
(1992) 09 RAJ CK 0035

In the Rajasthan High Court

Case No : Civil Writ Petition No. 6167 of 1992

Miss Neelam Joshi

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 23-09-1992

Acts Referred:

Constitution of India, 1950 — Article 14, 15, 16, 21

Citation : (1992) 2 RLW 470 : (1992) 3 WLC 47 : (1992) WLN 339

Hon'ble Judges : V.K. Singhal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

V.K. Singhal, J.—The validity of the guidelines for Pre-Medical Tests have been challenged in this writ petition on the ground that the same are arbitrary, unreasonable, discriminatory and violative of Article 14, 15, 16 and 21 of the Constitution of India. The two Clauses of the guidelines, which have been challenged, are reproduced as under:

3-C(i) The candidates must have studied for the three years of qualifying examination continuously as a regular candidate in a recognised institution in Rajasthan.

AND

(ii) Natural father/mother of the candidate has continuously resided in Rajasthan for a period of last 10 years and the candidate has studied for at least 5 years during this period in a recognised educational institution of Rajasthan.

2. It has been submitted by the learned Counsel for the petitioner that the petitioner, her father and grand father are the residents of Rajasthan and simply because she had not studied for last 3 years of the qualifying examination continuously as a regular candidate in any recognised institution in Rajasthan, she cannot be denied her right to appear in P.M.T. test. It has been submitted

that the father of the petitioner was born in Rajasthan and has continuously resided for a period of more than 10 years and had to shift to Delhi on account of job, which has been assigned to him and he is still an Advocate enrolled in Rajasthan and the mother of the petitioner has continuously resided in the State of Rajasthan and therefore, the second condition that the candidate in such a case should have studied at least for 5 years, is also arbitrary. Reliance has been placed on the judgment of the Karnataka High Court in Lakshmi V.V.S. Vs. State of Karnataka and Others, , wherein the requirement of sub-rule (8) of Rule 3 of the Karnataka Medical Colleges (Admission to post Graduate Courses) Rules, 1986 was struck down in respect of the conditions of requirement of studies for a minimum period of 5 years prior to admission to M.B.B.S. in any recognised Institution of the State of Karnataka. The learned Judge of the Karnataka High Court has referred to the decision of Dr. Pradeep Jain and Others Vs. Union of India (UOI) and Others, wherein the 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 the students who have passed the qualifying examination held by the University for the State excluding the students not satisfying this requirement regardless of the merit was condemned.

3. The above judgment relied upon by the learned Counsel for the petitioner is of no help to the petitioner since the matter considered was with regard to wholesale reservation and in the case of Pradeep Jain, referred to above, the Apex Court has observed that with regard to admissions for M.B.B.S. courses, the reservation in respect of the students who have obtained education in that State could be made within the limits prescribed in the said judgment.

4. The next judgment relied upon by the learned Counsel for the petitioner is Sandeep Kumar Arya v. Secretary to the Government 1988 (2) RLR 157 wherein the condition that a candidate must have studied for at least 5 years out of last 10 years in a recognised educational institution in Rajasthan is arbitrary and discriminatory and the words "out of last 10 years" were struck down. Even according to this judgment, the requirement of Education in the State of Rajasthan for giving preference to those students was upheld.

5. Learned Counsel has also placed reliance on the decision in Heramba Kumar Sarma and Vs. State of Assam and Others, where the condition of institutional preference to the effect that the applicant must have studied for preceding 3 years in the State of Assam, was expected to be deleted or amended. This was a matter pertaining to the various seats of north-east zone, namely Meghalaya, Arunachal Pradesh, Nagaland etc. and the eligibility was for the permanent residents of the State of Assam and in this light the provision was examined, which has excluded the rights of other meritorious students of other States. In this very judgment it was observed that "we have traced the history of institutional preference in that the State Government in selecting candidates who have studied in the State of Assam. Looked at from that perspective we see no vice in the rule of 3 years. The only aspect the State Government did not

consider is that many students, if not all, who have passed High School Leaving Certificate Examination in Assam may not have known as to the students of Higher Secondary Course in Assam." This judgment is based on altogether different facts and is of no assistance to the petitioner.

6. In the present matter, I have already considered the validity of guidelines in the case of *Miss Sweta v. State of Rajasthan*, S.B. Civil Writ Petition No. 5510/92 decided on 9th September, 1992, wherein the validity of the guidelines was upheld. In *Dinesh Kumar v. State of Rajasthan* 1982 RLR 1008, this Court has considered the validity of the guidelines for admission to the medical colleges and it was held that it is now well settled that the reservations based on residential requirement as well as on institutional preference, is constitutionally valid on the touch stone of Article 14. It has also been decided that the residence for a specified number of years ranging from 3 to 20 years and the candidate having studied in an education institution in the State for a continuous period varying from four to 10 years is also valid. This judgment also does not help the petitioner. In this case, relief was given to the petitioner because by the interim orders of the High Court the petitioner was allowed to study in M.B.B.S. course and he studied for one year and therefore while dismissing the writ petition, the petitioner was allowed to continue his studies as a regularly selected student. Looking to the interest of the State as a whole and the student who have obtained education in a recognised institution of the State, if the State Government comes to their rescue, the guidelines cannot be considered as arbitrary or unreasonable. The preferences, which have been given in Clauses c(i) and c(ii) are valid and have been prescribed after the decision of the Hon'ble Supreme Court in the case of *Pradeep Jain (supra)*. Though more meritorious students have to be given admissions, the welfare of that State which is providing the facility of technical education like medical colleges, have to be kept in view by the State. It is also no doubt true that for the unity of the country no such steps can be taken which may disintegrate the nation by completely excluding all students from getting education in a particular State. It was in this context that the Apex Court has laid down the principles which have validly been followed while prescribing the guidelines for P.M.T. tests. In the present case, the petitioner has not studied even for a single year in the State of Rajasthan and obtained education in Delhi. The petitioner is entitled to appear in P.M.T. test there and cannot to the exclusion of the students of Rajasthan claim any right. If this is permitted, then the result would be that even meritorious students of Rajasthan would be deprived of proper education since the students of other States where the standard of education is better than Rajasthan would come for appearing in the test in Rajasthan and the State will remain backward with regard to its students and the facility which is provided, benefit will go to other States. The State is maintaining the institutions for the welfare of the State as a whole and, therefore, I am of the view that the guidelines are perfectly valid and the petitioner has no right to appear in P.M.T. test as she has not studied in Rajasthan at all.

7. Last argument of the learned Counsel for the petitioner is that the son or daughter of serving or retired employee of the Government of Rajasthan including the Officers of All India service borne on the State cadre of Rajasthan or employees of the under-takings, Corporations, Improvement Trust, Municipal bodies duly constituted by the State Government of Rajasthan and any of the Universities in Rajasthan or the Board of Secondary Education, Rajasthan are also entitled to appear in such P.M.T. test, if the employee has put in 3 years service in the year of admission. This condition has been shown to point out that the son/daughter of such employee is not required to have any education in Rajasthan and therefore, the petitioner should be allowed to appear on the basis of this condition. This condition/clause is for the benefit of various employee enumerated In the Clause and is In the public Interest. The petitioner does not fulfill the condition of this clause as her father was not an employee in last 3 years in the State of Rajasthan and therefore, no benefit can be availed on the analogy of this clause.

8. For the reasons as aforesaid, I do not find any force in the writ petition and it is dismissed with no order as to costs.