

C.P. Sagar Vs. the Chairman, Selection Committee for the Admission to the 1st Year Mbbs Course in Govt. Medical College, Bangalore and anr.

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Court : Karnataka

Decided On : Apr-05-1982

Reported in : AIR1983Kant199

Judge : M.P. Chandrakantaraj Urs, J.

Acts : Karnataka Medical Colleges (Selection for Admission) Rules, 1981 - Rule 5;
[Constitution of India](#) - Article 14

Appeal No. : Writ Petn. No. 34412 of 1981

Appellant : C.P. Sagar

Respondent : The Chairman, Selection Committee for the Admission to the 1st Year Mbbs Course in Govt. Medical Col

Advocate for Def. : M.H. Motgi, Govt. Pleader

Advocate for Pet/Ap. : S. Pramila, Adv.

Judgement :

ORDER

1. This petition coming up for preliminary hearing after notice to respondents is disposed of by the following order by consent of parties.

2. The petitioner was an applicant for one of the seats in Government Medical Colleges in the State of Karnataka for the academic year 1981-82. The selection to the Medical Colleges run by the Government as well as private Medical Colleges in which the Government is entitled to certain number of seats is governed by the Karnataka Medical Colleges (Selection for Admission) Rules, 1981, (hereinafter referred to as 'the Rules'). Under Rules 4 and 5 of the Rules provision is made for distribution of seats in favour of certain categories of persons and also for reservation of seats in favour of Scheduled Caste, Scheduled Tribe, Backward Caste, Backward Community and Special Groups. The petitioner, in the first application made by him, disclosed his father's total income as Rs. 12,099-00 per annum. That disclosure was duly affirmed by both the petitioner and his father in the application form by a declaration. That application was given receipt No. 018278. Subsequently, the petitioner made another application which was given receipt No. 19701, for a seat in the Government Medical Colleges disclosing his parents' total annual income at Rs. 9,441-00 per annum. That was also duly affirmed in the application and a separate affidavit was sworn to, to the effect that his total income was Rs. 9,441-00 only. The petitioner was neither called for interview nor selected though he had secured in the relevant optional subjects - Physics, Chemistry and Biology - 84.33 per cent of marks.

3. Apart from this grievance, the petitioner is very seriously aggrieved that another student belonging to the same Backward Community of Satni and who is the cousin of the petitioner and whose father is an Assistant Director of Sericulture in the Department of Sericulture in Karnataka has been selected for one of the seats reserved for Backward Communities though that cousin has secured only 79% of marks, that is, lesser marks than the petitioner in the relevant optional subjects. Therefore, the grievance that there is discrimination against the petitioner violating the rights guaranteed under Article 14 of the Constitution.

4. Learned Government Pleader Sri. M. H. Motgi, appearing for the respondent Selection Committee has made all the records of the case available to the Court. He has submitted that the Selection Committee did not consider the petitioner as one entitled to the seats reserved for Backward Communities under Rule 5 of the Rules inasmuch as in accordance with the Government Order No. SWL 12 TBS 77

dated 22-2-1977 as amended from time to time he was not eligible for the same inasmuch as his father's income exceeded Rs. 10,000-00 as disclosed in the first of the application made. In the light of that disclosure made, the second application said to be means for seats available to the Government in private Medical Colleges the disclosure of income as less than Rs. 10,000/- was ignored, with the result, he was not considered. Even in the Merit Pool he was not considered as the last person called for interview had secured 88.3 per cent.

5. I have carefully gone through the records. That the petitioner was not called for interview is patent. That the petitioner has disclosed two sets of income also is patent. But it is explained by the petitioner in the petition that the second application disclosed less than Rs. 10,000-00 as by then, the petitioner's father had learnt from the Tahsildar that he was entitled to deduct such payment as House Rent Allowance and other allowances from his annual income and therefore disclosed in the application only what he got as his basic salary. In the result, it is stated that the second application disclosed income deducing allowances and therefore that being below Rs. 10,000-00 the petitioner was entitled to be given the preferential treatment under Rule 5 of the Rules and to be selected to one of the seats particularly when he had secured higher marks than the 2nd respondent.

6. In Writ Petn. No. 34213 of 1981 (D/-25-2-1982)* an identical question arose for consideration and I have construed the words 'income from all sources' occurring in the relevant Government Order to include not only the basic salary but all income by whatever means is earned or given to the person, having regard to the plain meaning of the term in the Webster's III International Dictionary. The meaning of the term is the same in the other Dictionaries as well. In the absence of any special definition in the aforementioned order of the Government defining the expression and persons entitled to have the benefit of the order, it is Court's duty to define the word and to give it the normal meaning.

7. Even the counsel for the petitioner does not dispute that the petitioner falls outside the special treatment under the Government Order if the normal meaning is given to the expression 'from all sources'.

8. In the result, first of the grounds urged for the petitioner has to be rejected. The Selection Committee was therefore right in not calling the petitioner for interview for a seat in the merit pool because he had not secured above 88.3 per cent of marks in the relevant optional subjects.

9. The attack based on Article 14 of the Constitution in regard to selection is also not available to the petitioner to succeed for the following two reasons:

Merely because the Selection Committee made a mistake in the case of the 2nd respondent who in his application has disclosed his parent's income as less than Rs. 10,000/- and got selected, that cannot amount to discrimination. Even otherwise, if a mistake is made by the Selection Committee that mistake will not confer any legal right on the petitioner entitling him to a seat.

10. In any event, learned Government Pleader has drawn my attention to the action taken by the Chairman of the Selection Committee to verify the application of the 2nd respondent once again with reference to his father's income in accordance with Rule 16 of the Rules. The concerned officers have been addressed for verification and report and I am confident that after receipt of the report the Selection Committee will take appropriate action in accordance with the Rules.

11. In the result, the petitioner does not succeed and the petition is rejected without rule being issued.

12. There will be no order as to costs.

13. Sri. M. H. Motgi, Government Pleader is permitted to file his memo of appearance in two weeks.

14. Petition dismissed.