
(1998) 09 GAU CK 0012
In the Gauhati High Court
Case No : Civil Rule No. 725 of 1998

Thotreichoh and Another

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

Date of Decision : 08-09-1998

Acts Referred:

Citation : (1999) 1 GLT 331

Hon'ble Judges : W.A. Shishak, J

Bench : Single Bench

Advocate : S. Risom, for the Appellant; A.G., Manipur, for the Respondent

Judgement

W.A. Shishak, J.—In recently held MBBS Entrance Examination for selection of candidates to be nominated by the State of Manipur for admission into First Year MBBS Course in different Medical Colleges of India, 17 (Seventeen) candidates were selected from amongst the candidates belonging to the Scheduled Tribe of the State. These 2 (Two) Petitioners were also selected and as per the selection list prepared on 7.7.98 the names of the Petitioners appear at serials 10 and 11 in the merit list of S.T. candidates. In the said list of Scheduled Tribe candidates it was stated:

Nomination of the candidates shall be subject to availability of seats and verification of original certificates and documents.

Out of the 17 (Seventeen) selected candidates, the candidates at serials 1 and 6 opted to undergo Engineering Courses. Thus the Petitioners claim that thereafter their names Would be at serials 8 and 9 in the merit list. Out of the list of 17 candidates in the merit list the candidates at serials 5 and 7 opted to study outside the State of Manipur. It may be stated that at the time of taking the test the candidates were required to indicate their options in order of preference.

2. On 4th August, 1998 the Director of Health Services, Manipur issued the following Notification:

No. 104/1/98-DHS: In pursuance of Govt. of Manipur, Secretariat Health Department letter No. 2/9/98 - (MBBS) dated 15.7.98 and 23.7.98, the following candidates are nominated for admission into first year MBBS Course 1998-99 session at Regional Institute of Medical Sciences, Imphal.

They are informed to collect the nomination letter from the undersigned immediately.

In the list of Schedule Tribe candidates, the names of the Petitioners appear at serials 6 and 7. Altogether 9 (nine) Scheduled Tribe candidates were nominated for admission at RIMS for 1998-99 session.

3. The Petitioners contend that though Scheduled Tribe candidates in the merit list at serials 4, 5, 7 and 14 had opted and preferred for nomination and admission in the Medical Colleges outside the State of Manipur and despite the issuance of Notification on 4.8.98 and without assigning any reasons the candidates at serials 4,7 and 14 have been allowed to collect their nomination letters for admission at RIMS. It is also further contended that in fact some more seats might also be released for nomination at RIMS. It is further contended that when the Petitioners approached the authority to issue to them nomination letters on 10th August, 1998 they were told that their nomination had been changed from RIMS to Assam Medical College, Dibrugarh and Pandit Jawaharlal Nehru Medical College, Raipur, M.P. respectively.

4. The Petitioners have been persistently pursuing the matter with the RIMS authority for admission. As contended in para 3-6, they protested on 11.8.98 against the alleged change of nomination from RIMS to outside the State of Manipur. On 14.8.98 the Petitioners again jointly represented to the competent authority. It is contended that the Secretary of the Department had endorsed a note on the body of the representation to Director of Health Services as follows:

Please look into this, we must follow the approved guidelines.

It is contended by the Petitioners that no further action has been taken by the authority to redress the grievance of the writ Petitioners. They are yet to receive nomination letters in terms of the Notification dated 4th August, 1998.

5. I have heard Mr. S. Risom, learned Counsel for the Petitioners as well as Mr. T. Nandakumar, learned Advocate General, Govt. of Manipur. Admittedly Notification dated 4th August, 1998 regarding nomination of candidates for admission into first year MBBS course, 1998-99 session at RIMS issued by the Director of Health Services has not been cancelled nor has it been modified in anyway. As stated above the names of these 2(two) Petitioners appear at serials 6 and 7 of the list of Scheduled Tribe candidates in the said Notification. In fact the candidates whose names were given in the said Notification were informed to collect the nomination letter from the Medical Director immediately.

