

SUPREME COURT OF INDIA

State of U.P.

Vs.

Vineet Singh

C.A.No. 4839 of 2000

(S. Rajendra Babu, S. N. Phukan and Shivaraj V. Patil, JJ.)

01.09.2000

JUDGEMENT

RAJENDRA BABU, J.:-

1. Leave granted.

2. These appeals arise out of an order made by the High Court directing that the States, Union Territories and Universities should allow students who had passed courses outside their home State to participate in the entrance examination held in their home State irrespective of any kind of preference that may have been adopted for selection of PG Medical Course. In doing so, the High Court has followed the decision of this Court in *Dr. Parag Gupta v. University of Delhi*, reported in 2000 (5) JT (SC) 345 : (2000 AIR SCW 2406), without any detailed consideration of the claims. In *Dr. Parag Gupta's* case (*supra*) the controversy before this Court was in relation to students who had qualified for medical degree course got admission under All India quota of 15% and migrated to

different States to pursue the course of study and who sought admission into Postgraduate courses and their grievance was that the States or concerned authorities had framed admission rules in such a way that they could neither pursue their studies in the migrated State nor in their home State. In order to set right the imbalance arising thereby, after considering the effect of the decisions in Jagdish Saran (Dr.) v. Union of India, (1980) 2 SCC 768 : (AIR 1980 SC 820); Pradeep Jain (Dr.) v. Union of India, (1984) 3 SCC 654 : (AIR 1984 SC 1420); Dinesh Kumar (Dr.) (II) v. Motilal Nehru Medical College, (1986) 3 SCC 727 : (AIR 1986 SC 1877); State of Rajasthan v. Dr. Ashok Kumar Gupta, (1989) 1 SCC 93 : (AIR 1989 SC 177); Anant Madaan v. State of Haryana, (1995) 2 SCC 135 : (1995 AIR SCW 914 : (AIR 1995 SC 955); D. P. Joshi v. State of M.P., 1955 (1) SCR 1215, and Sanjay Ahlawat v. Maharishi Dayanand University, (1995) 2 SCC 762 : (1995 AIR SCW 228) this Court evolved a principle which was equitable to all. It was noticed that the different criteria adopted by different States excluded the students who had qualified MBBS under 15% All India quota who migrated to other States from their home State and did not get any opportunity for advancement of their career in their home State as they were debarred for admission on account of either reservation on ground of residential requirement or on the ground of institutional preference adopted by the States or Union Territories or Universities. What was observed therein is that taking into consideration the local and regional compulsions a balance had to be struck so that students who had pursued studies in a particular university or State are not invidiously stranded or marooned. The grievance of such students was very limited inasmuch as they constituted not more than 15% all over the country and out of them very few might choose to come back to their home States. The arguments that have been advanced before us are the very arguments considered in that case as to why relief in the manner aforesaid should not be given to them. We also do not find that there is any conflict between Pradeep Jain (Dr.) case (supra) and the present case and the decision in Dr. Parag Gupta's case (supra).

3. The problem felt by the Uttar Pradesh Government or certain other students as modifying the decision in Pradeep Jain (Dr.)'s case (AIR 1984 SC 1420) (supra) is not at all well founded. In fact, what this Court stated in summarising the law on the matter is by culling out the principles from the said decisions and we have not evolved any new principle at all. Based on these principles we have adjusted the equities in respect of students selected under 15% All India quota and who had migrated to other States. If the judgment rendered by us in Dr. Parag Gupta's case (2000 AIR SCW 2406) (supra) is confined to such students, we do not think the difficulty felt by the appellants in these cases would arise at all.

4. The general direction given by the High Court following the judgment of this Court in Dr. Parag Gupta's case (AIR 1984 SC 1420) (supra) in respect of all petitioners without examining their cases whether they fell within 15% All India quota and who had been selected under the 15% All India quota and migrated to other States or not would not be appropriate. The order of the High Court, therefore, stands modified by confining its order only to fresh students who were covered by Dr. Parag Gupta's case (2000 AIR SCW 2406) (supra) that is such of students who had migrated to other States/Universities under 15% All India quota and who were desirous of pursuing study in their home States and not to every student who has gone out of his home State and desires to return to his home State. In respect of such other students the relief granted by the High Court should not apply.

5. The appeals are partly allowed and the order made by the High Court is set aside in each of these cases and matter is remanded for fresh consideration in the light of this order and in accordance with law. The Writ Petition also stands disposed of.

Order accordingly.