

(1966) 12 MP CK 0010

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 551 of 1966

Vinod Sagar Sood

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 23-12-1966

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : AIR 1967 MP 182 : (1967) JLJ 551

Hon'ble Judges : P.V. Dixit, C.J.; R.J. Bhavé, J

Bench : Division Bench

Advocate : R.K. Tankha, for the Appellant; S.P. Sen, General and K.K. Dubey, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Dixit, C.J.—The petitioner, Vinod Sagar Sood, who unsuccessfully sought admission in any of the Medical Colleges in the State, seeks a direction to the respondents Nos. 1 and 2 to consider his application "strictly on merits" and to admit him in any Medical College. He also prays that Rule 5 of the "Rules" framed by the Government regulating admissions in Medical Colleges and the Dental College be declared ultra vires and quashed.

2. The Government of Madhya Pradesh has laid down certain principles styled as "Rules for admission in Medical Colleges, and Dental College, 1966" for regulating admissions of students to these colleges. It has been laid down in these "Rules" that selection of candidates from amongst those, who have applied for admission, will be made on merit as disclosed by the percentage of marks obtained in B.Sc. Part-I (Three years Degree Course) or its equivalent examination or in the B.Sc. Final or its equivalent examination, whichever is more favourable to the candidate; and that for assessing the merit of the candidates, who have taken more than the minimum number of years required to pass any of these examinations after the Matriculation/ Higher Secondary Examination or the B.Sc., Part-I Examination as the case may be, the aggregate

percentage will be reduced by three for each extra year taken to pass the examination.

The Rules prescribed that a candidate for admission, who has passed B.Sc. Part-I (Three Years Degree Course) Examination, or any equivalent examination, must have secured at least 45 p.c. marks in the aggregate taking the subjects mentioned in Rule 8 (1) (a) (i). It has been stated in the Rules that seats not exceeding 3 p.c. may be reserved for sons and daughters of "Political Sufferers", and that the Government will decide as to who are the sons and daughters of "Political sufferers."

3. The petitioner says that he passed the B.Sc. Part-I Examination in 1965 from the Jiwaji University securing 51.27 p.c. marks in the examination; and that the respondent No. 3, Vijay Kumar Premi, who failed in this examination in 1935 but passed the examination in 1966, secured only 48.72 p.c. marks. His grievance is that though he secured 51.27 p.c. marks, and the percentage of marks of the respondent No. 3, Vijay Kumar Premi, for the purpose of admission was 45.72, after making a deduction of 3 p.c. on account of his failure in 1965, the respondent No. 3 was admitted in the Medical College, Indore, and he (petitioner) was not admitted in any Medical College. According to the applicant, the admission of the respondent No. 3 was made solely on the ground that he is a son of a "Political Sufferer", and, in fact, he is not so

4. In the return filed on behalf of the respondent-State, it is not denied that 3 p.c. of the seats were reserved for sons and daughters of "Political Sufferers" and the respondent No. 3 was selected for admission on the ground of his being son of a "Political Sufferer." It has, however, been averred that the applicant took one extra year to pass the B.Sc. Part-I examination after passing the Higher Secondary Examination, and consequently for the purposes of admission into a Medical College the effective percentage of marks secured by him at the B.Sc. Part-1 examination was 48.27 p.c. and that this percentage was so low that he had no chance absolutely of being selected even on merits even if none of the candidates claiming to be sons and daughters of "Political Sufferers" had been considered for admission against the three per cent seats reserved for them.

It has been further stated in the return that the "Rules" governing admission in Medical Colleges and the Dental College are merely executive instructions and have no statutory basis, and the selection of candidates for admission into the colleges was made strictly according to these "Rules"; and that the "Rules" being merely executive instructions, no question of any violation of Article 14 of the Constitution can arise because of selection for admission of sons and daughters of "Political Sufferers."

