

Harsh Pratap Sisodia

Vs

Union of India

Writ Petition (C) No. 588 of 1988

(V.N. Khare, M. Srinivasan JJ)

05.02.1999

JUDGMENT

M. Srinivasan, J

1. The petitioner passed his Intermediate Examination conducted by the Board of High School and Intermediate Education, U.P. and subsequently appeared in the All India Pre-Medical/Pre-Dental Entrance Examination conducted by the Central Board of Secondary Education. The petitioner qualified in the entrance examination and was informed vide communication dated 10.7.1998 that allotments to medical colleges would be made by the Directorate General of Health Services. Later on, the petitioner was informed by the Assistant Director General, Health Services on 14.9.1998 that he had been allotted as seat for admission to MBBS at Dr. V.M. Medical College, Solapur. On being approached, the College, however, on 28.9.1998, refused admission to the petitioner. The Assistant Director General, Health Services, on being so apprised by the petitioner, wrote to the Medical College at Solapur on 7.10.1998, advising them to admit the petitioner who had qualified in the entrance test against 15% All India Quota. The College, however, expressed its inability to do so on 13th October, 1998. The request of the petitioner to the Assistant Director General, Health Services to secure his admission in any other College also bore no fruit. The petitioner thereupon has filed this writ petition.

2. While counters have been filed by respondent Nos. 1 and 2, respondent Nos. 3, 4 and 5, namely, the State of Maharashtra, the Directorate of Medical Education and Research, Mumbai and Dr. V.M. Medical College, Solapur have not filed their counters or response till date in spite of opportunities granted to them for the purpose. We have heard learned counsel for the parties.

3. The Dean, Dr. V.M. Medical College, respondent No. 5 refused to admit the petitioner, who had qualified in the entrance test for admission against the 15% All India Quota. The reasons for refusal are contained in the communication dated 28.9.1998 from the Dean to the Asstt. Director General of Health Services. The relevant portion of the letter reads thus :

"..... Mr. Sisodia had passed Intermediate Examination of U.P. Board in the year July, 1993 without Biology. Subsequently, he had passed Biology as his subject at intermediate Board in the year July, 1994 and secured 56 marks. As per rules existing in this State, incumbent must have passed H.S.C. or equivalent exam. in one and the same attempt. Please refer Rule 4.4 for eligibility for the MBBS admission. This incumbent does not fulfil the condition prescribed under the Rule for eligibility...."

4. The eligibility criteria for admission to the medical colleges, throughout the country, under 15%

All India Quota, as stipulated by Rule 4.4 of CBSE (information bulletin of 1998) does not show that there is any such requirement as was being raised by the Dean of the Medical College i.e. that the candidate must have passed H.S.C. or its equivalent exam 'in one and the same attempt'. The petitioner had passed his intermediate examination in first division. Later on he also passed the Biology subject in 1994. The petitioner, thus, satisfied the requirements prescribed by Code 02 of Rule 4.4. (iii) of the All India Pre-Medical Examination Rules. The condition imposed by the Maharashtra State, for passing the qualifying examination 'in one and the same attempt' can have no application to the candidates who qualify the entrance examination against 15% All India Quota and are allotted a seat in the MBBS against that quota to a medical college.

5. It is not disputed that the criteria of eligibility for allotment of seat to MBBS against 15% All India Quota has been fixed by the CBSE in consultation with the Medical Council of India under a modified scheme approved by this Court. Under that scheme the States and College, cannot insist upon, satisfaction of the "State requirement" as a condition to grant admission to the allottees against 15% All India Quota. It is, therefore, not open to any State to fix any additional eligibility criteria in cases of candidates who fall under 15% All India Quota. The eligibility criteria having been approved by this Court it could not be ignored by the Dean, Medical College, Solapur. The denial of admission to the petitioner was thus wholly illegal and unjustified. Consequently, this writ petition succeeds and is allowed. The Dean, V.M. Medical College, Solapur is, hereby, directed to grant admission to the petitioner in the First Year of M.B.B.S. course under 15% All India Quota forthwith.

6. Since, the petitioner was kept out of the College, on wholly unjustified and illegal ground, it is obvious that he would not be able to make up the attendance criteria, if the attendance is to be counted from the date when the sessions started. It, therefore, appears appropriate to us to direct that the attendance in the case of the petitioner, should be counted from the date when the admission is granted to him pursuant to the directions hereinabove made, by the Medical College, Solapur to consider his eligibility for appearing in the examination. Writ Petition is, accordingly, allowed but with no order as to costs.