

Sharwan Kumar

Vs

Director General of Health Services and Another

Civil Writ Petn. No. 443 of 1992 with W. Ps. Nos. 458, 510 and 557 of 1992

(M. N. Venkatachaliah, P. B. Sawant, N. P. Singh JJ)

14.08.1992

ORDER

1. The petitioners in these petitions were amongst the candidates appearing at the common Entrance Examination for selection to fill up the 15% All India quota of seats for medical and dental colleges. Petitioners were qualified but their ranks were not so high as to enable them to secure placements in the lists announced so far. The petitioners, however, say that a number of seats in the various medical colleges all over the country referable to the 15% All India quota are left unfilled and they claim that they are entitled to the allotment of these seats. The delay, they say, is entirely owing to the cumbersome procedures adopted by the authorities in allotting seats to wait list candidates as and when vacancies arise. They contend that there is no reason why the vacant seats should not be allotted to them.

2. The actual working of the scheme of allotment of candidates to the various colleges from time to time does incur a criticism that the process is so inordinately protracted that all the seats in the 15% All India quota do not get filled up though there are eligible candidates in the wait list. But the authorities administering the scheme appear to have their own genuine difficulties. The procedure for filling up the vacancies in the M.B.B.S. course entails the process of notifying and considering the cases of all those who are allotted B.D.S. course who in view of the subsequent vacancies in the M.B.B.S. seats become eligible for the latter and the cases of those who had expressed preference for colleges which could not be accommodated in the earlier lists but becomes possible in view of the vacancies. All this, of course, is cumbersome and time-consuming and takes the selection process till February of the year following the one for which admissions are intended and made.

Time is ripe to evolve an appropriate procedure so that at least from 1992 onwards, the whole procedure could be completed within a reasonable time-frame, say, before 30th October each year. We shall examine the matter separately and issue appropriate directions.

3. So far as the present petitioners are concerned, we cannot straightway direct their admission against the vacant seats - even if there are seats vacant. It might happen that candidates who are higher in the merit-list and who have not approached the Court, would be deprived of their legitimate rights if candidates far below them get admissions, on no other, ground than that they have approached this Court. In these circumstances, we think we should issue directions of a general character which will be applicable to all similarly circumstanced persons and the benefits under which will be available to all according to their merit.

4. The Director-General of Health Services (DGHS) will now take immediate steps to address the Directors of Medical Education in the different States covered by the All India scheme to obtain from them the information regarding the number of seats in MBBS and BDS Courses in the 15% All India quota for the academic session 1991-92 yet remaining unfilled and continuing to remain vacant. Information shall also be obtained as to whether under the regulations governing the respective colleges, admission of students by filling up of these vacancies at this stage is permissible.

5. Simultaneously, by way of an appropriate Press Release, the D.G.H.S. may require the successful candidates who were not allotted seats in MBBS Course but allotted seats in BDS Course at their second option and also from candidates from rank No. 2249 downwards who are not allotted any seats, to convey in writing to the DGHS their willingness to accept admission into, the MBBS or BDS Course, as the case may be, in any such college as may be allocated by the D. G. H. S. against the existing vacant seats in the 15% All India quota, 1991.

The communication in this regard together with 'admit-card' relating to the examination and other relevant certificates, should be received from the candidates by the Director on or before the date fixed by the D.G.H.S. and specified in the Press Release.

6. On receiving the information from the various States, the D. G. H. S. shall allocate the seats to the candidates who have conveyed their willingness within the specified time to be admitted to the All India quota, 1991 in the manner indicated below:-

(i) The candidates who have already been admitted to BDS Course as per their second option be offered seats in the MBBS Course in accordance with their first option and in accordance with their position in the merit list.

(ii) Simultaneously the remaining seats, if any, in MBBS Course and in BDS Course shall be allotted to the candidates from Rank No,2249 downwards in the order of merit to the candidates who have expressed their such willingness.

(iii) The D.G.H.S. may decide the allocation of colleges to candidates having regard to their original preference and / or proximity of the college to the residence of the candidates, subject to the availability of seats, and the decision of the Director in this regard shall be final.

7. The writ petitions are disposed of accordingly.

8. List the matter Friday week for further directions as to the time frame for further selections from 1992 and onwards. Order accordingly.

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