
(2014) 09 MP CK 0181

In the Madhya Pradesh High Court

Case No : Writ Petition No. 5749 of 2014(S)

Shruchi Bhargava

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 25-09-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) 3 JLJ 415 : (2015) 2 MPHT 17 : (2015) 1 MPLJ 102

Hon'ble Judges : Shantanu Kemkar, J; Jarat Kumar Jain, J

Bench : Division Bench

Advocate : Sudeep Bhargava, Advocate for the Appellant; Mini Ravindran, Deputy Government Advocate, Advocate for the Respondent

Judgement

Jarat Kumar Jain, J.—This is a petition under Article 226 of the Constitution of India for issuing an appropriate writ to the respondents that M.P. State quota seats in Government and Private Medical/Dental Colleges be filled up by the students who are of domicile of M.P. The petitioner is a domicile of Madhya Pradesh and she wanted admission in Medical/Dental College of M.P. on 14.11.2013. Respondent No. 2 issued a notice that for the year 2014 the seats of Medical/Dental Colleges of Madhya Pradesh would be filled up by the All India Pre-Medical Test Examination (in brief "AIPMT") and a separate merit list will be prepared for M.P. State quota. On the basis of this list State quota seats will be filled up in Medical/Dental Colleges of State of Madhya Pradesh for the year 2014. Accordingly the petitioner participated in the AIPMT examination and stood at Sl. No. 29479 in All India Merit and at Sl. No. 1468 in State Merit list. After preparation of State merit list, counselling was started and some candidates were allotted M.P. State quota seats in Medical Colleges of Madhya Pradesh though they are not the domicile of Madhya Pradesh. Thus, the petitioner and the other students of Madhya Pradesh who are domicile of Madhya Pradesh are deprived of their rights as conferred by the Madhya Pradesh Private Medical (MBBS) and Dental (BDS) Undergraduate Courses Admission Rules, 2014 (in brief "Private Colleges Admission Rules") and Madhya Pradesh Government

Autonomous/Government Medical and Dental Undergraduate Admission Rules , 2014 (in brief "Government Colleges Admission Rules") thus the respondents be directed that the State quota seats in Medical/Dental Colleges of M.P. be filled only by the students who are the domicile of Madhya Pradesh.

2. The respondents has stated that All India Pre-Medical/Pre-Dental Entrance Test, 2014 is conducted by the CBSE Delhi. On the basis of the examination two merit lists were prepared i.e. All India Merit List and State Merit List. The admission in Government Medical College is under taken as per the Government College Admission Rules. The rules provides that the students seeking admission should be a domicile of M.P. and for this aspect the State Merit list is prepared. The admissions in the private medical colleges are given as per the private colleges admission rules. These rules do not provide that students seeking admission should be a domicile of Madhya Pradesh whereas rules provide that a citizen of India can get admission in private medical colleges on the basis of All India Merit list. The respondent also stated on affidavit that in the earlier year i.e. in the year 2012 and 2013 for admission in private medical colleges eligibility criteria was the same. Thus there is no change in admission rules in regard to domicile status of the students. It is also stated in the reply that the petitioner is placed in the All India Merit list as well as State Merit list, therefore, if she comes in the merit of M.P. quota then she will be allotted Government Medical College however she will be also considered for allotment of seats in private medical colleges as per All India Merit list. Thus a student who is domicile of Madhya Pradesh can also get a seat in private as well as in Government Medical College, however, a student who is not a domicile of Madhya Pradesh can only be considered for the admission in private medical college, thus the respondents have not violated any of the rules. Therefore, the petition has no merit it be dismissed.

3. Learned counsel for the petitioner submits that as per rules the State quota seats in Government and Private Medical Colleges be filled up by the domicile of Madhya Pradesh. State quota merit list is prepared only with a view to protect the interest of the domicile of Madhya Pradesh, whereas in the present counselling such rules are not being followed and in State quota seats certain students who are not domicile of Madhya Pradesh allotted seats in Medical Colleges. Therefore, not only the petitioner but the other students of the State were deprived of admission in the Medical/Dental Colleges in State quota seats.

