

Lalithamma Vs. Selection Committee for Admission to Medical Colleges, Bangalore and ors.

Lalithamma Vs. Selection Committee for Admission to Medical Colleges, Bangalore and ors.

SooperKanoon Citation : sooperkanoon.com/372401

Court : Karnataka

Decided On : Jul-06-1971

Reported in : AIR1972Kant37; AIR1972Mys37; (1971)2MysLJ361

Judge : B. Venkataswami and ;E.S. Venkataramiah, JJ.

Acts : Admission to Medical Colleges in the State of Mysore Rules - Rules 9 and 10(8)

Appeal No. : Writ Petn. No. 5209 of 1970

Appellant : Lalithamma

Respondent : Selection Committee for Admission to Medical Colleges, Bangalore and ors.

Advocate for Def. : R.S. Mahendra, High Court Govt. Pleader for Govt. Adv. and ;S.G. Goddakale Gowda, High Court Govt. Pleader for ;H.K. Vasudeva Reddy, Adv.

Advocate for Pet/Ap. : R.U. Goulay, Adv.

Disposition : Petition dismissed

Judgement :

Venkataswami, J.

1. The petitioner herein has sought for the issue of a Writ or Direction or Order against the respondents, to consider her case for admission to the First Year M. B. B. S. Course of the Karnatak Medical College, Hubli, or any other of the Government Medical Colleges and select her for the said course.

2. The Petitioner passed her Pre-University Examination of the Bangalore University in the year 1969 and secured 66.67% in the relevant optional subjects. She has also passed what is known as B. Sc., Part I Examination of the Karnatak University, which would enable her to seek admission for the First Year M. B. B. S. course. According to the relevant Rules for selection of candidates for admission, the qualification prescribed for admission is a pass in the Pre-University Examination. She, therefore, applied for admission to any of the Medical Colleges under the control of any of the Universities in Mysore for the year 1970-71. She was not selected by the first respondent-Selection Committee, constituted for the purpose of the said Rules. Hence the petition.

3. It is not disputed that the qualifying examination was a pass in the Pre-University Examination in any of the Universities. It is further undisputed that in so far as the Universities of Bangalore and Mysore are concerned, any selection for admission would enable a candidate to get himself admitted to the Pre-Professional Course leading to medicine. It is only thereafter a candidate would regularly enter into the First Year Medical Course. In so far as the Karnatak University is concerned, the course, corresponding to the aforesaid Pre-Professional, is B. Sc., Part I of that University. It is only after passing the said B. Sc., Part I can a candidate of that University enter the First Year Medical Course leading to M. B. B. S. It is, therefore, clear that the qualifying examination for all the Universities is a Pre-University course. In the instant case, all that the candidate had claimed was admission to any of the Medical Colleges within the jurisdiction of any of the said three Universities. The marks secured by the last candidate admitted in all these Universities, in the category of the general pool, in which alone the petitioner was entitled to be considered, had secured marks higher than that of the petitioner. The petitioner would have no grievance in this

behalf. Indeed, the case was not pressed on behalf of the petitioner in regard to this aspect of the matter.

4. Sri R. U. Goulay, the learned counsel appearing on behalf of the petitioner, however urged that the petitioner should have been considered for the seats reserved, under the proviso to Rule 9 of the Rules for selection of candidates for admission, which provided for allotment of not more than 20% of the seats in Colleges affiliated to any University, in the discretion of the Selection Committee, for candidates passing from Colleges affiliated to any other University in the State or elsewhere in India. His contention is that according to Sub-rule (8) of Rule 10 the process of selection should conform to the other provisions made in the said rule. In other words, the contention is that all those seats so reserved should have been dealt with in one compartment and, if so dealt with, the petitioner would be entitled to be preferred. The foundation for this argument is based on the following facts:

5. By virtue of the discretion vested under the proviso to Rule 9 of the Rules governing the matter, the Selection Committee has selected candidates from the Universities of Shiva.ji, Hyderabad, Andhra Pradesh, Delhi, Poona and Venkateswara. The last candidates admitted from each of these Universities except that of Andhra Pradesh have secured more marks than the petitioner. Hence the petitioner could not have any grievance in regard to them even assuming that the contention urged on her behalf of Sri Goulay had to be accepted. But, in regard to Andhra Pradesh, two candidates have been admitted and one of them has secured only 66% in the relevant optionals. That is less than 66.67% secured by the petitioner in her Pre-University course Examination. The case on behalf of the petitioner was strenuously urged on the basis of this fact,

6. On a careful consideration of the matter, we are, however, not persuaded to accept the contention urged on behalf of the petitioner, Proviso to Rule 9 of the Rules conferred discretion on the Selection Committee to allot not more than 20% of the seats to persons belonging to Universities other than the one to which admission is sought by the petitioner, which in the instant case is the Karnatak University. What the Selection Committee, in our opinion, had done is to draw

candidates from different sources. Therefore, what the Committee has to do is to compare the merits of the candidates belonging to each of these sources separately. That is exactly what has been done in the present case. We do not think that it would be fair or proper to compare the merit of the petitioner with the merits of the last boy admitted hailing from Andhra Pradesh. No material is forthcoming from the papers before us whether the standards of education and teaching provided in the Andhra Pradesh University were in any way equal to those provided in the Bangalore University. For the same reason, it cannot be predicated that the proviso to Rule 9 of the Rules envisages in any manner equal treatment of candidates coming from different Universities either in the State or elsewhere in India. In this connection, it is relevant to refer to certain observations of the Supreme Court made in Writ Petns. Nos. 618 to 622 of 1970, in which judgment was pronounced on 3-5-1971 (reported in : AIR 1971 SC1762 } D. N. Chanchala v. State of Mysore. His Lordship, Shelat, J-speaking for the Bench, while disposing of W. P. No. 621 of 1970, V. Soudhamini v. State of Mysore, has observed thus:

'.....There was thus no comparison between persons equally situated even as regards the number of marks secured by them. But apart from that, the result obtained by a student in an examination held by one University cannot be regarded as comparable with the result obtained by another candidate in an examination held by another University. Even assuming that a conscious effort is made to equalise standards obtaining in different universities. such standards depend on several human factors, methods of teaching and examining, the syllabus in such universities etc., even though the subjects taught and examined were to be the same. It is well settled that a question of discrimination can only arise in the case of persons equally situated. That the petitioner and those whom the Selection Committee selected were equally situated cannot, from the facts above stated, be assumed.....'

7. Viewed in the light of the above enunciation of the Supreme Court, also, the contention urged on behalf of the petitioner should fail.

8. In the result, the petition fails and is dismissed, but without costs.

