

(2002) 04 J&K CK 0001
In the Jammu And Kashmir High Court
Case No : O.W.P. No. 57 of 2001

Dr. Zeenat Farooq Khan

APPELLANT

Vs

State of Jammu & Kashmir and Others

RESPONDENT

Date of Decision : 08-04-2002

Acts Referred:

Citation : (2003) 2 JKJ 161

Hon'ble Judges : Bashir-Ud-Din, J

Bench : Single Bench

Advocate : Mohammad Iqbal Dar, for the Appellant; J.A. Kawoosa, AAG, for the Respondent

Final Decision : Dismissed

Judgement

Syed Bashir-ud-Din, J.—Petitioner, a permanent resident of State of Jammu and Kashmir applied for selection to the M.D/M.S Course in

the Jammu and Kashmir State for the year 2000 in Sports Category, pursuant to the Notification issued by the Competent Authority thereto. The

list of candidates selected for Post Graduate seats (degree/diploma) in the Government Medical Colleges of J&K was issued. Petitioner alleges

that she had secured 169 marks and instead of being selected to the MD course in Gynaecology and Obstetrics, for which she had applied, she

has been given Diploma Course in this very discipline. Pursuant to SRO 282 of 2000, she was to be selected for MD seat as her case falls at Sr.

No. 43 of the roster point laid for the 100 seats to be filled in the Post Graduate Disciplines. The right of petitioner has been ignored and at her

cost two candidates Syed Nazir Ahmad, who belongs to RBA category and one Mushtaq Ahmed Zargar coming in Rural Service Category have

been selected to MD Gynae and obstetrics, though these two candidates figure at the roaster points after her.

2. Respondents 2 and 3 in reply have not denied that the petitioner has been allotted Diploma in MD Gynae under Sports category, but it is denied

that she has earned right to be selected in Post Graduate Course of M.D in Gynae/ Obstetrics. It is stated that the roaster points laid for the 100

seats under SRO 282, is not to operate in the case of petitioner, in as-much-as the competent authority has clubbed all the categories in the face of

number of seats available being less than the categories candidates in respective disciplines. Under SRO 390 of 2000, 65% seats are meant for

open Merit Candidates and 35% for Reserve Category candidates. In the discipline of Gynae and obstetrics in all 4 Degree and 9 Diploma seats

were available out of which 4 Degree seats have gone to the categories of SC/ RBA/ST candidates who in between have to share the seats in the

ratio of 4%, 10%, 5% and 10%. The sports category has 1% reservation. Selection of category candidates had to be made by clubbing in as-

much-as, number of seats was far less than the number of categories. Petitioner was considered in terms of her merit and was allotted Diploma in

Gynae/ obstetrics discipline. No candidate with lesser merit than the petitioner in the Reserve category has been given M.D. seat. Even, during

counselling petitioner gave option for Diploma in Gynae/obstretrics, the reason for allotting her the seat. Petitioner in the face of merit of other

Reserve category candidates and the quota, has been given her due therefore, she has no grievance to make and the petition is not merited.

Heard.

3. Along with the petitioner the other Reserve category candidates had applied and received consideration for selection to MD/Diploma Course in

various disciplines. Sports category under which the petitioner came, had just 1% reservation, whereas, the other category candidates have as

much as 34% reservation. As among the various categories of SC/RBA/ST the ratio of reservation is 4%, 10%, 5% and 10% . Among the 4

Degree and 9 Diploma seats available in discipline of Gynae and obstetrics, for the Reserve Category Candidates, the 4 Degree seats have been

given to categories with higher reservation quota and the remaining 9 Diploma seats have been shared by the Reserve Category candidates

alongwith the petitioner. Petitioner who has just 1% reserve quota has earned one Diploma seat and no candidate with lesser merit than petitioner

has been selected in the reserve category. Even, in counselling, the petitioner opted for the Diploma seat. As the categories have been clubbed

after keeping in view that number of seats available were less than the roster point categories in the particular discipline. Though petitioner has

challenged the selection of one Nazir Ahmad, RBA category and another Mushtaq Ahmad Zarger of Rural Service Category both have not been

made party to the writ petition. In fact for that matter no candidate is made party to the writ petition. If petitioner is to get admission, it has to be at

the cost of some other selected candidate as all the available seats for the PG course in 2000 session are already filled up. The petitioner's claim to

the seat has to be at the expense of some other candidate who has not at all been made a party. Obviously, the question of ousting the candidate in

absence of his being a party and being afforded an opportunity, cannot be ordered. The petitioner is laying claim to Post Graduate Degree for the

Session 2000. Presently we are in 2002. In between 2001 and 2002, selections have also been made of various candidates for different disciplines

in Post Graduate and in Diploma Courses. Obviously, petitioner if given relief, will deprive the claim of others, who would be due for selection in

the session here-after. Right of consideration of others, at least equally situated and circumstanced, as the petitioner, for selection to ensuing

session in the various disciplines of Post Graduate Diploma Course in the Medical College would be defeated, in the case petitioner is granted the

claim and relief which she is praying for.

(See with benefit. Shubana Ashraf v. State 2001 SLJ 379).

4. In result, no case is made out for admission and the petition is dismissed at threshold.