4. Learned counsel for the petitioner further submits that the rules for admission in Government and Private Medical Colleges have come into force on 19.6.2014 whereas the qualifying examination i.e. All India Pre-Medical/Pre-Dental Entrance Test-2014 was held much earlier on 4.5.2014. Thus these rules were not in existence when the qualifying examination was held. Therefore, these rules cannot be enforced retrospectively.

5. On the other hand, learned Deputy Government Advocate submits that in this year the State of Madhya Pradesh has not conducted any examination, therefore,

on 14.11.2013 a notice was issued that the examination which is conducted by AIPMT is a qualifying examination for the admission in the Government as well as Private Medical Colleges. It is further submitted that State quota is not defined anywhere in the admission rules, however, State quota seats shall be filled by the State Government in the Government/Private College as per admission rules. Thus, the State quota seats are those seats, which are within the domain, and powers of the State Government and these seats are both existent in private as well as Government Medical/Dental Colleges.

6. Clause 9 of Private Medical College Rules provides that a candidate must be a citizen of India it means that any candidate who is a citizen of India can get the admission in private medical college of M.P. in State quota on the basis of AIPMT Merit list. The same eligibility criteria was provided in the Private Colleges Admission Rules, 2012 and 2013, thus there is no new eligibility criteria is framed by private colleges Admission Rules, 2014. There is no provision in any of the Rules that the State quota seats can only be filled by the domicile of Madhya Pradesh. Thus, on the basis of All India Merit list the respondents are empowered to allot State quota seats in private Medical Colleges to a candidate who is not the domicile of Madhya Pradesh.

7. Learned Deputy Government Advocate lastly submits that the AIPMT is a qualifying examination whereas the rules framed by the State Government are the admission rules in regard to admission for Government/Private Medical Colleges for the year 2014, thus there is no question of retrospective operation counselling is conducted after notifying these rules. Therefore, the petition is liable to be dismissed.

8. After hearing learned counsel for the parties, we have gone through the record.

9. Respondent No. 2 Director Medical Education, Madhya Pradesh issued a notice No. 3765/UGSANCHISHI/2013 dated 14.11.2013 relevant portion is as under :

It reveals from the notice that the State quota seats will be filled in the private medical/dental colleges on the basis of AIPMT examination whereas State quota seats in Government Medical Colleges will be filled by the State merit list prepared separately on the basis of AIPMT. After issuing this notice State Government has framed the separate rules for admission in Government and Private Colleges, these rules are Government Colleges Admission Rules and Private Colleges Admission Rules. In these rules the eligibility criteria for admission is different. Clause 6 of Government Colleges Admission Rules provide that the candidate must be a bona fide resident of Madhya Pradesh or who comes under the definition of bona fide resident of Madhya Pradesh Clause 9 of Private Colleges Rules provide that a candidate must be a citizen of India.

10. Private Colleges Admission Rules, 2012 and 2013 are also placed on record we find that in earlier rules eligibility criteria for admission in the private medical colleges was the same. Thus, it is clear that even in earlier years a student who is not bona fide resident of Madhya Pradesh can get the admission in State quota

seats on the basis of AIPMT in any private medical/dental colleges of Madhya Pradesh.

11. Thus, find no force in the arguments of learned counsel for the petitioner that as per rules State quota seats can be filled only by the domicile of Madhya Pradesh. It is true that after conduction of qualifying examination State Government has notified the rules. It will not affect the legality of the admission procedure as these rules are the admission rules. With this discussion, we are of the considered view that the State quota seats can be filled up in the Government Medical/Dental Colleges only by the students who are domicile of Madhya Pradesh; whereas the State quota seats in Private Medical/Dental Colleges of the State can be filled up by a candidate who must be a citizen of India.

We find no merit in the petition. The petition is hereby dismissed.