

Ombir Singh and Others

Vs

State of U. P. and Another

Writ Petition (Civil) Nos. 451, 453, 454, 493 And 456 of 1992

(L. M. Sharma, N. M. Kasliwal JJ)

14.07.1992

ORDER

W.P. No. 453 of 1992

1. The writ petition is dismissed.

W.P. Nos. 451, 454, 493 and 456 of 1992.

2. We have heard the learned counsel for the petitioners. We do not accept some of their arguments and hold that -

(a) the admission rules fixing 50 per cent of the marks to be obtained at the entrance examination as minimum qualifying marks for admission to the Post-Graduate Medical courses are legal and no exception can be taken to the same;

(b) the admissions of the large number of applicants made on the basis of the above rules and in pursuance of our judgment in Writ Petition No. 964 of 1991, dated May 15, 1992 have been validly made and are not open to challenge;

(c) the plea the fixing different minimum qualifying marks for admission for the general seats and the seats reserved for Scheduled Castes and Scheduled Tribes has been raised very belatedly by these writ applications filed in June 1992 and cannot be entertained in the present facts and circumstances.

3. It has been further contended that as a result of the application of the aforesaid rules a large number of seats could not be filled up and have remained vacant and in view of the observation made in *Ambesh Kumar (Dr) v. Principal, LLRM Medical College, Meerut* (1986 Supp SCC 543 : (1987) 1 SCR 661) such a situation must be avoided. The remaining seats, therefore, should be filled up by applying different criteria.

4. The question arises as to whether in the present circumstances it is permissible to take up the question of filling up the remaining vacant seats by applying another rule on the ground that a completely different situation arises at this stage attracting other relevant considerations; and further whether the authorities ought to take such steps. In reply to our query a statement was made at the bar that the present session has not started so far and if further admission are made by relaxing the condition, nobody is going to suffer on any ground including that of delay. We, therefore direct that notice should issue and the cases should be placed for further hearing before us at 2.00 p.m. on

Monday, July 20, 1992. The respondents, who are represented by counsel, assure us that they would get ready for final disposal of the cases on that day. Let the Medical Council of India also be added as a party and let notice issue. The learned counsel for the petitioners have prayed for Dasti mode of service which is allowed. All necessary steps will be taken up by the Registry tomorrow so that the notice may be immediately issued.

Court Master.

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