
(1994) 01 SC CK 0029

In the Supreme Court Of India

Case No : S.L.A. (C) No. 17206 /93 in Writ Petition No. 33851/93

Manipal Academy of Higher Education

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 12-01-1994

Acts Referred:

Citation : (1994) 1 JT 90 : (1994) 1 SCALE 25 : (1994) 2 SCC 283 : (1994) 1 UPLBEC 468

Hon'ble Judges : S. Mohan, J;B.P. Jeevan Reddy, J

Bench : Division Bench

Judgement

We have heard both Mr. Kapil Sibal, Sr Adv. and Mr. B.V. Acharya, learned Advocate General of the Suite of Karnataka at length. We have also had the benefit of the arguments on behalf of the University Grants Commission.

As on today a good deal of academic year had passed. The grant of status as "Deemed University" in favour of the petitioner has resulted in complexities. In order that the rights of the students to get admitted, may not be further delayed, we pass the following order only in respect of the academic year 1993-94 as an ad hoc measure.

1. The State of Karnataka has placed before us a table showing range of marks obtained in PUC or equivalent examination by students admitted to First M.B.B.S. course in Kasturba Medical College, Mangalore and Kasturba Medical College, Manipal during this academic year 1993-94 on the basis of a common entrance test. That table shows 52 students have obtained above 90% marks, 100 students have scored above 80% but below 90% of marks. In addition to this, there are also students belonging to scheduled caste and scheduled tribe.

2. Though the list was drawn from an intake of 275 students which represented the State Government's right to allot at 50% treating the institution as Minority Institution-as it was originally pleaded. That position has changed now. It is fairly admitted by the learned Advocate General that 75 students out of that list have

been accommodated. It is the submission of Mr. Kapil Sibal that the petitioner-institution (namely Manipal Academy of High Education) wants to maintain excellence of standards. Hence it should not be compelled to admit students who had scored less than 80% of the marks. Keeping that in view we hereby direct that the petitioner's institution shall admit the 180 students in all. We make it clear that this 180 does not include the 75 students already admitted. It is further made clear that this 180 shall include all students belonging to scheduled caste and scheduled tribe irrespective of the percentage of marks they had obtained in the qualifying examination subject of course they have qualified the test. Both the learned Counsel are agreed that the total seats available with the petitioner's institution are 400. Therefore, 40 minus 180 vis. 220 shall be admitted on the basis of the common entrance test both of MBBS and BDS courses, conducted on "an All India basis" by the Medical Council of India. The said Medical Council of India has hereby directed to conduct the examination on or before 20th December, 1993 and publish a result by 26th December, 1993.

3. The students selected by the Govt. of Karnataka namely 180 above referred to other than scheduled caste and scheduled tribe as well as the students who take the examination on an All India basis as conducted by the Medical Council of India, shall be admitted only in the order of merit.

4. The students belonging to scheduled caste and scheduled tribe shall be admitted free. After admitting them whatever seats remain out of 180 they shall be divided into two halves on the basis of merit. The first half shall be required to pay Rs. 8,000/- (rupees eight thousand only) per annum (fee fixed by the Govt.) and the second half shall pay Rs. 1,40,000/- per annum (fee fixed in other cases by us). This fee of Rs. 1,40,000/- fixed by us for second half of the students mentioned above is purely tentative.

5. In relation to the students who become successful and eligible for admission on the basis of All India entrance test, we do not fix the fees for the reason we are directing the University Grants Commission to fix the fees on or before 26th December, 1993 positively. A report regarding the fee structure fixed in obedience to this order shall be forwarded to this Court on or before 26th December, 1993. These students on such fixation shall be required to pay that fees alone. Equally, the second half of those 180 students minus scheduled caste and scheduled tribe students will also be required to pay that fee as fixed by the University Grants Commission. On that basis, if any refund is due, it is open to them to get such refund. Equally if any further fee is required to be paid by them, it is open to the petitioner's institution to demand the same.

6. The University Grants Commission while fixing the fee structure shall have regard to following (i) the judgment in Unnikrishnan's case (ii) this order wherein we have directed that all students belonging to scheduled caste and scheduled tribe shall be admitted free and further have regard to the fact that the first half of the students are required to pay only at the rate of Rs. 8,000/- as fix by the Govt. of Karnataka. The University Giants Commission shall fix the fee on the

material supplied by the petitioner and the State of Karnataka (if it so desires to furnish) independently on merits. However, on such fixation this Court will decide the question as to the reasonableness of the fee structure.

7. Such of those students as selected by the State of Karnataka on the basis of the qualifying test who could not be admitted into the petitioner's institution in view of our above order, shall be accommodated in other colleges by the State of Karnataka if necessary by creating additional seats in the Government Medical Colleges.

The above order applied only to M.B.B.S. course.

8. As regards Bachelor of Dental Science (B.D.S) course, the students allotted by the State of Karnataka as on date shall be admitted by the petitioner's institution. For the remaining seats such of those students who are successful in the "All India" entrance test referred to in paragraph 2 above and who are desirous of joining on B.D.S. course, shall be admitted on the basis of merit. The students drawn up from the list of State of Karnataka and allotted to B.D.S. course and admitted by the petitioner's institution shall pay Rs. 8,000/- or Rs. 1,00,000/- (fees fixed by the Govt. of Karnataka) depending upon the category to which the particular student is allotted. In relation to the students admitted on the basis of All India entrance examination, we are not fixing the fee structure but again direct the University Grants Commission to fix the fee independently on or before 26th December, 1993 and submit a report thereon.

Regarding the college of Nursing there is a dispute as to the number of students allotted. The same principle as applicable to B.D.S. course, shall be applicable. Whoever has been allotted by the State of Karnataka as on today, and admitted by the petitioner's institution shall pay Rs. 10,000/- and Rs. 15,000/- depending upon the category to which the student is allotted. For the remaining seats, it is open to the petitioner's institution to conduct its own examination on "an All India basis". Admission shall be made purely on the basis of merit except of course in the case of scheduled caste and scheduled tribe students on payment of Rs. 15,000/- per annum.

In the end, we made it clear the implementation of the order and the supervision in relation to each of the matters mentioned above, shall be done by the Secretary for Education. Govt. of Karnataka herself. The copy of this order shall forthwith be communicated to the Medical Council of India for complying with this order. We record the presence of the Secretary, University Grants Commission in the Court.

List the matters on 11-1-1994 at 1.30 p.m. in Court.