1984 and the judgment of this Court in Pradeep Jain v. Union of India ((1984) 3 SCR 942 : (1984) 3 SCC 654 : AIR 1984 SC 1420) relating to reservation of seats in government medical colleges in the

State. Leaving aside unnecessary details, it will be sufficient to state that Rule C(5) provides that in addition to the qualifications set out earlier only those candidates would be eligible for admission to the medical colleges who have passed the SSC or Senior Cambridge or Indian School Certificate or equivalent examination from any of the recognised schools in the Maharashtra State. Rule C(6) contains certain exceptions to Rule C(5). We are concerned in this appeal with the second exception contained in Rule C(6)(ii). The said Rule C(6)(ii) provides as follows :

(ii) The sons/daughters of Central Government servants transferred to Maharashtra State from outside the State shall have concession of exemption from passing the SSC or equivalent examination from Maharashtra State, subject to the condition that the child has passed at least the qualifying examination as defined in Rule C(3) above. The total number of such children of Central Government servants to be admitted with this concession shall not exceed two in all Government Medical Colleges. Only such candidates who are in the merit list of Higher Secondary Certificate, i.e. (10 + 2) XII standard examination at the respective medical colleges will be considered for admission against the two seats. This rule does not confer the right of reservation for the children of Central Government servants.

4. There is no dispute that the appellant fulfilled all the conditions of the 1985-86 Rules. She had passed the qualifying examination and was in the merit list as also in the combined list for the two medical colleges, Nagpur. She was also the only candidate falling within the scope of the exception contained in Rule C(6)(ii) so far as the two medical colleges in Nagpur were concerned. The only dispute is whether, in view of the provisions of the said Rule C(6)(ii), there was a seat available for her in either of the said two colleges.

5. It was the submission of the appellant that on a true construction of Rule C(6)(ii) all government medical colleges in the State of Maharashtra are to have two seats for the sons and daughters of Central Government servants transferred to the State of Maharashtra from outside the State, that is to say, that each government medical college will have a total number of two seats for candidates for admission falling in this category. The construction sought to be placed by the respondents upon the said Rule C(6)(ii), on the other hand, was that the total number of seats in all the government medical colleges in the State taken together would be only two. It is the respondents' interpretation which found favour with the High Court.

6. We are unable to accept the interpretation placed by the High Court upon Rule C(6)(ii). When Rule C(6)(ii) states that "the total number of such children of Central Government servants to be admitted with this concession shall not exceed two in all government medical colleges", it does not mean that the total number of such children of Central Government servants to be admitted with this concession shall not exceed two in all government medical colleges taken together. It means that all government medical colleges, that is to say, each and every government medical college, will admit children of Central Government servants falling in the category specified in Rule C(6)(ii) not exceeding two in number, provided that they satisfy the qualifications prescribed by Rule C(3). This is made abundantly clear by the sentence which immediately follows the one which we have quoted earlier, namely, "Only such candidates who are in the merit list of Higher Secondary Certificate, i.e. (10 + 2) XII standard examination at the respective medical colleges will be considered for admission against the two seats". The use of the phrase "at the respective medical colleges" would be meaningless if the two seats for this category were to be for all the government medical colleges taken together in the State of Maharashtra. It is pertinent to note that under Rule E(3), it is the Dean who is entrusted with the work of admission to his college. This rule cannot possibly be applied if

only two candidates falling in the category specified in Rule C(6)(ii) are to be admitted in all the government medical colleges of the State taken together. It was submitted on behalf of the respondent that so far as admission of candidates falling in this category is concerned, the selection is made not by the Dean but by the Joint Director, Education and Research, Bombay, from the common merit list. The Rules do not provide for any such method of selection. Rule E(3) is categorical on the point that the selection is to be made by the Dean of each college.

7. The interpretation which we have placed upon Rule C(6)(ii) is reinforced by comparing this rule as it features in the 1985-86 Rules with a similar rule in the 1981-82 Rules which for the first time created the exception in case of Central Government servants. That rule provided as follows:

The Central Government servants transferred to Maharashtra from outside the State shall have a similar facility in respect of their children subject to the condition that the child has passed at least the qualifying examination as defined in Rule 2(a). The total number of such children of Central Government servants so admitted with this concession shall not exceed two in all the government medical colleges taken together.