6. Government has filed counter affidavit. I have heard Mr. T. Nandakumar, learned Advocate General at length. Factual Statements made in the writ petition

have not been controverted. Para 3 of the Government affidavit states that as 2(two) selected candidates on merit among the Scheduled Tribe candidates at serials 1 and 6 had opted for Engineering Course, 15 (fifteen) selected candidates remain in the merit list. Out of the 15(fifteen) Scheduled Tribe candidates, the candidates at serials 5 and 7 initially opted for nomination for admission in MBBS course at the colleges outside the State of Manipur. It is, however, stated that the said candidates had again made applications opting for RIMS. It is also stated in para 4 of the Govt. affidavit that for the session 1998-99, 9(nine) seats have been allotted for Scheduled Tribe candidates at RIMS and accordingly Notification dated 4.8.98 was issued by the Director of Health Services. It is contended that as the candidate at serial 7 Shri Wamganglunc Golmei Kabui had again opted for admission at RIMS, he has to be given seat for admission at RIMS in view of his merit among the selected candidates. It may be stated that this candidate at serial 7 had opted for a college outside the State of Manipur. That is the reason why his name was not included in the Notification for nomination of candidates at RIMS. As per Government affidavit, the person at serial 13 who was nominated for RIMS is sought to be dislodged in order to accommodate the person at serial 7 who had earlier opted for a college outside the State. It is further stated in para 5 of the Govt. affidavit that after Notification dated 4.8.98 was issued, the candidates at serials 13 and 14 approached the Govt. to accommodate them at RIMS as they are too poor to study outside the State. In the process in order to accommodate the candidate at serial 7, the nomination notified on 4th August, 1998 is disturbed.

7. I have repeatedly asked the learned Advocate General as regards the criteria laid down for nomination of candidates to study at various colleges in the country. It is submitted by Mr. T. Nandkumar that on receipt of request from the candidates at serials 13 and 14, enquiry has been made to find out as to the economic condition of these two candidates and it is found that they are from very poor background and therefore the competent authority is of opinion that they should be accommodated at RIMS. Obviously no criterion as regards economic condition has been laid down in any guidelines/Rule or Regulation regarding nomination of candidates to undergo MBBS course. In fact economic condition or for that matter poverty as such is not a criterion incorporated in the guidelines. Therefore, in my view enquiry said to have been made is not at all warranted as it is not required by the guidelines. It must be borne in mind that all the candidates in question belong to the Scheduled Tribes. In other words the candidates in question belong to the same category. Different criteria cannot be applied to the members of the same category. For my own information I have Asked Mr. S. Risom as regards the economic condition of these two writ Petitioners. It is stated at the bar that the father of the Petitioner No. 1 is serving as a Forest Guard in the hills. It is further stated that the father of the writ Petitioner No. 1 is the only earning member of the entire family. I cannot imagine that this family could be considered to be economically sound family and

therefore some other candidate should be preferred to the writ Petitioner on the ground of poverty. As regards Petitioner No. 2, I am informed in the court today that the father of this writ Petitioner No. 2 is a very poor farmer and the entire family is living in wretched economic condition. I also do not see any reason why the person at serial number 7 who had himself opted to study outside the State of Manipur should not be brought back to RIMS which would upset the list that has already been finally prepared by the competent authority. It appears, therefore the" person at serial 7 viz., Wamganglung Golmei Kabui cannot have any reasonable claim of nomination at RIMS. I may reiterate here that the name of the person of the candidate at serial 7 does not at all figure in the list of nomination in terms of Notification dated 4th August, 1998. Hence there is no room for accommodating the candidate at serial 7 at RIMS. At the same time to accommodate someone on the ground of poverty by dislodging another candidate who has been nominated already will not only be unreasonable and unjust but this would amount to discrimination. Therefore, such arrangement, in my view, is not at all permissible in the facts and circumstances of the case. If at all the State is really concerned about the economic condition of a poor student, it is for the benign State Government to alleviate the economic condition of the student/candidate by rendering some financial assistance from any available source.

8. In the result, this petition is allowed. The Respondents are directed to issue nomination letters to the writ Petitioners immediately in terms of Notification dated 4th August, the 1998 so as to enable them to get themselves admitted into the first year MBBS course at RIMS for 1998-99 session.

This petition is accordingly disposed of.