

(1993) 11 SC CK 0025

In the Supreme Court Of India

Case No : Writ Petition (C) No's. 284, 317, 327, 350, 417, 442, 444, 484, 485, 523, 531 and 663 of 1993, S.L.P. (C) No's. 14437 and 18061 of 1993 and I.A. No. 3 in Writ Petition (C) No's. 536, 598, 685, 706, 726, 18061 of 1993

T.M.A. Pai Foundation and Others

APPELLANT

Vs

State of Karnataka and Another

RESPONDENT

Date of Decision : 19-11-1993

Acts Referred:

Citation : (1994) 1 PLJR 44 : (1993) 4 SCALE 456 : (1993) 4 SCALE 368 : (1993) 4 SCC 788

Hon'ble Judges : S. Ratnavel Pandian, J; S. P. Bharucha, J; S. Mohan, J; S. C. Agrawal, J; B.P. Jeevan Reddy, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

1. In continuation of the order dated November 17, 1993 in the aforesaid matters the following order is made:

STATE OF KARNATAKA

2. With regard to Medical Colleges, we have already passed orders on November 17, 1993. So far as Engineering Colleges are concerned, the appropriate authorities shall make the allotment with respect to the free seats and payment seats (excluding 15% seats reserved for N.R.Is. /Foreign students) on or before 30th of November, 1993 in accordance with the orders of this Court and the rules framed by the Karnataka Government in that behalf. All students so allotted, whether under free-seats-quota or payment-seats-quota shall be admitted forthwith by the respective colleges. This shall be ensured by the Secretary to the Education Department, Government of Karnataka. Any and all complaints in that behalf shall be addressed to the Secretary, Education Department. The Secretary, Education Department shall give wide publicity to the above orders and make appropriate arrangements to ensure due and proper compliance of this

order.

3. Any seats remaining vacant on 1st December, 1993, whether in the category of free seats or in the category of payment seats can be filled up by the Management.

4. The above order shall also apply to other professional colleges, like colleges of pharmacy, nursing etc. (except, of course, medical colleges).

STATE OF KERALA

5. Heard Sri K.Parasaran for the State and Sri F.S. Nariman for the colleges. Sri Parasaran states that the Government has not accepted the status of these two colleges as Minority Educational Institutions and that in no previous year had they claimed such a status.

6. So far as State of Kerala is concerned an unhappy situation has been created on account of two factors:

(1) When we made the orders on 18th August, 1993, we were not apprised of the particular system obtaining in that State. Secondly the Government has not taken prompt action at the appropriate time to determine the character of the two institutions concerned herein namely, whether they are Minority Educational Institutions or not. This they ought to have done soon after our order dated August 18, 1993. Now, we are told, these colleges have made admissions to the extent of 50% of their capacity from among the respective minority communities. We do not think it appropriate, at this stage, to disturb the admissions already made to the extent of 50 per cent minority students, but it is made clear this shall not be understood as affirming or accepting the claim of these two colleges to the effect that they are Minority Educational Institutions. That question shall be determined by the Secretary to the Education Department, Government of Kerala, within three months from today. That decision shall be applicable from the next academic year. The decision shall be taken on merits, after giving colleges an opportunity to make a representation. The colleges shall be free to produce such evidence as they think appropriate in support of their claim.

7. The Government shall allot the students forthwith towards the remaining 25 per cent seats, which are said to be payment seats. (Indeed according to the affidavit filed by the Management of one of the colleges, the fees being collected from the payment students and free students is identical and that the entire fees is collected is being made over to the Government). However, with a view to redress the grievance of students whose expectations of admission may have been prejudicially affected by the delay in determining the status of the said two colleges, we direct that for the current academic year, the Government, A.I.C.T.E., University concerned and other authorities concerned shall forthwith sanction 7% additional seats (7% of the sanctioned capacity in each of the two colleges) which shall be treated as free seats and shall be filled up only from

among the students other than those belonging to the concerned minority, according to merit. In other words, in the case of college concerned in Writ Petition (C) No. 598 of 1993 it shall be other than Muslims and in the case of Mar Athanaasius college, it shall be other than Christians. Students towards these additional seats shall be allotted by the Competent Authority of the Government on the basis of merit and the students so allotted shall be admitted by the colleges forthwith. All the admissions shall be finalised on or before November 30, 1993. The fees paid by all the students shall be remitted to Government as was being done during earlier years. This order is confined only to the current academic year.

8. All intervention petitions in these matters are dismissed.