
(2003) 08 DEL CK 0024
In the Delhi High Court
Case No : Civil Writ No. 3336 of 2003

Manju Bala

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 04-08-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 5 AD 66 : (2003) 106 DLT 56 : (2003) 71 DRJ 680

Hon'ble Judges : Vikramajit Sen, J

Bench : Single Bench

Advocate : Siya Ram, for the Appellant; Aman Lekhi, for the Respondent

Final Decision : Dismissed

Judgement

Vikramajit Sen, J.—Reliance is being placed on the Orders of the Hon'ble Supreme Court in Writ Petition No. 203 of 1998 dated 20th July, 1998 entitled as Karandeep Singh and Ors. Versus Union of India and Ors., and in particular to the following paragraph:

"In the peculiar facts and circumstances of these cases, we direct the Director General, Health Services to examine the cases of all these petitioners and unless there are candidates, who have secured marks higher than the petitioner and are interested to peruse the Post Graduate courses in the concerned colleges, to grant them admission against the vacant seats available in different medical colleges of the country. The petitioners shall approach the Director General, Health Services within one week from today for a follow up action."

2. It is on this basis that learned counsel for the Petitioner submits that notwithstanding the Petitioner's specific waiver of the right to be considered in the State of Rajasthan, and assuming that there are some seats lying vacant in the All-India Quota, she should be permitted to participate in the second counselling for admissions in Rajasthan.

3. The genesis of the system/procedure which is presently in vogue can be found

in Anand S. Biji Vs. State of Kerala and Others, which reads as follows:

"The new system, in short, is this: after the examination is over, the results would be published in the order of merit. The selection committee will call 150 candidates a day in the order of merit. A chart will be kept ready and displayed at all relevant places indicating the colleges and subjects wherein the seats are available. Candidates will be called in the order of merit and asked to indicate his/her choice. The slot chosen by him/her then gets closed. This procedure will be gone through until all the seats are filled up. There would be no second or third list. Any seats remaining vacant thereafter will be surrendered to the State Government. But this modification will apply to and come into effect only for and from the admissions for the year 1994. It will not apply to the admissions currently underway. In approving the modifications, we have kept in mind the fact that most of the candidates for post-graduate admissions are employed and have the means to come to delhi for a day for counselling. We, accordingly, approve the modifications, mentioned below, as suggested by the Director General of Health Services, New Delhi.

(1) The All India post-graduate entrance examination will be conducted on second Sunday of January. The candidates will not be required to give any choices at the time of submission of the application form.

(2) The results will be announced by the third week of February every year.

(3) The merit list will consist of number of candidates equal to the number of seats available for allotment. A waiting list containing not more than 10% of the merit list will also be declared from amongst the successful candidates who have secured more than 50% marks in the competitive examination.

(4) The allotment by personal appearance will start from the first of March every year and will continue up to March 15.

(5) In the Bulletin of Information the dates for allotment by personal appearance and the venue at Delhi will be notified. The time-schedule for personal appearance will also be notified along with the results in the newspaper.

(6) For personal appearance, the candidates will be called in batches of 150 each day in the order of merit.

(7) The candidates shall have the right to choose any one of the available seats at his/her rank. The same will be allotted to him/her and the allotment letters will be issued on the next day.

(8) In case a candidate is unable to appear in person on a notified date for personal appearance, he/she can send his/her representative with an authority letter for allotment. The allotment made to the authorised representative shall be binding on the candidate.

(9) Each candidate shall be given 15 days" time to join the allotted college and course. The last date of joining shall be March 31 every year.

(10) The allotments made will be firm and final.

(11) The candidates who will not appear for allotment on the notified dates or who will reject the available seats for allotment or those who will not join the allotted course and college by March 31 shall forfeit the claim for a seat under the All India Scheme.

(12) All the seats remaining vacant after the allotment shall be deemed to have been surrendered back to the respective States.

In all other respects, the scheme in vogue shall continue to be effective."

4. The facts of the case are that the Petitioner has obtained a rank of 1575 in the All-India merit list. Mr. Aman Lekhi, learned counsel appearing for the Respondent submits that the last candidate who has been granted admission in the State of Rajasthan in the All-India Quota possesses the rank of 169 in the said list. He has also emphasised on the underlined sentence of Anand S. Biji judgment to submit that no seats are presently available in the All-India list having been surrendered to the State Government. In previous, obviously on this ground, counsel had sought an adjournment in order to implead the State of Rajasthan. This avenue, however, has not been followed. The result is that the seats, if any are still available, stand surrendered to the State Government. If any Order is passed by this Court, it would be behind the back of that State Government and in circumstances where the Petitioner was well aware of the factual matrix. Furthermore, if the relief prayed for is granted, the effect would be that the Petitioner would be considered for admission to a assumed vacancy in the State of Rajasthan despite her having the rank of 1575, and persons above the rank of 170, not being considered. This would bring about an inequitable situation.

5. It is not that the Petitioner has lost her right for pursuing further Post-graduate Degree. Her discomfort is that although she has gained admission to this course in the State of Assam, but that course is running late.

6. I do not find it a fit case for the exercise of jurisdiction under Article 226 of Constitution of India.

7. The Writ Petition is dismissed.