

(1988) 09 RAJ CK 0026

In the Rajasthan High Court

Case No : Civil Writ Petitions No's. 877 and 1192 of 1988

Pradeep Bhatia and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 20-09-1988

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1988) WLN 240

Hon'ble Judges : N.C. Sharma, J;Kanta Bhatnagar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Kanta Bhatnagar, J.—The reduction of seats in the Medical Colleges in Rajasthan in the Post Graduate Courses (here in after to be referred as "the P.G. Courses") from 359 to 301 and specially the reduction of such seats in Jodhpur Medical College from 67 to 49 has caused grievance to the petitioners in these two writ petitions and they have filed these writ petitions under Article 226 of the Constitution of India with the prayer that the respondents may be directed to quash the order of reduction of seats in Medical Colleges for the PG Courses and to provide admission in the PG Courses on the number of seats which were available last year.

2. As the point involved in both the writ petitions is the same, we propose to dispose them of by one common order. As the numbers of Exhibits in the two writ petitions are different, the number on the exhibits in Writ Petition No. 1192/88 are referred.

3. The petitioners have averred that they have passed their MBBS examination and completed Part-1 Rotating Internship on April 7, 1988 That, they desire to take admission for the PG Courses in the Dr. S.N. Medical College, Jodhpur which is under the University of Rajasthan, Jaipur. That, the number of seats mentioned in Para-4 of Writ Petition No. 1192/88, allocated to the Medical Colleges at

Jaipur" Jodhpur, Ajmer, Bikaner and Udaipur were according to the norms prescribed by the Medical Council of India and the admissions are given according to the instructions issued by the State of Rajasthan and the University of Rajasthan in consultation with each other. That, the petitioners had joined Internship at Jodhpur, keeping in view that 67 seats for the PG Courses Were available at the Dr. S.N. Medical College, Jodhpur and they would be given benefit of 5 marks at the time of admission in the PG Courses in comparison to the student not belonging to this College. That, this year the seats have been reduced in all Colleges, as stated in Para 7 of Writ Petition No. 1192/88. That, applications were invited by the Principal, Medical College, Jodhpur for admission in the PG Courses showing the availability of seats as 49. That, looking to the equipments and the staff to teach the students for the PG Courses, no reduction should have been made. That, the reduction is discriminatory in nature and no reason has been assigned for the percentage of reduction of seats in each of the five Medical Colleges in Rajasthan. In the petition special reference has been made to the seats available at Jaipur and Jodhpur for the PG Courses in Orthopaedic and Ophthalmology which according to the petitioners are the Departments considered to be not only best in Rajasthan but best in the country. That, on account of the reduction of the seats petitioners have not only been deprived from admission in the PG Courses at Jodhpur but have also been deprived from applying in other examinations conducted by the UPGC in the PG Courses in Institutions of Medical Education and Research, Chandigarh and the Combined Medical Services Examinations, 1988 because the reduction of seats had not been informed earlier to enable the petitioners for admission in other Courses. That, looking to the area and population served by Jodhpur College and Hospital, the percentage of reduction in comparison to Jaipur Medical College is discriminatory. That, the right for admission for education is guaranteed by the Constitution of India and when the facilities and equipments and staff are available in the Dr. S N. Medical College to train the existing number of seats, the reduction in seats is arbitrary in nature. That, without reduction in the strength of staff and equipments from the Colleges, the reduction of seats would mean that the State Government does not want to properly utilise the services available for imparting education for the PG Courses.

4. In reply to the show cause notice issued to the respondents, the maintainability of the writ petition has been challenged on the ground that there is no illegality or invalidity in reducing the seats of the PG Courses at various Medical Colleges in Rajasthan because such reduction in the PG seats was done by the Government only after considering the commence-mentations of the Committee appointed to suggest future policy for the PG Courses in various specialities of Medical Science in Rajasthan. That, the act of the Government is only administrative action and does not call for any interference by this court in exercise of its extra ordinary jurisdiction. That the number of Units and the number of beds available in each speciality in each College were taken into consideration while reducing the seats. Regarding the representation in the

Committee it has been stated in the reply that the Committee gave opportunity to the Resident Doctors to represent their case and the representatives of the CAS, the PG Doctors appeared before the Committee and stated their case. That, it was at the recommendation of the Committee that the PG Seats in all Medical College in Rajasthan were reduced from 359 to 301. That, the Committee considered the need of various Degree/Diploma Courses and number of the PG seats required in the State and opined that the annual need of the PG Doctors in the State would approximately at best be 300. That, the Committee was also required to consider the question of the amount of stipend payable to the Resident Doctors and the recommendation for the increase in the amount of stipend payable to the Resident Doctors was also in view while reducing the seats for the PG Courses. That, after the recommendation of the Committee, some minor adjustments were made in some of the Branches in some Colleges keeping in view the PG Training facilities at such Colleges. That, there is only one sanctioned Unit in each of the speciality of Orthopaedic and Ophthalmology in the Dr. S.N. Medical College, Jodhpur. The details of the Units and the PG Staff have been given in Para 10 of the reply filed in Writ Petition No. 1192/88, and a comparative statement of speciality wise Unit and allocation of the PG Seats in 5 Medical Colleges in Rajasthan has been given in Annexure R/3 filed with the reply.

