

SUPREME COURT OF INDIA

Mridul Dhar (Minor)

Vs.

Union of India

Writ Petition (Civil) No. 306 of 2004

(Y. K. Sabharwal, D. M. Dharmadhikari and P. K. Balasubramanyan JJ.)

01.09.2004

ORDER

1. This petition has been filed by two students who in the all India Competition had the ranking of 1723 and 1726 competing for admission in medical colleges under 15% All India Medical Seat Quota. This petition was filed on 10th July, 2004 apprehending that on account of inaction by the States for holding counselling for medical college in the States, the vacant seats may get reverted to the States thereby depriving them to get admission in M.B.B.S. course in any Government Medical College in the Country.

2. By order dated 19th July, 2004, this Court directed that the All India Quota Seats shall not be surrendered in favour of the States. Various orders were passed with a view to get information from the States as to the All India Seats that may fall vacant after a candidate, after the first counselling of the State, may join the State college vacating the seat from All India 15% Quota. It came to light that many of the States had not even completed the first counselling which, as per Notification dated 25th February, 2004 was required to be completed and admission too completed on that basis by 25th July, 2004. In this state of affair, on 9th August, 2004 this Court directed that in whichever State the first counselling of the State Quota Seats in Government Medical College in the States is not complete, it shall positively be completed latest by 20th August, 2004 and latest by 21st August, 2004, the seats of All India 15% Quota that may become available, as a result of such counselling, shall be intimated to the Director General of Health Services. It was directed that 15% All India Seats Quota would not revert back to the State Quota till further orders, despite the fact that second counselling of All India Seats Quota may have already been over on 8th August, 2004. In fact there was a prayer for the stay of the second counselling of All India Quota Seats but this Court did not make any order staying the second counselling as it would have had resulted in uncertainty and avoidable confusion in the mind of the number of students. The information which was required to be intimated in terms of the Order dated 9th August, 2004 was not completely supplied to the DGHS even up to 30th August, 2004. When the petition was taken up yesterday, i.e. 31st August, 2004, Chief Secretaries of various States were personally made responsible to supply the information to DGHS by 9.00 p.m. of 31st

August, 2004. From the statement filed in Court today by DGHS, it seems that now the complete information has been filed by all the States.

3. The position that emerges from the said statement is that out of 1550 MBBS seats, 122 seats have fallen vacant and out of 144 seats in Dental Colleges, 38 have fallen vacant. We may note that the statement shows 39 but Mr. Lalit, appearing for the State of Maharashtra explained that inadvertently three seats have been shown to be vacant in Government Dental College, Mumbai though in fact the vacant seats are two.

4. Orders are required to be passed in regard to the aforesaid 122 MBBS seats and 38 seats in Dental College lest they may lapse in view of our orders dated 19th July, 2004 and 9th August, 2004. There may be more than one reason for such a state of affair but the main reason is non-holding of first counselling by the State within the period stipulated in the Notification dated 25th February, 2004. To streamline the admission in Medical Colleges at least from the next academic year, certain directions are required to be issued and parties heard but that process may take time and can wait for sometime but directions in respect of the vacant seats are required to be made immediately since the last date of admission is 30th September, 2004 and in fact the courses have already been commenced from 1st August, 2004.

5. Under the aforesaid circumstances, to fill the vacant seats, as a special case, this year we permit a limited continuation of the second counselling in the manner indicated hereinafter.

6. The continued second counselling would be confined to only those, as per merit, who have not already been admitted in MBBS Course in any of the Government Medical College in the country. If a student has already been admitted there would be no question of such a student being permitted counselling again so as to change the medical college with a view to get admission in some other medical college. The students who, as a result of the counselling already held, have taken admission in Dental Colleges would, however, be permitted to participate in the counselling for getting a chance for admission in the MBBS on their merit position. Further, as a consequence, certain seats in Dental Colleges may fall vacant. They would be given as per merit in the ranking in the All India Quota. We make it clear that those admitted in MBBS would not be permitted to change the college. Those who have taken admission in Dental College would also not be permitted to change one Dental College to another Dental college. The information about continued counselling would be given to all concerned by publication in electronic and print media by DGHS. The continued counselling must be over by 8th September, 2004. The students must join by 13th September, 2004. It is necessary to adhere to this schedule so that the remaining unfilled seats can revert and be filled by the State and only bare minimum number of seats may lapse. The States shall also take timely action so that the seats to a great extent may not lapse and all the admissions and joining by students are over by 30th September, 2004.

7. We make it clear that under no circumstances, we are inclined to extend the date beyond 30th September, 2004. The order shall not be treated as a precedent so as to open floodgates of litigation in other cases in the country.

8. To consider the issue of further directions for the next academic year, list the matter on 5th October, 2004.

W. P. (C)308/2004, W. P. 345/2004, S. L. P. (C) 16187-16190/2004

9. To come up along with W. P. (C) 306/2004 on 5th October, 2004.
Order accordingly.