

Dr Fazal Ghafoor

Vs.

Principal, Osmania Medical College, Hyderabad and Others

Special Leave Petition (Civil) No. 1440 of 1988

(M. N. Venkatachaliah, Ranganath Misra JJ)

20.09.1988

JUDGMENT

RANGANATH MISRA, J. –

1. This application under Article 136 of the Constitution is for special leave and is directed against dismissal of the petitioner's writ petition as also the Letters Patent Appeal against the learned Single Judge's decision by the High Court of Andhra Pradesh. In the academic year 1986-87 there was only one seat available in the Nizam Institute of Medical Sciences at Hyderabad in the whole of the State of Andhra Pradesh in DM Neurology. Selection examination for it was held in the month of March 1987, by the University of Health Sciences constituted under the [Andhra Pradesh] University of Health Sciences Act, 1986 (6 of 1986). The State Government prescribed a set of rules to govern the admission to the said super-speciality. The Presidential Order known as Andhra Pradesh Educational Institutions (Regulation of Admissions) Order, 1974 issued under clauses (1) and (2) of Article 371-D of the Constitution applied to reservations in the matter of admission to the said super-specialities.

2. In the entrance test of March 1987, the petitioner ranked as number one. At the time of interview, he opted to undertake DM (Neurology) but his claim was rejected on the basis that he was not a local candidate within the meaning of Presidential Order. Thereupon he moved the Andhra Pradesh High Court in a writ application under Article 226 of the Constitution. His principal contention was that he was also a local candidate and he contended that there could be no reservation for local candidates for super-specialities. In view of the observations of this Court on more than one occasion, the learned Single Judge held that the petitioner could not be considered as a local candidate as he studied for the MD course in Telangana region only for three years while the requirement was that the candidate should have studied in an educational institution in the local area for a period of not less than four consecutive years ending with the academic year in which he first appeared in the relevant qualifying examination. Having failed before the learned Single Judge, the petitioner carried an appeal challenge was advanced against reservation alleging infringement of Article 14 of the Constitution and the petitioner asserted that he was a local candidate. The contentions which have been advanced before the learned Single Judge were reiterated and the petitioner's counsel contended that since there was only one seat in the whole State in super-speciality, DM (Neurology), the same should have been taken as covered by clause (6) of the Presidential Order and the petitioner should have been found entitled to admission. The High Court negated this plea by holding that "State-wide university was defined in Rule 2 (f) " and the expression would not take within its fold either the University of Health Sciences or the Nizam Institute of Medical Sciences.

3. The argument based upon Article 14 of the Constitution appears also to have been advanced and the same has been negated. Obviously reliance was place by the Division Bench on the provisions of Article 371-D(10) of the Constitution. We do not find any merit in the contentions advanced in the special leave petition and the same is accordingly dismissed.

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