
(1981) 01 P&H CK 0036

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 833 of 1980

Neeru Verma and Others

APPELLANT

Vs

Parvinder Kaur Aulakh and Others

RESPONDENT

Date of Decision : 28-01-1981

Acts Referred:

Constitution of India, 1950 — Article 14, 15

Citation : AIR 1981 P&H 292

Hon'ble Judges : S.S. Sandhawalia, C.J;S.C. Mital, J

Bench : Division Bench

Judgement

S.C. Mital, J.—Whether University wise reservation of seats for admission to the M. B. B. S. Course, after holding a common entrance test is still consistent with the rule of equality of opportunity is the significant question which provides the common link in this set of letter Patent Appeals Nos. 833, 867, 868, 892, 893 and 894 of 1980 directed against the same judgment of the learned single Judge dated 16th October, 1980.

2. The undisputed salient facts are that the three Medical/Dental Government colleges in the State of Punjab have in all 360 seats for the M. B. B. S. course, out of which 44 per cent are reserved for various categories of students. The remaining 56 per cent are general seats available for those who pass the competitive entrance examination. In the general seats, 90 per cent have been reserved for the candidates, who have passed the qualifying examination from the Punjab University, Chandigarh, or the Punjab University, Patiala or Guru Nanak Dev University, Amritsar and the remaining 10 per cent for those candidates who have passed qualifying examination from any other university/board. The writ petitioner (before the learned single Judge and respondents in these appeals) passed the competitive entrance examination and were, on merit placed above Respondents Nos. 6 to 27 in C. W. Ps. Nos. 2665 and 2683 of 1980. All the same these respondents by virtue of the abovesaid 10 per cent reservation were admitted to the M. B. B. S. course. The writ petitioner

successfully challenged their admission before the learned single judge who expressed the following view:--

"After the competitive Entrance Examination had been prescribed which offer equal opportunity to all the candidates who have passed the qualifying examination there can be no reasonable basis for further reservation of some seats for the student who have passed their qualifying examination from the Universities, other than the said three Universities."

The learned single judge deduced the above quoted ratio of the judgment from The State of Andhra Pradesh and Others Vs. U.S.V. Balram, etc., . In that case reservation of 40 per cent seats of M. B. B. S course to the higher Secondary Course (Multipurpose) candidates after the entrance test is over was held to be discriminatory as it could result in denying admission to the Pre-University candidates who might have got marks higher than some of the H. S. C. Candidates.

3. We take the view that all these appeals are now so squarely concluded in favour of the appellants by the recent judgment of their Lordship in Dr. Jagdish Saran and Others Vs. Union of India (UOI), , that it would be wasteful to examine the matter on principle. Equally it appears to us that the learned counsel for the parties were rather remiss in not bringing this judgment to the notice of the learned single Judge. In Dr. Jagdish Saran's case (supra), Dr. Ramesh, a medical graduate from the Madras University applied for admission to postgraduate degree in Dermatology of the University of Delhi. He took the common entrance test and secured enough marks to qualify for admission, but was turned down because of rule reserving 70 per cent of the seats at the postgraduate level, to Delhi graduates. The remaining 30 per cent was open to all including the graduates of Delhi. Their Lordships referred to a variety of facts and circumstances necessary for determining the validity of reservation owing to insufficiency of relevant material the validity of the impugned reservation was left open. In other words, despite the prescription of a common entrance test and a subsequent University reservation the same was not struck down as being violative of Article 14 of the Constitution. After referring to the existing case law and in particular to D.N. Chanchala Ors. Vs. The State of Mysore and Others, , it was concluded as follows:--

"The conclusion that we reach from this ruling which adverts to earlier precedents on the points is that university wise preferential treatment may still be consistent with the rule of equality of opportunity where it is calculated to correct an imbalance or handicap and permit equality in the larger Sense."

xx xx xx

And again:--

"If universitywise classification for postgraduate medical education is shown to be relevant and reasonable and the differential has a nexus to the larger goal of

equalisation of education opportunities the vice of discrimination may not invalidate the rule."

