

(2016) 02 AHC CK 0217
In the Allahabad High Court
Case No : Writ - C. No. 28261 of 2015

Ankit Chaturvedi

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 05-02-2016

Acts Referred:

Indian Medical Council Act, 1956 — Section 33

Citation : (2016) 3 ADJ 324 : (2016) AIR(Allahabad) 126 : (2016) 3 AllWC 2502 : (2016) 116 ALR 97 : (2016) 2 UPLBEC 1490

Hon'ble Judges : Dr. D.Y. Chandrachud, C.J. and Pradeep Kumar Singh Baghel, J.

Bench : Division Bench

Advocate : Abhishek Mishra and Ravi Kant, for the Appellant; ASGI, Avani Singh Mishra and B.K. Singh Raghuvanshi, SC, for the Respondent

Final Decision : Dismissed

Judgement

Dr. D.Y. Chandrachud, C.J.

1. The petitioner has sought to question the constitutional validity of the provisions contained in Regulation 4(1) of the Regulations on Graduate Medical Education, 1997¹ read with Regulation 8 of the Eligibility Requirement for taking Admission in an Undergraduate Medical Course in a Foreign Medical Institution Regulations, 2002². These Regulations have been made by the Medical Council of India³ with the previous sanction of the Central Government under Section 33 of the Indian Medical Council Act, 1956⁴.

2. Regulation 4 forms a part of Chapter II of the Regulations, dealing with admission, selection, migration and training. Regulation 4 lays down the criteria for eligibility for admission to the Bachelor's Degree Course in Medicine. Insofar as is material, the Regulation provides as follows:

"4. Admission to the Medical Course - Eligibility Criteria: No Candidate shall be allowed to be admitted to the Medical Curriculum proper of first Bachelor of

Medicine and Bachelor of Surgery (MBBS) Course until:

(1) He/she shall complete the age of 17 years on or before 31st December of the year of admission to the MBBS Course.

(2) He/she has passed qualifying examination as under:..."

3. The challenge to Regulation 4 which has been urged during the course of the hearing, is to the requirement that a candidate should have completed the age of 17 years on or before the 31st day of December of the year in which he or she takes admission to the MBBS Degree Course.

4. The learned Senior Counsel appearing on behalf of the petitioner has submitted that:

(1) The provisions of Regulation 4(1) do not bear a nexus, much less a reasonable nexus to the object sought to be achieved and are not based on any rational criteria; and

(2) The requirement that a candidate should have attained the age of 17 years on 31 December of the year of admission to the MBBS Degree Course is not a reasonable requirement. Knowledge, it has been submitted, transcends age and there is no reason or justification for preventing a candidate who has passed the qualifying examination but who is yet to attain the age of 17, from seeking admission to the Degree Course in Medicine.

5. Now, at the outset, it would be necessary to note that these provisions in the Regulations have been dealt with in a judgment of a Full Bench of the Rajasthan High Court in *Gautam Kapoor Vs. State of Rajasthan*, AIR 1987 Raj. 174. The issue before the Rajasthan High Court was whether the prescription of a minimum age limit of 17 years was unreasonable or arbitrary, with no rational nexus with the object sought to be achieved by the provision. Chief Justice J.S. Verma (as the learned Chief Justice of India then was) speaking for the Full Bench, held thus:

"It cannot be doubted that a certain degree of maturity of body and mind is essential in a student joining the medical course and it is not unusual to reckon the same with reference to the age of the person. Undoubtedly there may be exception to the general rule, but a general rule is not to be based on exceptions. The Medical Council of India, which is constituted under the Medical Council Act, 1956 and is a body of experts in the field, is also required to prescribe the minimum standards of medical education. It is also empowered by the Act to make Regulations generally to carry out the purpose of the Act and particularly for the matters specified expressly in S. 33 of the Act. One of the recommendations made by the Medical Council of India in exercise of its statutory power is that the minimum age limit of 17 years at the time of entry into a Medical College should be prescribed. There is no dispute that this minimum age limit is being followed throughout the country and for a long time."

The Rajasthan High Court held that having due regard to the minimum age of a candidate, ordinarily, at the time of passing the qualifying examination, the age requirement specified by MCI was not unreasonable or arbitrary.

