
(1980) 07 KAR CK 0027
In the Karnataka High Court
Case No : WP 15147 of 1980

Ashik

APPELLANT

Vs

The Selection Committee and Others

RESPONDENT

Date of Decision : 21-07-1980

Acts Referred:

Karnataka Medical Colleges (Selection for Admission) Rules, 1979 — Rule 10

Citation : (1980) 2 KarLJ 270

Hon'ble Judges : M. P. Chandrakantharaj Urs, J

Judgement

1. The petitioner was one of the numerous successful applicants for a seat in the 1 year MBBS., Course in one of the Government Medical Colleges in the State of Karnataka, under the Karnataka Medical Colleges (Selection for Admission) Rules, 1979) (hereinafter referred to as the Rules). He was selected by the 1st respondent-selection Committee constituted under Rule 6 of the Rules and in terms of Rule 10, allotted to the Government Medical College, Mysore. Aggrieved by the allotment made, the petitioner has approached this Court for relief under Art. 226 of the Constitution, inter alia, contending that the 1st respondent Selection Committee has no power to allot the petitioner, who obtained in II year P.U.C., pass from Bangalore University, to the Medical College which is affiliated to the University of Mysore. He has further contended that in the case of majority of students on representation being made the 1st respondent-Selection Committee had changed the allocation, whereas in the case of the petitioner the change was not permitted. However, before this matter could be heard, the petitioner was forced to join the Medical College at Mysore and in those circumstance the obtained the permission of the Government for a transfer to the Medical College at Bangalore, as one of the candidates selected and allotted under the Rules to Bangalore Medical College affiliated to Bangalore University was anxious to obtain a transfer to Mysore In this behalf, the petitioner approached the Government who issued an endorsement to the effect that the Government had no objection. But, however, the petitioner approached the Chairman of the 1st respondent-Selection Committee. But the Chairman has not

acceded to the request.

2. It is in the light of these facts narrated above, that the contentions advanced for the petitioner must be, examined and dealt with.

3. Rule 10 of the Rules gives discretion to the Selection Committee to allot seats in different colleges affiliated to different Universities from among the candidates selected at the interview in accordance with the Rules. No material has been placed before this Court to attract the protection of Art. 14 of the Constitution inasmuch as the petitioner is not the only one who is a II Year P.U.C undergraduate who has been selected by the 1st respondent-Selection Committee and allotted to Mysore Medical College affiliated to Mysore University.

4. It has been further urged that students who have scored lesser marks and who had passed out of the Bangalore University II Year P.U.C, from Colleges affiliated to Bangalore University have been given seats in Bangalore itself and therefore there has been violation of the fundamental rights of the petitioner under Art. 14 of the Constitution.

This appears to be a strange argument inasmuch as the Rules provide for selection of candidates for the I Year MBBS, Course in the Government and Private Medical Colleges in the State of Karnataka on a Statewide basis and not on Universitywise basis. If read in this context, Rule 10 of the Rules supports the scheme and policy underlying the selection and cannot be said to be discriminatory on that ground. Merit counts for purpose of obtaining selection and not for allocation of seats. It is not the case of the petitioner that he has not been selected in spite of being more merited than the other respondents named by him in this behalf. His only grievance is that allocation is not linked to merit of the candidate applying for a seat. Therefore, I am unable to see either the violation of the Rules or the Rule itself being discriminatory and violative of Art. 14 of the Constitution,.

5. From the records made available by the learned High Court Government Pleader, Shri G.R. Nataraj. it is clear that the Government on 20-6-1980, have for the second time indicated to the Director of Medical Education in Mysore who is not a party to these proceedings that it has no objection for the transfer of the petitioner from Medical College Mysore to Bangalore Medical College within three months after passing the I Professional Examination (I year MBBS, Course). The instruction is not addressed to the Chairman of the Selection Committee. In any event, the Selection Committee has no control over the Medical Education of the petitioner and the like of him in the State of Karnataka. This is controlled by the three Universities to which several of the Medical Colleges including the Government Medical Colleges are affiliated. Rules 13 and 14 of the Rules make it clear that the ultimate authority in the matter of admission and Medical Education is the University and not the Selection Committee. The only other body which has powers of control over the Medical Education in this Country is the Indian Medical Council which is created under law made by the Parliament under

Entry 66 of List I of the VIIth Schedule to the Constitution. It is to be presumed that the University authorities and the Colleges affiliated to them are the ones who regulate transfers between Colleges in the same University and also between Colleges affiliated to the different Universities. The petitioner does not appear to have approached any one of the Colleges or the University authorities in this behalf. In this position, if the Director of Medical Education has nothing to do with the Medical Education there is no duty cast upon him to consent or withhold his consent in the matter of transfers. If any attempt is made by the Director of Medical Education to interfere with the transfers approved by the University authorities, such interference would be usurpation of power which is not vested in him. The learned Government Pleader has not placed any material before me to hold that the Director of Medical Education is empowered to interfere with the transfer which otherwise the Universities or the College authorities may permit.

6. Therefore, I do not see much force in the contention of the learned Counsel for the petitioner that the Director of Medical Education is duty bound to consent to the transfer in accordance with the direction issued by the Government. It is normally understood that the Director of Medical Education being a servant of the Government is bound to carry out the instructions issued from the Secretary, to the Government. If he does not, he is answerable to the Government and to none else. In that position, the petitioner does not acquire any legal right to enforce the consent of the Government entitling him to a writ of mandamus from this Court. The petitioner is free to obtain permission from concerned Universities and the concerned Colleges for his transfer on mutual basis.

If the relevant Rules and statutes of the Universities provide for such transfers, it is open for the Universities concerned and the Colleges concerned to consider the application of the petitioner having regard to all the circumstances made out by him. With these observations this Writ Petition is dismissed and the rule nisi issued earlier is discharged. There will be no order as to costs.