

SUPREME COURT OF INDIA

G.S.F. Medical and Para Medical Association

Vs.

State of Gujarat

S.L.P. (C) No. 11930 of 2004

(Mrs.Ruma Pal and Arun Kumar JJ.)

23.07.2004

JUDGMENT

Ruma Pal, J.

1. The question which has been raised in this special leave petition pertains to the interpretation of paragraph 16 of the decision of this Court in Islamic Academy of Education & Anr. Vs. State of Karnataka and Others []. According to the petitioners un-aided professional colleges are permitted by this paragraph to form an association and to conduct a common entrance test. In this case the State of Gujarat itself does not conduct any common entrance test for admission to professional colleges whether aided or un-aided. It has, however, issued a directive to the effect that all admissions in all colleges would be on the basis of higher secondary test results. The justification for this is that this had been done for the last two decades. It is further submitted by the State that this practice could be continued despite paragraph 16 of Islamic Education and the State Government was entitled to direct admissions to all the seats in the un-aided colleges even with regard to the management quota. The quota fixed by the Committee set up according to the decision of this Court in Islamic Academy's case (supra) is 50 : 50. It is also submitted that having regard to the delay in the matter, it would not be in the interest of the students to allow the petitioner-association to hold a common entrance test at this stage. Prima facie, we are of the view that the stand of the State Government as has been upheld by the High Court appears to be contrary to the substance of paragraph 16 of the decision in Islamic Academy's case (supra) in which this Court appears to have proceeded on the basis that common entrance tests are conducted by the States. It was held that un-aided professional colleges can also hold a common entrance test if they form an association and that the un-aided professional colleges can admit students against the quota allotted to them. # This issue is in addition to the issues raised in connection with the admission to un-aided professional colleges raised in respect of other States which we have already referred to the Chief Justice for the purpose of being heard and disposed of finally by a larger Bench. Let this matter be placed along with the other matters.

2. As an interim measure, we permit the petitioner-association to proceed to conduct the common entrance test and to admit students against the management quota.

3. Needless to say the Committee shall have the powers to oversee the tests conducted by the petitioner-association in terms of paragraph 19 of decision in Islamic Academy's case (supra). It is made clear that we do not intend to interfere with the programme which has been fixed by the Medical Council of India in accordance with the decision in Madhu Singh's case.

4. In view of the order passed by us, the application for interventions are dismissed as withdrawn.