8. It appears that the 1982-83 Rules and the 1983-84 Rules contained an identical provision. A change was made in this provision in the 1984-85 Rules and this provision as occurring in Rule 3(b) of those rules was as follows :

The total number of such children of Central Government servants to be admitted with this concession shall not exceed two in all the government medical colleges.

9. When dealing with this position, the High Court adopted an unusual and novel method of interpretation. It held that of the above three sets of rules the 1985-86 Rules were clear, the 1984-85 Rules were clearer and the 1981-82 Rules were the clearest but if there was any doubt, the interpretation placed by the authorities should be accepted because their interpretation was entitled to preference as they know their intention best. Whatever may have been the intention of the government, when such intention is translated into a statute or rule, whether the interpretation has been implemented or not can only be judged by the wordings of the particular provision of such statute or rule. In the 1981-82 Rules the words used were "in all the government medical colleges taken together". The qualifying words "taken together" were dropped from the 1984-85 Rules. They also do not feature in Rule C(6)(ii) of the 1985-86 Rules. Thus, the 1984-85 Rules and 1985-86 Rules made a departure from what was provided in the 1981-82 Rules. This, on the contrary, shows that the intention was to provide two seats in each government medical college for the children of Central Government servants transferred to the State of Maharashtra from outside the State. Such an intention is based on logical considerations. A large number of Central Government servants are transferred from one State to another. They are sent on deputation or appointed to various posts in public sector undertakings and government companies. Their children, therefore, must of necessity often be educated in different States. It cannot be that those who serve the Central Government should be rewarded by placing obstacles in the way of the educational careers of their children.

10. It was also submitted on behalf of the appellant that Rule C(5) which provides that only those candidates would be eligible for admission to the medical colleges who have passed the SSC or Senior Cambridge or Indian School Certificate or equivalent examination from any of the recognised schools in the State of Maharashtra was violative of Article 14 of the Constitution. In support of this contention reliance was placed upon the case of Pradeep Jain v. Union of India

((1984) 3 SCR 942 : (1984) 3 SCC 654 : AIR 1984 SC 1420). Events subsequent to the filing of the petition for special leave to appeal filed by the appellant make it unnecessary to decide this point. The appellant was third in the combined merit list. She was not given admission on the ground that as only two seats were provided for children of Central Government servants transferred to the State of Maharashtra from outside the State, she was not eligible for admission under Rule C(6)(ii). As she was the only candidate who had applied for admission to the Nagpur Medical College and fulfilled all the other requirements of Rule C(6)(ii) in the interpretation which we have placed on that rule, she would be entitled for admission to that college. By an interim order passed by this Court on October 17, 1985, one seat in the Government Medical College, Nagpur, in the first year of the MBBS course had been kept unfilled and the appellant would be entitled to be admitted against that seat. During the pendency of the petition for special leave to appeal an affidavit of the Under-Secretary to the Government of Maharashtra, Medical, Education and Drugs Department, affirmed on November 5, 1985, was filed before us in which it was stated that the government had reconsidered the matter and the Dean of the Nagpur Medical College had been directed to grant admission to the appellant. The appellant has thus secured the admission she wanted. In view of this, it is unnecessary for us to consider the validity of Rule C(5) except to state that we do not agree with the High Court when it has said that there is nothing abhorrent about the requirement contained in the said rule. The question of validity of Rule C(5) requires careful consideration and it cannot be brushed aside in the manner in which the High Court has done. As stated earlier, we, however, leave this question open.

11. In the result, this appeal must succeed and is allowed. The judgment of the High Court appealed against is reversed and the order passed by it dismissing Writ Petition No. 1683 of 1985 filed by the appellant is set aside but as the appellant has already been admitted into the Nagpur Medical College, we do not pass any further order or give any direction in the matter.

12. The first respondent will pay to the appellant the costs of this appeal.

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