

(1987) 02 KAR CK 0012
In the Karnataka High Court
Case No : Writ Petition No. 1188 of 1987

Lakshmi V.V.S.

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 18-02-1987

Acts Referred:

Constitution of India, 1950 — Article 14
Karnataka Medical Colleges (Selection for Admission to Post Graduate Courses) Rules,
1985 — Rule 3 (8)

Citation : AIR 1988 Kar 43

Hon'ble Judges : M. Rama Jois, J

Bench : Single Bench

Advocate : S. Shivaswamy, for the Appellant; K. Sreenivasa Gowda, Govt.
Pleader, for the Respondent

Judgement

1. The Petitioner in this petition has questioned the constitutional validity of sub-r. (8) of R. 3 of the Karnataka Medical Colleges (Selection for Admission to Postgraduate Courses) Rules, 1986 ("the Rules" for short).
2. This petition has come up for Preliminary hearing today, after notice to the respondents and by consent of the learned counsel, it is taken up for final hearing.
3. The facts of the case in brief are as follows : Petitioner's father is an officer on the establishment of the Reserve Bank of India. Since 1976 he has been posted at Bangalore and he is residing in this State. The petitioner joined the 9th Standard at Mahila Seva Samaja High School, Bangalore .in the year 1976 and after, studying for two years in the said school, she completed the S.S.L.C. in 1978. Thereafter she joined the National College, Jayanagar, Bangalore and passed P.U.C. during the academic years 1978 to 1980. She is a holder of National Merit Scholarship. She had secured more than 90 per cent marks in the P.U.C. examination. She was selected for admission to M.B.B.S. degree course, during the academic year 19801981. She joined Bangalore Medical College and

she passed the final M.B.B.S. Degree Examination securing first rank and secured Gold medal. During the year 1984-1985, she completed House Surgeoncy and she is eligible for admission to the Post-graduate Course. The petitioner made an application to the Selection Committee for making selection for Admission to the Post-graduate Course in Medical Colleges (respondent 4) seeking admission to the Post-graduate Course. But her application has not been considered in view of sub-r. (8) of R. 3 of the Rules called the Karnataka Medical Colleges, (Selection for admission to Post-graduate Courses) Rules, 1986. The said sub-rule reads:

"No candidate shall be eligible for admission for any post-graduate degree or post-graduate diploma course or super specialty course, unless he has studied for a minimum period of five years prior to the admission to M.B.B.S. course in any of the recognised Educational Institution situated within the State of Karnataka."

The petitioner has challenged the constitutional validity of the above rule on the ground that it is violative of Art. 14 of the Constitution of India, as it subjects the students who are citizens of India to discrimination, by rendering them ineligible for admission to post-graduate course just because they had not studied for a minimum period of five years prior to their admission to the M.B.B.S. degree course in any of the recognised Educational Institutions situated within the State of Karnataka.

4. The question is not res integra. The Supreme Court in the case of Dr. Pradeep Jain and Others Vs. Union of India (UOI) and Others, held that there was only one domicile in India, and a rule which brought about discrimination in the matter of admission to Medical Degree Course, on the basis of domicile or institutional preference is void as offending Art. 14. The concluding observations read :-

"We agree wholly with these observations made by the teamed Judge and we unreservedly condemn wholesale reservation made by some of the State Governments on the basis of "domicile" or residence requirement within the State or on the basis of institutional preference for students who have passed the qualifying examination held by the university or the State excluding all students not satisfying this requirement regardless of merit. We declare such wholesale reservation to be unconstitutional and void as being in violation of Art. 14 of the Constitution."

In view of the ratio of the above judgment, the condition imposed in sub-rule (8) of R. 3 of the Rule has to be declared void.

5. In the result, I make the following :

5(1). Sub-r. (8) of R.3 of the Karnataka Medical Colleges (Selection for admission to Post-graduate Courses) Rules, 1986 is declared void as offending Art. 14 of the Constitution of India.

5(2). A writ of mandamus shall issue to respondent 4 to consider the case of the

petitioner for admission to the Post-graduate Course.

Sri. K. Srinivasa Gowda, learned High Court Government Pleader is permitted to file his memo of appearance within two weeks from today.

Prepare a carbon copy of this order and furnish to the learned Counsel appearing on behalf of the State.

6. Petition allowed.