

(1986) 04 KAR CK 0035
In the Karnataka High Court
Case No : W.A. No. 493 of 1986

Arun Prasad

APPELLANT

Vs

Chairman, Selection Committee

RESPONDENT

Date of Decision : 04-04-1986

Acts Referred:

Karnataka Medical Colleges (Selection for Admission to Post Graduate Courses) Rules, 1985 — Rule 11, 11 (2), 3, 7, 9

Citation : (1986) ILR (Kar) 1781

Hon'ble Judges : Jagannatha Shetty, Acting C.J.; Venkatesh, J

Bench : Division Bench

Advocate : T.S. Ramachandra, for the Appellant; Chandrasekharaiah, Government Advocate for R-1 to R-3, for the Respondent

Final Decision : Dismissed

Judgement

Jagannatha Shetty, Ag. C.J.

1. This appeal is directed against the order made by the learned single Judge dismissing the writ petition and rejecting the plea of the appellant for a seat in the Post-graduate Course in any one of the Government Medical Colleges.

2. Arun Prasad, the appellant, is a medical graduate. He applied for a seat in the Post-graduate Course in medicine for the academic year 1985-86. He has been selected for admission but allotted to Gulbarga Medical College, which is a Private Medical College. He filed a Writ Petition challenging the selection as arbitrary and contrary to the Rules regulating the admission to Post-graduate course. His contention was that he ought to have been selected for admission to any one of the Government Medical Colleges and not to a Private Medical College. Learned Single Judge after considering the relevant Rules did not accept his contention.

Hence this Writ Appeal.

3. The question raised in this appeal turns on the true scope and ambit of the

Karnataka Medical Colleges (Selection for admission to Post-graduate Courses) Rules, 1985 (called shortly "the" Rules).

Rule 3 provides for eligibility of candidates seeking admission to Post-graduate courses. It states that the person who has not passed MBBS degree examination conducted by any one of the Universities in Karnataka or an equivalent examination declared as such by the State Government/University in the State, is not eligible for admission.

Rule-7 provides for distribution of seats in Government Medical Colleges and Government seats in Private Medical Colleges. The Rule states that the number of seats available for admission in Government and Private Medical Colleges shall be filled by merit-cum-reservation from all eligible candidates by Selection Committee constituted for the purpose.

Rule 9 provides for constitution of Selection Committee.

Sub-rule (2) of Rule 11 is more relevant in this case and the same is set out hereunder for immediate reference :

"2 (a) The Selection Committee shall prepare a common list of candidates finally selected based on the total number of seats and thereafter allot the selected candidates to different Colleges ;

(b) The Selection Committee shall not be bound to allot any candidate to any particular College.

(c) Selection shall be made first to the Government Medical Colleges and then for Government seats in Private Medical Colleges.

Note: Applications shall be considered for the same courses for both Government Medical Colleges and for Government seats in Private Medical Colleges".

4. These are the relevant Rules which have a bearing on the question raised. We may now refer to a few more facts. It is stated and indeed not disputed that in the year in question there were in all 42 seats in the Post-graduate Course in Medicine (M.D., in medicine) available for the State Government. Out of this, 34 seats were from the four Government Medical Colleges and the remaining 8 seats were from the three Private Medical Colleges. - (JJMC, Davangere, JNMC Belgaum and MRMC Gulbarga), These Private Medical Colleges have made available those seats to the Government by an arrangement between them. As against the said 42 seats, the Selection Committee prepared a select list on the basis of merit and reservation provided to various communities. It was as per Rule 11(2)(a). The appellant was one of such selected candidates. He was selected on the basis of his merit. The Selection Committee in the normal course exercising its discretion allotted him to Gulbarga Medical College as against the seat reserved for the Government.

5. Mr. Ramachandra, Counsel for the appellant, challenges the validity of the selection taking the following line of reasoning :

That the duty of the Selection Committee does not end when the first list is prepared under Rule 11(2)(a) and out of that list, there shall be a further selection to fill up first the seats in the Government Medical Colleges. Such a select list also shall be prepared on the basis of merit and prescribed reservation. The remaining candidates in the first list shall then be allotted to the Private Medical Colleges as against the Government seats reserved therein.

In support of that contention, the Learned Counsel strongly relied upon Rule 11(2)(c) which provides :

"Selection shall be made first to the Government Medical Colleges and then for Government seats in Private Medical Colleges".

6. We have carefully perused the Rules. Rule 11(2)(c) left to itself may lend credence to the contention, but it cannot be read in isolation, As seen earlier, Rule 11 provides procedure for selection of candidates. As per the prescribed procedure, only one select list is required to be prepared. There is no scope for selection within selection, one to the Government Medical Colleges and another to Government seats in the Private Medical Colleges. There shall be one; selection for all seats available for the Government. When such a select list is prepared in accordance with Rule 11(2)(a) then what remains to be done by the Selection Committee is only allotment of selected candidates to any particular college. That allotment is within the discretion of the Selection Committee This much is clear from Rule 11(2)(b) which states that the Selection Committee shall not be bound to allot any candidate to any particular College. That only means that no candidate can demand or choose a College of his choice. It would for the Selection Committee to allot candidates by using its discretion. The discretion appears to be wide, but like every other discretion of a responsible authority or body it shall not be patently arbitrary or fanciful.

There then follows Rule 11(2)(c) which states that selection shall be made first to the Government Medical Colleges and then for Government seats in Private Medical Colleges. In the order in which these Sub-rules (a)(b) and (c) have been arranged the word "selection" in Rule 11(2)(c) appears to be a misnomer. It must in the context mean "allotment". The seats in the Government Medical Colleges stand on the same footing as the Government seats in the Private Medical Colleges. It is, therefore, unreasonable to contend that there shall be a separate selection to the Government Medical Colleges. The only reasonable way to read the sub-rule is that the allotment, which is within the discretion of the Selection Committee, must be first to the Government Medical Colleges and next to the Government seats in the Private Medical Colleges.

7. The view that we have taken gets support from the "note" appended to Rule 11(2). It states that applications shall be considered for the same course for both Government Medical Colleges and for Government Seats in Private Medical Colleges. It impliedly means that there shall be only one Selection for all the available seats and not two selections as contended for by the Learned Counsel

for the appellant.

8. In our view, the Learned Single Judge has taken a correct view of the matter and it does not require interference.

The appeal, therefore, fails and is dismissed.