6. The same view was adopted in a more recent decision of the Rajasthan High Court in *Akshanjali Morya Vs. Union of India* D.B. Civil Writ Petition No. 57 of 2013 rendered on 9 May 2013. The Division Bench held that prescribing a minimum age for admission was a matter of policy on which the Court would not interfere:

"By now it is well settled that it is not the function of the Courts to go into the question of prescription of age, unless, it seems to be so absurd and unreasonable that a man of ordinary prudence would not accept such a prescription. Even otherwise, the Courts are not equipped with any expertise to come to a conclusion as to what would be the proper age for a student to enter the M.B.B.S. Course. It is for the policy makers to consider the various factors which are relevant to the issue, before fixing the age limit for admission to the medical courses."

Moreover, it was held that since qualifying examinations are conducted by various Boards and Universities at different points of time and entrance examinations for admission to the MBBS Course are conducted on different dates, MCI, with a view to ensure uniformity, had chosen 31 December as a date on which a candidate should attain the age of 17 years with reference to the year in which admission to the MBBS Course is made. In that context, the Division Bench observed as follows:

"...In the existing pattern of education in the country, normally, a candidate passes the qualifying examination at the age of 16 or 17 years of age. The Medical Council in its wisdom had come to the conclusion that, for proper understanding and comprehension of medical education, a candidate must possess certain level of maturity, which comes with age. The prescription of the minimum age is on account of studied deliberations made by the Medical Council and is a manifestation of an informed decision taken by the Medical Council in association with the Central Government, for prescribing the minimum standards and qualifications. The said decision has been taken in pursuance of the discussions, consultations and deliberations, made by an expert academic body and is made for the furtherance and maintenance of minimum standards for medical education. Therefore, such a regulation cannot be characterised as arbitrary."

7. In a judgment of a Division Bench of the Delhi High Court in *Mohit Kumar Arora Vs. University of Delhi* Civil Writ Petition No. 4353 of 2003, rendered on 11 July 2003, the requirement was held to be based on a rational foundation:

"The requirement of age, both minimum and maximum, is mandatory and not directory. In professional courses the authorities thought it proper to have proper maturity and understanding of the course by the candidate and have the

requirement to prescribe the age and it is based on intelligible differentia. There is an objective to be achieved. This classification of 17 years is based on rational aspect."

8. The same view has been taken by a learned Single Judge of the Andhra Pradesh High Court in *U Anveshini Vs. Convenor, Eamct-2000*, 2001 (6) ALD 180 : 2001 (5) ALT 686.

9. The decision of the Supreme Court in *Maharishi Mahesh Yogi Vedic Vishwavidyalaya Vs. State of Madhya Pradesh*, (2013) 15 SCC 677 involved a challenge to an amendment in the provisions of the *Maharishi Mahesh Yogi Vedic Vishwavidyalaya Adhiniyam, 1995*. The following observations contained in paragraph 23 of the decision have been emphasised in the submissions of the learned Senior Counsel:

"...It is needless to state that education, a constitutional right, has been explained as an essential part in every one's life..."

10. Undoubtedly, education is a constitutional right and constitutes an essential part of life. But this does not foreclose the statutory powers of an expert academic authority to prescribe reasonable conditions for the pursuit of education in areas over which it has been vested with jurisdiction by Parliament. The requirement that a candidate should have completed 17 years of age on the 31st day of December of the year in which admission is taken to the MBBS Degree Course is based on a rational foundation.

11. The matter can be looked at from two perspectives. The first perspective of the requirement is related to the age at which a candidate would be ordinarily expected to have completed the qualifying examination. The qualifying examination being higher secondary or Class-XII examination, ordinarily, a student would not have completed the examination before completing the age of 17. That proceeds on the basis that even if admission is taken at the age of five (though, in the present age, admission to primary classes is granted at the age of six), students would thereafter pursue 12 years of education. In other words, ordinarily speaking, the age requirement is so structured as to allow a student to have completed a full 12 years of study for the purpose of completing the higher secondary education.

12. The second perspective from which the matter can be looked at, is the assessment that a student in order to seek entry to a medical course should have attained a certain degree of maturity. Maturity and experience are not unrelated to age and, in fact, conventional wisdom would also indicate that maturity and experience are functions of age. Aberrations or exceptions do not define the ambit of constitutional validity. The constitutional validity of a legislative measure or subordinate legislation has to be determined on the basis of a generality of application and not on the basis of exceptions.

13. For these reasons, we come to the conclusion that there is no merit in the

constitutional challenge. The petition shall accordingly stand dismissed. There shall be no order as to costs.

1Regulations

2Regulations of 2002

3MCI

4MCI Act