5. In replica to the reply of the respondents, the petitioners stated that the administrative action of the Government suffers from the vice of discrimination because uniform policy, has not been adopted for all the five Medical Colleges in Rajasthan. That, in Annexure-3 wrong statement has been made for the Units in General Surgery and General Medicine at Jaipur College. That, the allocation of seats should have been in accordance with the beds and not the Units.

6. Mr. S.N. Sharma, learned Counsel for the petitioners stressing the grounds taken in the petition strenuously, contended that the percentage of the reduction is not reasonable looking to the number of beds in Ophthalmology and Orthopaedic at Jodhpur. That, the statement of the respondents for their being only one Unit in Orthopaedic is wrong and the correct position is that there are two Units. Mr. S.N. Sharma, placed for perusal a prescription from the Orthopaedic Department in which seal showing Unit-II has been affixed. It is urged that even if the requirement of State of Rajasthan is considered to be 300 by the Committee, 375 seats should have been retained because 25% reservation is for the students appearing in All India Basis.

7. Mr. R.C. Maheshwari, learned Government Advocate, controverted this contention and submitted that the sanctioned Unit for the Orthopaedic is only one and the number of Units has been kept in view while allocating the seats subject wise with the minor changes in the recommendation of the Committee made by the Government looking to the staff and equipments for imparting training in specialities. That, students from Rajasthan also go out for the PG Courses and, therefore, the reservation for 25% seats for the students appearing in All India Basis cannot be considered while fixing the seats for the P.G. Courses

in Rajasthan.

8. Mr. S.N. Sharma, next argued that the Committee is not properly constituted because the Principals of all the Colleges have not been included in it.

9. The reply is not far to seek. The Government of Rajasthan constituted a Committee for framing policy on Residency Scheme and Post-Graduate study in Medical and Health Sciences consisting of the followings: Health Secretary--Chairman, Finance Secretary--Member, Director, Medical and Health Department, Rajasthan, Jaipur--Member Secretary. The Principal of one College i.e. Jaipur College was there in the Committee and it cannot be said that the other Members of the Committee would not properly look to the interest of the State as a whole.

10. Annexure R/1 is the extract of the recommendations in the report of the Committee for the PG Seats. One of the terms of reference to the Committee was for future policy for the PG Courses in various specialities of Medical Sciences. It is stated in the report that in Rajasthan about 550 students pass MBBS examination every year. The Committee considered the need of the various Degree Courses/Diploma Courses and number of the PG Seats required in the State. The growth and population and awareness of people towards the Medical Services were taken into consideration. The Committee considered that there are approximately 1400 posts in teaching and non-teaching specialities in the Medical and Health Organization in Rajasthan on which persons bearing the Post-Graduate qualifications are required and approximately 4% attain superannuation every year and it came to the conclusion that approximately 150 seats in the PG Courses may be required in Government sector every year and the same number may be required for Non-Government Sector, for example Private Clinics/Nursing Homes/ Private Hospitals/Private Practitioners. The Committee considered that the annual need for Post-Graduate Doctors in the State would approximately at best be 300 and the higher number will lead to waste of resources and also frustration amongst the doctors having higher qualifications. It was further observed that the projected maximum requirement of the PG Doctors is lower than the present intake in the PG Courses and, therefore, Committee felt necessity for reduction in the PG Seats. Necessity for specialised personnel for hospital management, blood banking and medical jurisprudence, Diploma Courses in hospital administration. Forensic Medicine and Blood" Transfusion and immunohaematology were also taken into consideration while recommending the reduction in seats from 359 to 300. The Committee has also fixed the number of seats for each speciality and seats to be allocated to each college. In Annexure R/I (Annexures 1 and 2) annexed with Annexure R-1. 113 seats have been allocated to Jaipur College, 51 to Jodhpur College 45 to Udaipur College, 46 to Bikaner College and 42 to Ajmer College, the total being 301 seats. Annexure R-2 is the recommendation for the PG Seats in the various Colleges in the State and Annexure R-3 is the statement of speciality wise strength of Units and allocation of the PG Seats in Medical Colleges in Rajasthan.

11. True it is that certain changes have been made in the allocation of seats in various specialities to the various Medical Colleges in the State but in reply the explanation for doing so has been given. The allocation of seats is an administrative action and unless there are compelling circumstances, which there are not in this matter, this Court would feel reluctant to interfere.

12. Mr. S.N. Sharma emphasized that the allocation of seats is discriminatory and arbitrary in as much as the percentage in reduction in Jaipur College in comparison to the seats in Jodhpur College is much less i.e. there is 25% reduction at Jodhpur whereas there is only 8% in Jaipur 15% in Ajmer, 35% in Udaipur and 6% in Bikaner.

13. The allocation of stated earlier, has been made by the State Government on the over all estimation by the Committee and looking to the facilities available at each College specially the strength of the teaching staff in various Colleges. When there is neither any illegality in the reduction or allocation of seats nor is there any infringement of any fundamental right, we do not consider it proper to interfere in the administrative act of the respondents in reducing the seats as per requirement and their allocation to the various Colleges.

14. The writ petitions have no substance and are dismissed.