
(2007) 11 MP CK 0018
In the Madhya Pradesh High Court

Deepak Chaturvedi

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 23-11-2007

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2008) 2 MPHT 256 : (2008) 1 MPLJ 306

Hon'ble Judges : A.K. Patnaik, C.J.;Ajit Singh, J

Bench : Division Bench

Judgement

A.K. Patnaik, C.J.

The question, which arises in the decision of this writ petition, is whether a medical college, which is financed and controlled by the Government, can charge higher fees for payment seats from students admitted to its MBBS course.

The relevant facts briefly are that the petitioner appeared in the Pre-Medical Entrance Examination, 2003 and secured 991.39 marks out of 1200 marks and his name was placed in the merit list at serial number 280 in the category of general category students. On the basis of his position in the merit list, he was offered a free seat in MBBS course in R.D. Gardi Medical College, Ujjain (respondent No. 3), which is a private medical college, but the petitioner chose GMRC Medical College, Gwalior (respondent No. 4), which was Government College, and was granted admission in the respondent No. 4, College. The petitioner's grievance in this writ petition is that respondent No. 4, College, is claiming fees of Rs. 1,50,000/- from the petitioner on the ground that the petitioner has been admitted to a payment seat, whereas respondent No. 4, College, has been charging fee of Rs. 35,000/- from those students who have been admitted to free seats.

Mr. Sanghi, learned Counsel for the petitioner, submitted that the petitioner was selected for a free seat on the basis of his position in the merit list and, therefore, he is liable to pay the fees for a free seat. Alternatively, he submitted

that respondent No. 4, being a college financed and controlled by the State Government, is not entitled to charge higher fees for payment seats and can only charge the fees payable for free seats. Mr. Kumares Pathak, learned Deputy Advocate General for the State, on the other hand, submitted that the petitioner had been offered a free seat in respondent No. 3 College, but he opted for admission in a payment seat in respondent No. 4 College, and, at this stage, he cannot be allowed to say that he will not be liable for fees applicable to a payment seat.

It is not disputed before us that respondent No. 4 is a College financed and controlled by the State Government of Madhya Pradesh. If that be so, the scheme formulated by the Supreme Court in Unni Krishnan, J.P. and others Vs. State of Andhra Pradesh and others etc. etc., , of free seats and payment seats for private professional colleges is not applicable to respondent No. 4, College, financed and controlled by the State Government. This will be clear not only from the judgment of Supreme Court in Unnikrishnan J.P. and Ors. v. State of Andhra Pradesh and Ors. (supra), but also from the judgment of Supreme Court in Institute of Human Resources Development and others etc. Vs. T.R. Rameshkumar and others etc., . The relevant portion from Paragraph 10 of the judgment of Supreme Court in Institute of Human Resources Development and Ors. v. T.R. Ramesh Kumar and Ors. (supra), is quoted hereinbelow:

The entire scheme in Unnikrishnan is designed for private educational institutions. The contention of the respondent that the two colleges in question should also be considered as private Engineering Colleges because they are run by two societies registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955, cannot be accepted in view of the Government order dated 8-6-1994. The material which is produced before us clearly shows that these two societies are fully controlled by the State of Kerala. The fees which have been fixed in the present case are also fixed by the State Government which has given budget details relating to these two colleges.

It is also not disputed that the petitioner had been offered a free seat in respondent No. 3 College, which is a private medical college, on the basis of his position in the merit list. Hence, he was, in any case, entitled to admission in MBBS course in a fresh seat and accordingly liable to pay lower fees charged for a free seat in a private medical college. Thus, even if he was given admission in respondent No. 4, Government College on the basis of his own option, he was liable to pay fees applicable to free seats. By virtue of the fundamental right to equality that a student is entitled to admission in a professional college on the basis of his merit and this being a fundamental right granted by Article 14 of the Constitution cannot be waived by the petitioner by exercise of any option.

For the aforesaid reasons, we direct that respondent No. 4 will claim and charge fees applicable for free seats from the petitioner. We are told that the petitioner has already paid to the respondent No. 4 fees higher than the fees fixed for free seats. If that be so, respondent No. 4 will adjust the amounts already paid by the

petitioner towards fees payable for free seats and refund the excess amount if any, to the petitioner. This direction is only confined to the case of petitioner.

The writ petition stands disposed of.