
(2007) 02 PAT CK 0002
In the Patna High Court
Case No : CWJC No. 886 of 2007

Dr. Sucheta Kumari

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 08-02-2007

Acts Referred:

Constitution of India, 1950 — Article 14, 15, 16

Citation : (2007) 1 PLJR 804

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Advocate : Ganesh Pd. Singh, Ashok Kumar Singh and Saryadeo Singh, for the Appellant; P.K. Shahi For The Bihar Combined Entrance Competitive Examination Board, M/s S.C. 5 and G.P 16 For the State and M/s Rajendra Pd. Singh, Rajeev Kumar Singh and Mrityunjay Kumar For the Intervenor, for the Respondent

Final Decision : Dismissed

Judgement

V.N. Sinha, J.—Heard learned counsel for the parties in both the cases. Petitioner, Dr. Sucheta Kumari has passed MBBS examination from Nepal Medical College, Kathmandu and after completing internship at Ram Mahohar Lohia Hospital, New Delhi, has been registered in the Indian Medical Register by the Medical Council of India (hereinafter referred to as the MCI), vide Certificate No. 27517 dated 13.1.2006. Petitioner, Dr. Gyanendra Singh has passed MBBS examination from Anna Malai University and after completing internship, has been registered with the Tamil Nadu Medical Council, Chennai as medical practitioner, bearing Registration No. 65718 dated 28.2.2000. They are residents of Bihar and have questioned Clause 5.1 (i) of the Prospectus issued for holding the Post Graduate Medical Admission Test for the Academic Session 2007-08, which inter alia provides that only those who have passed MBBS examination from any medical college of Bihar State included in the schedule of MCI, shall be permitted to appear in the said examination as according to the petitioners such eligibility clause restricting the candidature of those who have passed MBBS examination from any other medical college though recognized by the MCI but situate outside

Bihar, tantamounts to providing for 100% institutional reservation in favour of the students of the different medical colleges of the State, which is contrary to Articles 14, 15 and 16 of the Constitution of India as has been interpreted by the Hon"ble Supreme Court from time to time whereunder institutional preference should not exceed 50% of the total number of seats. In this connection, they have relied on the judgments of the Hon"ble Supreme Court in the case of Dr. Pradeep Jain and Others Vs. Union of India (UOI) and Others, , in the case of Dr. Parag Gupta Vs. University of Delhi and Others, , in the case of Saurabh Chaudri and Others Vs. Union of India (UOI) and Others, and 57 in the case of Magan Mehrotra and Others Vs. Union of India (UOI) and Others, .

2. Learned Advocate General has submitted that Clause 5.1 (i) is not violative of Articles 14, 15 and 16 of the Constitution of India, as according to him the available seats for Post Graduate Medical Education in the different Medical Colleges of Bihar have been bifurcated in two categories, namely, 137 State seats and 99 All India Seats. The present examination is being held for 137 State Seats for which 100% institutional preference has been allowed under Clause 5.1 (i) of the Prospectus, but for the other available seats for Post Graduate Medical Education in different medical colleges of the State, namely, 99 All India seats, no institutional preference/reservation at all has been prescribed as those seats will be filled up from an open competition based purely on merits on All India basis in which medical practitioners registered by the MCI, passing from medical colleges outside the State, like the two petitioners are at liberty to appear. In support of such submission, he also placed reliance on the same judgment of the Hon"ble Supreme Court rendered in the case of Saurabh Chaudri and Others Vs. Union of India (UOI) and Others, and referred to paragraph 4 of the conclusion, which is quoted hereinbelow:

"(4) The institutional preference should be limited to 50% and the rest being left for open competition based purely on merits on an All India basis."

3. Learned counsel for the Intervenor Respondents also adopted the argument of the learned Advocate General.

4. Having heard counsel for the parties and having perused the impugned Clause 5.1 (i) of the Prospectus as also having seen the categorywise distribution of the seats, I am satisfied that the Post Graduate Medical Admission Test, 2007 is being held for the 137 State seats and the institutional preference as provided in Clause 5.1 (i) of the Prospectus is confined only to State seats and not to All India seats for which a separate examination shall be held purely on merits on All India basis in which the two petitioners shall have the liberty to appear for being considered for admission on merits. In the circumstances" I do not find any merit in these two applications, which are, accordingly, dismissed.