
(2000) 09 RAJ CK 0015

In the Rajasthan High Court

Case No : Civil Special Appeal No. 749 of 2000

Sanjay Prakash

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 13-09-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 4 RLW 414 : (2001) 1 WLC 506 : (2001) 1 WLN 522

Hon'ble Judges : Sunil Kumar Garg, J;B.J. Shethna, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—The Director (AIDS), Medical and Health Service, Rajasthan, Jaipur issued a notification dated 4.4.2000 (Annex.3 to the main writ petition) inviting application from the candidates possessing requisite qualification for admission to General Nursing Training Course for the year 2000 with the reservation of 30% for males and 70% for females, in all nursing training Schools in Rajasthan. The same was challenged by the appellant, who is the original petitioner by way of Writ Petition No. 1837/2000 on two grounds (i) in absence of Rules, no reservation can be provided (ii) even if reservation is permissible, then also, it cannot be more than 50% in view of the several judgments of Supreme Court.

2. However, the learned Single Judge of this Court by his judgment and order dated 13.7.2000 dismissed the writ petition on the ground that Rule 7 of the General Nursing Training Course Rules, 1990 clearly provides for reservation and looking to the nature and requirement of service of nurses, 70% reservation in favour of female candidates was permissible.

3. Learned Counsel Shri Kaushik, for the appellant submits that the Rules do not provide any reservation and Rule 7 which has been referred to by the learned Single Judge in his judgment does not provide for reservation. He submits that

Rule 7 of the Rules provides for seats to be decided nothing more than that.

4. We would like to reproduce the Rule 7 which reads as under:

(7) Number of Seats:-The annual intake capacity of each centre shall be according to the number determined by the Government from time to time. There shall be no separate centre for male and female candidates. Ratio for male and female on each training centre shall be as determined by the Government from time to time.

(Emphasis Supplied)

5. It is true that under the aforesaid Rule 7 there is no specific reservation, but impliedly, it is clear that seats are to be decided as per ratio for male and female. Looking to the nature and requirement of service, if the State Government thought it fit to provide reservation for 70% for female candidates and 30% for male candidates, then it cannot be said same was without jurisdiction or in violation of any rules.

6. It is true that in this case reservation exceeded 50% but looking to the nature of which can be done mainly by females, it was not improper on the part of the Government to provide 70% reservation for female candidates. It is true that discrimination on the ground of sex was not permissible, but in our considered opinion, in a given case, where appointments are to be made on the post of nurse, reservation upto 70% to the female candidates was reasonable and it is not required to be interfered.

7. In our considered opinion, the learned Single Judge when refused to exercise his discretion under Article 226 of the Constitution in favour of the petitioner, then we do not see any reason to interfere with the same in the special appeal.

8. In view of the above discussion, the present appeal fails and is hereby dismissed.