Following the aforesaid view in a virtually identical situation, Universitywise reservation was against upheld by their Lordship in *M.R. Mini (Minor) Represented by her Guardian and Father M.P. Rajappan Vs. State of Kerala and Another*, , with the following observation (at p. 839):--

"We cannot agree. Under the existing scheme the classification for purposes of quota is Universitywise, not territory wise. Belonging to backward Calicut District is not the same as being an alumnus of the Calicut University. Maybe the State could have classified candidates Universitywise, backward regionwise or otherwise separately or in any constitutionally permissible combination. We are not here concerned with the prospects of the petitioner under any different admission scheme or reservation project. Mystic maybe are beyond judicial conjecture. Once we hold that the university wise allocation of seats is valid the misfortune of the petitioner is *damnum sine injuria*, if we may use that expression in this context. Every adversity is not an injury. Judicial remedy cannot heal every wound or cure every sore since the discipline of the law keeps courts within its bounds."

4. In the light of the aforesaid enunciation of law when one adverts to the case in hand it would be seen that the reservation of 10 per cent seats for candidates from the University other than the said three Universities of the State of Punjab has a larger goal inasmuch as it makes admission open to candidates from Universities even outside the State of Punjab. Thus the impugned reservation goes a long way to remove exclusivism which generally dominates admission to the educational institution. It cannot, therefore, be said that the same in any way infracts the rule of equality under Article 14 and 15 of the constitution.

5. Reverting back now of *The State of Andhra Pradesh and Others Vs. U.S.V. Balram, etc.*, , on which basic reliance was placed by the learned single Judge. It deserves highlighting that the impugned reservation of 40 per cent seats therein was quashed by their Lordship of the Supreme Court in the context of the relevant rules governing the admission of candidates and the allied facts and circumstances of the case. In other words, it does not seem to us that their Lordship laid down that in each and every case once an entrance test is held for admission of candidates, any institutionwise or Universitywise reservation made thereafter amongst the said candidates has to be struck down.

6. Again, it would appear that *U. S. V. Balram's* case (*supra*) is plainly distinguishable. Therein the competing sources for admission to the M. B. B. S course were derived from the higher Secondary course (Multipurpose) and the pre-University course. Apparently both these course were of the same University. The reservation therein, therefore, was not even remotely University wise it was in that context that their Lordship on the peculiar facts had found that further reservation after holding a common entrance test from the two sources of the

same University may not be sustainable. This is not even remotely the case before us.

7. Again a deeper analysis of the issue would indicate that the true purpose of institutionwise or Universitywise reservation is the larger one of giving representation to them in order to correct an imbalance or handicap and in the ultimate result permit equality in the larger sense. Therefore, a classification on these lines and a reservation Universitywise within reasonable bounds has a clear nexus to the object which is sought to be achieved.

8. Lastly in this context, it is apt to recall that this very question of Universitywise distribution of seats had earlier fallen for consideration in *D.N. Chanchala Ors. Vs. The State of Mysore and Others*, . Therein, it was concluded as follows:--

"... In our view, the rules lay down a valid classification, Candidates passing through the qualifying examination held by a University form a class by themselves as distinguished from those passing through such examination from the other two Universities. Such a classification has reasonable nexus with the object of the rules namely to cater to the needs of candidates who would naturally look to their own University to advance their training in technical studies, such as medical studies. In our opinion the rule cannot be attacked on the ground of hostile discrimination or as being otherwise in breach of Article 14." As already stands noticed, the aforesaid view had been noticed with approval and followed in *Dr. Jagdish Saran and Others Vs. Union of India (UOI)*, . As said earlier we are inclined to the view that *The State of Andhra Pradesh and Others Vs. U.S.V. Balram, etc.*, , is plainly distinguishable but even if there be any conflict of judicial opinion, we are obviously bound by the judgments of the two larger Benches in *D. N. Chanchala's* and *Dr. Jagdish Saran's* Cases (supra).

9. In view of the aforesaid discussion and in accordance with the aforesaid binding precedents on the point we are, with respect, constrained to allow the appeals and set aside the judgment of the learned single Judge. The Writ petitions would stand dismissed. There will, however, be no order as to costs.

S.S. Sandhawalia, C.J.

10. I agree.

11. Appeals allowed.