

Dr. Sanjay Mehrotra and Another

Vs

Gsvm Medical College, Kanpur and Others

Civil Appeals Nos. 201-202 of 1989

(M. M. Dutt, Dr. T. K. Thammen JJ)

13.01.1989

ORDER

1. Special leave is granted. Heard learned counsel for the parties.
2. The two appellants, namely, Dr. Sanjay Mehrotra, son of Shri B. R. Mehrotra, Dr. Vivek Tandon, son of Shri T. N. Tandon and respondent 9, Dr. Sanjeev Kumar Aggarwal, son of Shri R. K. Aggarwal were admitted in GSVM Medical College, Kanpur in D.M. (Cardiology) course for the session 1987-89. The admissions of the appellants and respondent 9 were set aside by the High Court by its judgment dated September 16, 1988 at the instance of respondent 6. By the said judgment the High Court also directed the admissions of respondents 6, 7 and 8 in the said course.
3. It appears that the Government of U.P. framed certain rules for the admission in the superspeciality courses. Under the said Rules candidates will be admitted on the basis of their merits in the MBBS examinations. Under the Rules, 75 per cent of the seats are reserved for the institutional candidates. The appellants and respondent 9 were admitted on the basis of institutional preference.
4. According to the High Court, in view of the decision of this Court in Dr. Pradeep Jain v. Union of India ((1984) 3 SCC 654 : (1984) 3 SCR 942), admission to superspeciality courses should be made strictly on the basis of present merit and as no examination was held by the college to assess the merits of the candidates, the High Court set aside the admission of the appellants and respondent 9.
5. It is stated by Mrs. Shobha Dikshit, learned counsel appearing for the State of Uttar Pradesh that there is likelihood of two seats falling vacant i.e. one seat at GSVM Medical College, Kanpur and the other seat at KGS Medical College, Lucknow.
6. Our attention is, however, drawn to the fact that for the session 1988-90 four seats are lying vacant and they have not yet been filled. The 1988-90 session is the current session and no steps have yet been taken for filling up those vacancies. We are told that advertisements will soon be published for admission in the 1989-91 session. In the circumstances, we are of the view that as four seats are vacant for the current session, the appellants and respondent 9 can be admitted in the current session. Accordingly, we direct respondents 1 to 4 admit the appellants and respondent 9 in the vacant seats in the current session i.e. 1988-90 session. We make it quite clear that examinations for the current session will be held at such time as the authorities may decide in that regard. If any seat for the 1987-89 session falls vacant either at GSVM Medical College, Kanpur or at KGS Medical College, Lucknow, it will be open to the authorities concerned to admit the appellants in those two seats. In any event, the appellants and respondent 9 shall be admitted in the vacancies for

the current session 1988-90.

7. Before we conclude, we may express the view that in future it would be better for the authorities concerned to hold admission tests for the assessment of merits of the candidates for admissions in the superspeciality courses.

8. The appeals are disposed of as above. There will be no order as to costs.

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