

(1986) 03 KAR CK 0059
In the Karnataka High Court
Case No : Writ Petition No. 2200 of 1986

Arun Prasad

APPELLANT

Vs

Chairman, Selection Committee

RESPONDENT

Date of Decision : 05-03-1986

Acts Referred:

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

Citation : (1986) ILR (Kar) 1331 : (1986) 1 KarLJ 384

Hon'ble Judges : Doddakale Gowda, J

Bench : Single Bench

Advocate : T.S. Ramachandra, for the Appellant; N. Devadas, HCGP for R-1 to 3, for the Respondent

Final Decision : Dismissed

Judgement

Doddakale Gowda, J.

Grievance of Petitioner relates to allotment of his admission to study M.D. in Medicine to a private Medical College.

2. Petitioner though secured admission in merit pool has been assigned to Gulbarga Medical Collage, an institution run by a registered society. His contention is that when he has secured admission in merit pool he must have been assigned to any one of the Government Colleges and not a private Medical College and impugned assignment/allotment to Private Medical College being arbitrary and illegal must be quashed with a further direction, directing admission to a Government College.

3. Selection to M. D. Course is governed by what is known as Karnataka Medical Colleges (Selection for Admission to Post-graduate Courses) Rules, 1985 (hereinafter referred to as the "Rules"). In order to resolve the controversy, it is necessary to know the scope and ambit of these Rules including power of Selection Committee. These Rules are applicable to selection of candidates to

various post-graduate degree/diploma courses in State in respect of seats in Government Medical Colleges as well as Private Medical Colleges as indicated in Schedule-I.

"College" means any Medical College in the State of Karnataka, whether Government or Private imparting education for a post-graduate degree or diploma in any branch of medical science. "Government seats" in Private Medical Colleges means the seats available to State Government in Private Medical Colleges as indicated in Schedule-I for being filled up by Selection Committee in accordance with these Rules.

4. It is unnecessary to refer to Rules relating to eligibility. Total number of Government seats in different colleges for various degree courses is indicated in Schedule-I. Relevant Rule 11 of the Rules reads thus :-

"11. Procedure for Selection:--

(1) Subject to reservation for persons referred to in Rule 8 which shall be worked out, as far as may be, in accordance with procedure specified in Government Order No. DPAR 1 SBC 77, dated 4th March 1977, the selection shall be made on the basis of merit determined as follows :

(i) marks obtained in the respective subject in MBBS reduced to 100, as indicated below :-

xxx xxx xxx

(ii) Ten per cent of marks shall be added to the marks obtained in the respective subject in MBBS reduced to 100, for the candidates who have passed Diploma Course in the concerned subject.

xxx xxx xxx

(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.

xxx xxx xxx

(6) The decision of the Selection Committee regarding selection or allotment shall be final."

Government seats for Medicine in different colleges as per Schedule-I is as follows :-

BMC, Bangalore

13

Medical College, Mysore

10

KMC, Hubli

7

Medical College, Bellary

4

JJM MC, Davangere

1

KMC, Mangalore

2

JNMC, Belgaum

2

NRMC, Gulbarga

3

Total

42

62 per cent of the total number of seats is reserved for candidates belonging to socially and educationally backward class. After excluding reservation only 13 seats are available in merit pool. On selection, Committee has assigned or distributed these 42 candidates to different Colleges. Plea of petitioner, as already indicated is that he should have been assigned to Government Medical Colleges instead of Private Medical College.

5. Sri T. S. Ramachandra, Learned Counsel for petitioner relying on Clause (c) extracted above, contended that selection should be first made to Government Medical Colleges and then to Government seats in Private Medical Colleges. His submission is that selection should be made first to 34 seats in Government Medical Colleges and thereafter, selection should be made for the remaining 8 seats in Private Medical Colleges. If it had been done strictly, in accordance with Clause (c), in all probabilities, he would have been assigned or allotted to Government Medical College. Non-compliance of Clause (c), according to him,

vitiates his assignment to Gulbarga Medical College.

6. Selection is in respect of Government seats both in Government and Private Medical Colleges. All seats available for Government are pooled and selection is made by Selection Committee. Selection is one and compendious and not in piece-meal or part-wise. As per Clause (a), Selection Committee is required to make a selection on the basis of merit, subject, of course, to reservation. While preparing select list on the basis of merit, persons with less merit have yielded their places for candidates in whose favour reservation is made so as to make up total 42 seats. In the absence of Clauses (a) and (b) of Sub-rule (2) of Rule 11 and Sub-rule (6) of Rule 11 of the Rules, contention of Sri T. S. Ramachandra could have been accepted. If contention of Sri T.S. Ramachandra is accepted, candidates secured admission on account of reservation placed at the bottom of the list will have to be assigned to Private Medical Colleges only. That, not being the purport of the Rule acceptance of such contention would result in absurdity.

7. Nextly, it is contended that after making selection of 34 seats available in Government Medical Colleges, separate selection should be made in respect of 8 seats available in Private Medical Colleges. If that plea is accepted, it is not possible to work out the reservation in Private Medical Colleges, as seats available in Private Medical Colleges are 1, 2 and 3. Selection is made as a whole for Government seats in Government and Private Medical Colleges so as to give effect to reservation. It is on making such selection, Committee has been given certain amount of discretion to allot a candidate to any College and decision of Selection Committee is made final. If plea of petitioner based on Rule 11 (2) (c) is accepted then Clause (b) of Sub-rule (2) of Rule 11 and Note appended thereto would become redundant.

8. Rules must be read as a whole and every clause of the Rule must receive harmonious construction. In this view, Clause (c) only means that selection to Private Medical Colleges cannot be resorted to without exhausting seats available in its College. If candidates fall short of intake to Government Colleges, it cannot be said that, despite. Selection Committee has got power to make selection to Private Medical Colleges. It is only a rule of convenience viz., before trenching upon the power of management to make admission, Government should avail of all the facilities available in Colleges maintained by it. Clause (c) of Sub-rule (2) of Rule 11 is intended to meet such contingency and not to make selection in piece-meal or college-wise.

9. Sri T. S. Ramachandra, Learned Counsel, when confronted with Clause (b) extracted above, he had to admit that Selection Committee has discretion to allot candidates as amongst Government Colleges and likewise, it has got discretion to allot candidates to private colleges when selection is made to Private Medical Colleges. The scope and ambit of Rules intend selection as a whole both to Government and Private Medical Colleges. In that process, Selection Committee is given discretion to allot candidates to whichever colleges, be it a Government or a Private Medical College. It is not possible to accept the contention that

discretion conferred under Clause (b) operates when selection is made as amongst Government and Private Medical Colleges separately.

10. No candidate has got a right to contend that he should be selected to a particular college much less to a Government College. While dealing with a similar contention, a Division Bench of this Court in D. G. Viswanath -v.- Chief Secretary to the Government of Mysore and ors. AIR 1964 Mys. 132 has held thus :-

"It is not the case of any of the petitioners that he or she had applied for admission to any college as such. On the other hand all of them had applied to the selection committee appointed by the Government. That being so, they are precluded from questioning the competence of the Committee appointed."

Hence, I find no merit in this Writ Petition. Writ Petition is dismissed.