

SUPREME COURT OF INDIA

Dr. Kulmeet Kaur Mahal

Vs.

State of Punjab

C.A.No.7940 of 2013

(K.S.Radhakrishnan and A.K.Sikri JJ.)

11.09.2013

JUDGMENT

K.S. RADHAKRISHNAN, J.

1. Leave granted.

2. Appellants are aggrieved by the order passed by the Punjab & Haryana High Court in Review Application No.89 of 2013 in LPA No.1070 of 2013, by which the Division Bench of the High Court clarified its earlier order dated 25.7.2013 stating as follows:-

“We thus clarify that there has not to be disturbance of the already allocated seats in the general category but whatever further seats remain vacant and/or are spill over from 60% quota, the RMOs will also compete with the only difference that there would be weightage given to them as per Clause (ix) of Medical Council of India Regulations.”

3. Appellants, who are nine in number and not made parties to the Review Petition, have questioned the order of the High Court on the following questions of law:-

I. Whether the impugned order passed by the Hon’ble High Court is sustainable in the teeth of law laid down by this Hon’ble Court in CA No.5705-5706 of 2012 Satyabrata Sahoo & Ors. Vs. State of Orissa & Ors. vide judgment dated 03.08.2012 since, in the said case this Hon’ble Court was pleased to quash the clause of prospectus (to the extent that it provided

for weightage to in-service candidates inspite of there being a reservation of seats for them to the extent of 50%) and held it to be ultra vires?

II. Whether the Hon'ble High Court could have expanded the scope of a writ petition while deciding a Review Application by creating a new category of candidates of RMOs by giving additional weightage of marks to them on the basis of their tenure of service within 40% open category seats for MD Course admissions?

III. Whether the Hon'ble High Court could have framed a new policy/new criteria without there being any provisions for the same either in the prospectus issued by Baba Farid University and/or in the Regulations issued by Medical Council of India, and which is contrary to the law laid down by this Hon'ble Court?

IV. Whether the Hon'ble High Court could have laid down new rules for admission to Post Graduate Medical Courses midway i.e. before the second counselling for the State of Punjab was to take place?

4. Shri Shyam Devan, learned senior counsel appearing for the Appellants, submitted that the High Court was not justified in granting the substantial reliefs in a review application filed in a dismissed appeal, confirming the judgment of the learned Single Judge. By the impugned order, the learned senior counsel submitted that the Division Bench of the High Court has created a new category of in-service candidates, and granted reservation carving out the same for the 40% quota earmarked for general category candidates for admission to MD course. At best they could seek a claim only for the 60% quota earmarked for in-service candidates and that itself is a moot question. The learned senior counsel, in support of his contention placed reliance on the judgment of this Court in *Satyabrata Sahoo & Ors. Vs. State of Orissa & Ors.*, (2012) 8 SCC 203. Learned senior counsel submitted that the RMOs cannot infiltrate into the 40% quota earmarked for the general category candidates depriving appellants of their choice of subject or college.

5. Shri P.S. Patwalia, learned senior counsel appearing for the RMOs submitted that the impugned order in no way deprives admission of the appellants, nor takes away their choice of subject or the college. Learned senior counsel tried to demonstrate the same by producing a chart which throws considerable light on his

plea. Shri Patwalia, learned senior counsel also submitted that even on merits the appellants have no case nor on equity.

6. We are of the view that the order passed by the High Court in the review application, as a matter of fact does not deprive the right of the appellants in getting admission into their preferred colleges or favourite subjects, even though we have our own reservation about the manner in which the High Court has entertained the review petition and granted the reliefs. But since the rights of the appellants are not adversely affected and the appellants and the RMOs have already been admitted to the various colleges and the counselling is also over, it would not be in the interest of justice to disturb the admission of the appellants or the contesting respondents.

7. We also find no reason to entertain the application for impleadment, which was filed after a period of one month from the date of passing of the impugned order. In academic matters, the time limit has to be strictly viewed and against the impugned order, candidates, if had any grievance, ought to have approached this Court at the earliest opportunity, which they did not. In such circumstances, we find no reason to entertain the Impleadment Application.

8. We, however, do not propose to give our stamp of approval to the clarification issued by the High Court in the review application, which we order, would be restricted to the facts of this case. Therefore, all legal questions arising out of that order are left open to be decided in an appropriate case.

9. The appeal, therefore, stands dismissed, so also application for impleadment. There shall be no order as to costs.