5. Having heard learned counsel for the parties, we have reached the conclusion that this application must be dismissed. It has been held by this Court in Ramchandra Vishnu Vs. State of Madhya Pradesh and Others, and Gokul Prasad and Others Vs. M.M. Sohani and Others, that the instructions issued by the

Government regulating admissions into schools and colleges, though styled as "Rules", are merely administrative or executive instructions and their breach, even if patent, cannot justify the issue of a writ of certiorari for cancelling the admission of any student or the issue of a direction to the authority concerned compelling it to admit into the institution a candidate who was refused admission. No doubt when once certain principles are adopted as criteria for selection of candidates for admission from amongst the various applicants it is necessary that they should be applied uniformly and without differentiation.

6. The applicant no doubt says that the respondent No. 3 is not a son of any political sufferer, and his admission into the Indore Medical College, even though he had secured a less percentage of marks than those obtained by him (petitioner), was contrary to the "Rules". But in the return filed by the State it has been said that the respondent No. 3 is a son of one Ramanlal Premi of Guna who is a "Political Sufferer". The State has placed before us an affidavit sworn by Ramanlal Premi before the First Class Magistrate of Guna swearing that the respondent No. 8, Vijaykumar Premi, is his son and that he himself is a "Political Sufferer." The particulars of the activities of Ramanlal Premi, which persuaded the Government to hold that he is a "Political Sufferer" have also been disclosed before us.

7. When the "Rules" governing admissions in Medical Colleges lay down that the Government will decide as to who are sons and daughters of "Political Sufferers", and when it has been stated in the return that the Government was satisfied that the respondent No. 3 is a son of a "Political Sufferer", then cadit quaestio and there is an end of the matter. The "Rules" reserved 3 p.c. seats for sons and daughters of "Political Sufferers" who are bona fide residents of Madhya Pradesh, and the admission, therefore, of the respondent No. 3 against these reserved seats, even though the percentage of marks secured by him was lower than that obtained by the petitioner, was, therefore, in accordance with the "Rules". The "Rules" being merely executive instructions, the contention that the reservation of seats for sons and daughters of "Political Sufferers" is violative of Article 14 of the Constitution is altogether untenable. In the case of Ramchandra Vishnu Vs. State of Madhya Pradesh and Others, , it has been laid down that "Medical College in Madhya Pradesh Rules for Admission, 1960" are merely executive or administrative instructions in a field which is not covered by any statute; that being so, they cannot be classified as law so as to attract the principle of equality embodied in Article 14 of the Constitution. The present "Rules", framed in 1966, are not different in kind and nature.

8. It is not the case of the petitioner that in refusing admission to him and in selecting the respondent No. 3 and others for admission the "Rules" in question were not adhered to in other respects. His main grievance is that the respondent should not have been preferred on account of his being a son of a "Political Sufferer" As already pointed out earlier, the applicant cannot be given redress by this Court for this grievance. But we must add that in the case of Ramchandra

Vishnu Vs. State of Madhya Pradesh and Others, this Court deprecated the practice of giving preferential treatment on account of "political suffering" in regard to admissions into Medical Colleges. It was observed by this Court-

"In regard to the seats reserved for the sons and daughters of political sufferers, it would appear that the preferential treatment accorded to them is based upon irrelevant and wholly extraneous considerations because there is no rational relation between the political suffering of any person and the education imparted to his descendants in a Medical College with the object of promoting efficiency in the medical profession."

It is strange to find that despite these observations, the Government has chosen to provide in the "Rules for admission in Medical Colleges, and Dental College, 1966" for reservation of 3 p.c. seats for sons and daughters of "political sufferers" taking the power to itself of deciding in its discretion as to who are the sons and daughters of "political sufferers". One would have expected the Government to pay due regard to the observations of this Court already reproduced, for the sake of securing a high standard of Medical Graduates, and for its own sake for avoiding being placed in a situation where it is likely to be exposed to allegations of the kind made in this petition, namely of showing favouritism in the matter of admission into colleges under the cloak of "Political suffering". After all "political suffering", however commendable, can be rewarded only once in an appropriate field. It cannot be exploited for securing benefits of all kinds whenever an occasion arises. If that happens, then the sacrifice involved in "political suffering" ceases to be a "sweet sacrifice" deserving any recognition.

9. For these reasons, this petition is dismissed. In the circumstances of the case, we leave the parties to bear their own costs of the petition. The outstanding amount of security deposit shall be refunded to the petitioner.