

(1993) 09 SC CK 0135
In the Supreme Court Of India
Case No : Civil Appeal No. 4383 Of 1993

K. Sujatha

APPELLANT

Vs

Marathwada University and Others

RESPONDENT

Date of Decision : 21-09-1993

Acts Referred:

Citation : (1995) 1 SCC 155 Supp

Hon'ble Judges : Kuldip Singh, J;K. Ramaswamy, J;K. Jayachandra Reddy, J

Bench : Full Bench

Final Decision : Allowed

Judgement

1. The appellant was admitted to the MBBS course commencing from 19/10/1992 in the Latur Medical College, State of Maharashtra. She was admitted against one of the seats filled by the management under its discretionary quota. The appellant joined the course in October 1992. The Marathwada University, Respondent I, by its letters dated 4/12/1992 and 15/01/1993 cancelled the admission granted to the appellant. According to the University, the appellant was admitted in violation of Ordinance 211(a) of the University Ordinances and, as such, she was not entitled to continue her studies. The appellant challenged the said orders before the Bombay High court by way of a writ petition under Article 226 of the Constitution. The High court dismissed the writ petition. This appeal by special leave is against the judgment of the High court.

2. ORDINANCE 211(a) of the University Ordinances is as under :

"A candidate for admission against the open seats to the Medical Course must have obtained not less than 50 per cent of the total marks in English and the Science subjects (i.e. Physics, Chemistry and Biology) taken together at one and the same attempt in the qualifying examination. Candidates belonging to the Backward Class Communities (i.e. Scheduled Castes and Scheduled Castes converts to Buddhism, Scheduled Tribes including those living outside specified

areas, Denotified Tribes and Nomadic Tribes and other Backward Communities) and applying for admission to reserved seats must have obtained not less than 40 per cent of the total marks in English and Science subjects (i.e. Physics, Chemistry and Biology) taken together at one and the same attempt in the qualifying examination."

3. IT is not disputed that the appellant passed the qualifying examination in two attempts. Ordinance 211(a) clearly lays down that a candidate for admission against the open seat to the medical course must have obtained not less than 50 per cent of the total marks in the four subjects taken together at one and the same attempt in the qualifying examination. Since the appellant did not pass the qualifying examination at one and the same attempt, she was not eligible in terms of Ordinance 211(a) of the University Ordinances.

4. MR Madhava Reddy, learned counsel for the appellant, however, contends that Ordinance 211 (a) is only applicable to the candidates who are admitted against the open seats. According to him, since the appellant was not admitted against the open seat but one of the seats which was filled at the discretion of the management, the above-quoted Ordinance 211(a) was not applicable to her case. He relies on para B of brochure issued by the University which is as under:

"B. SELECTION AND ADMISSION OF STUDENTS. Admission to the First Year MBBS course are effected in accordance with the directives of the government of Maharashtra. Particulars of which are given below:

(I) 100 students will be admitted to the First Year MBBS course.

(II) 30% admission will be made on open merit students from local area.

(III) 30% admission will be made amongst open merit of students from Maharashtra.

(IV) 20% of the admission will be effected by the government of Maharashtra.

(V) 20% of the admission will be at the discretionary seats of the Management."

5. MR Madhava Reddy contends that only the 60 per cent seats mentioned in sub-paras (ii) and (iii) are the open merit seats and the remaining 40 per cent seats in sub-paras (iv) and (v) are not the open merit seats. Apparently, there seems to be some ambiguity in the Ordinance when read along with the admission rules quoted above, but we are not inclined to agree with the contention raised by Mr Madhava Reddy. There cannot be different eligibility rules for the candidates admitted from different sources. It is for the University to remove the ambiguity in the operation of the rules, if any.

6. WE are, however, of the view that in the facts and circumstances of this case, the ends of justice demand that the appellant be permitted to continue her studies. She was admitted to the course in the discretionary quota of the management. She studied and attended lectures up to January 1993. Mr Madhava Reddy states that the seat is still lying vacant and no one else can

utilise the seat in case the appellant is not permitted to join.

7. UNDER the circumstances, we allow the appeal, set aside the judgment of the High court and quash the orders dated 4/12/1992 and 15/01/1993 issued by the Marathwada University. We direct the respondents before us to permit the appellant to rejoin the Medical College, Latur and continue her studies from the point where she left in accordance with the rules, regulations and ordinances of the University and the Medical College. No costs.