

Dr. Fazal Ghafoor

Vs

Union of India and Others

Writ Petition No. 136 of 1988

(M. N. Venkatachaliah, Ranganath Misra JJ)

20.09.1988

JUDGMENT

RANGANATH MISRA, J. -

1. Petitioner in this application under Article 32 of the Constitution has asked for five reliefs :

- (1) A declaration that all the Post Doctoral seats (Super Specialities) in all the universities and States of India including the All India Medical Institute should not have any regional or domicile reservations and should be open for All India Competition on merit;
- (2) A declaration that Rules 2(a), 2(c), Rule 3, Rule 9 and Rule 10 of the prospectus for admission to Post Graduate courses under Super Speciality Course 1987-88 in the medical colleges of Kerala are ultra vires Articles 14 and 15 of the Constitution;
- (3) A declaration that the A.P. Educational Institutions (Regulation of Admission) Order, 1974, issued by the President of India is in violation of the basic structure of the Constitution;
- (4) A declaration that the total reservation in Super Speciality courses in the State of Andhra Pradesh is beyond the scope and object of Article 371-D;
- (5) Declaring Note 2 of Rule 7 of the prospectus for Post Graduate Higher Super Speciality Courses 1987-88 issued by the Government of Tamil Nadu is bad is not enforceable.

2. By our judgment delivered today in Dr. C. Surekha V. Union of India ((1988) 4 SCC 526) we have already held that there is no merit in the allegation that the Presidential Order or the constitutional provision authorising the issuance of such order is hit by violation of the basic structure of the Constitution. So far as the State of Andhra Pradesh is concerned the position is as envisaged in the Presidential Order. In Dr. Pradeep Jain case (Dr. Pradeep Jain v. Union of India, (1984) 3 SCC 654) this Court has observed that in Super Specialities there should really be no reservation. This is so in the general interest of the country and for improving the standard of higher education and thereby improving the quality of available medical services to the people of India. We hope and trust that the Government of India and the State Governments shall seriously consider this aspect of the matter without delay and appropriate guidelines shall be evolved by the Indian Medical Council so as to keep the Super Specialities in medical education unreserved, open and free.

3. With these observations, the writ petition is disposed of. There would be no order for costs.

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