

Awadeesh Nema and ors. Vs. State of Madhya Pradesh and anr.

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Court : Madhya Pradesh

Decided On : Sep-13-1988

Reported in : AIR1989MP61

Judge : G.G. Sohani, Actg. C.J. and ;K.M. Agarwal, J.

Acts : [Constitution of India](#) - Articles 14, 29(2) and 226; [Evidence Act, 1872](#) - Sections 115

Appeal No. : Misc. Petn. No. 2394 of 1988

Appellant : Awadeesh Nema and ors.

Respondent : State of Madhya Pradesh and anr.

Advocate for Def. : S.L. Saxena, A.A.G.

Advocate for Pet/Ap. : J.P. Sanghi and ;H.S. Ruprah, Advs.;V.K. Tankha and ;R.K. Verma, Advs.

Disposition : Petition dismissed

Judgement :

G.G. Sohani, Ag. C.J.

1. The order in this case will also govern the disposal of M.P.Nos. 2559/88, 2528/88, 2535/88, 2569/88, 2578/88, 2644/88, 3013/88, 2799/88, 2781/88,

2950/88, 2968/88, 3011/88, 2976/88, 2938/88, 3027/88, 3028/88, and 3032/88.

2. These are petitions under Article 226 of the Constitution. The material facts giving rise to these petitions, briefly, are as follows : A competitive entrance examination known as Pre-Medical Test (P.M.T.) and Pre-Engineering Test (P.ET.) for selection of candidates for admission to professional courses in medical science and engineering respectively, was held in May 1988 by respondent 2, the Vyavasayik Pariksha, Mandal, M.P., also known as Professional Examination Board (hereinafter referred to as the Board) constituted by the State Government. The examination was held in accordance with the Rules for entrance test (hereinafter referred to as the Rules) framed by the State Govt. in that behalf. These Rules are not Statutory Rules, but are framed by the State Govt. in exercise of the executive power of the State. One of the subjects prescribed for courses for which admission was sought by the petitioners, was General English. The Rules provide that marks obtained in the subject 'General English' would not be added to the aggregate, but a candidate must secure at least 25% marks in General English to qualify for admission to the aforesaid courses. The petitioners who had appeared for the aforesaid entrance examination, failed to secure 25% marks in the subject 'General English' and hence they were not selected for admission. Aggrieved by their result, the petitioners have filed this petition.

3. The first contention advanced on behalf of the petitioners was that by prescribing 'General English' as one of the subjects for the entrance examination, the Board acted arbitrarily and unreasonably. Reliance was placed on the decision reported in *Amisha Nagpaul v. State of Orissa*, AIR 1988 Orissa 190. In reply, it was contended on behalf of the respondents by the learned Additional Advocate General that a reasonable knowledge of English language was absolutely necessary for prosecuting studies for courses for which admission was sought by the petitioners. Before we proceed to appreciate the contentions advanced by the learned counsel for the parties, in this behalf, it would be useful to note certain facts which are not in dispute. As the number of seats for admission to medical and engineering institutions in the State is limited and a very large number of candidates apply for admission to the courses of study in these institutions, the Board, as directed by the State Govt., has been conducting a competitive entrance

examination for selection of candidates for admission to these courses. In the State of M.P., though 'English' is one of the subjects prescribed for the High School Certificate Examination by the Board of Secondary Education, English is not one of the compulsory subjects for the Higher Secondary School Certificate Examination (10+2) in the science group. With the introduction of 10+2 system of education in the State of M.R. from the year 1986, the academic requirement of eligibility for admission to the courses in question is that a candidate should have passed the Higher Secondary School Certificate Examination (10+2), or an examination equivalent thereto as prescribed by the Rules. The question papers for the Higher Secondary School Certificate Examination conducted by the Board of Secondary Education, M.P., are set both in Hindi and English and candidates have the option to answer questions in any one of the languages, Hindi, English, Urdu or Marathi. These facts are evident from the prospectus for the Higher Secondary School Certificate Examination, 1988, published by the Board of Secondary Education M.P., which was produced before us. It would be thus clear that in the State of M.R., a student who has passed the Higher Secondary School Certificate Examination in the science group and is therefore, eligible for admission to the engineering and medical courses, has not acquired sufficient knowledge of English as a language of comprehension, because he has not studied 'English' for the Higher Secondary School Certificate Examination. Such a student, if selected for admission to the courses in question, would not be able to pursue his study properly, because however regrettable it may be, the fact remains that today text books for the degree courses in medical, science and engineering are in English and instruction is also imparted in English. That is why to judge the suitability of a candidate for admission to these courses, the Board prescribed General English as one of the subjects for the entrance examination held in May, 1988. The syllabus in English prescribed by the Board is somewhat similar to that prescribed for the Higher Secondary School Certificate Examination in the subject 'General English'. The course prescribed by the Board in the subject 'General English' is (i) Reading comprehension; (ii) Grammar and Usage; (iii) Words, Phrases and Idioms, Comprehension and their use in sentences; (iv) Prefix, Suffix, Punctuation and Spelling; and (v) Letter Writing. The Board has further provided that selection for admission would be on merit on the basis of

aggregate marks obtained by candidates in subjects other than 'General English' and that marks obtained in 'General English' by a candidate would not be added to the aggregate, but to qualify for admission, a candidate must secure at least 25% marks in 'General English'. It was contended that this requirement to qualify for admission, was absolutely unreasonable, because achieving excellence in English was at all not necessary for passing the technical courses in question. It would really be a very sad day when obtaining 25% marks in any subject is considered to be a sign of having achieved excellence in that subject. The insistence on obtaining at least 25% marks by a candidate in the subject 'General English' to qualify for admission is only with a view to be assured that the candidate has some knowledge of English language to enable him to study the text books in English, if he is admitted to the courses in question. This requirement, as prescribed by the Board, cannot, in the circumstances of the case, be held to be arbitrary. It cannot also be held that the requirement is such as has no connection whatsoever with the object of the examination. We may, at this stage, usefully refer to the following observations of the Supreme Court in *Javid Rasool Bhat v. State of J. and K.*, AIR 1984 SC 873.

'In the very nature of things, it would not be within the province or even the competence of the Court and the court would not venture into such exclusive thickets to discover ways out, when the matters are more appropriately left to the wise expertise of medical academicians interested in the quality and integrity of medical education and public administrators conversant with various administrative and socio-economic problems, needs and requirements. The Court's duty lies in preventing arbitrariness and denial of equal opportunity. The question as to the subjects in which an entrance test may be held is hardly a matter for the Court unless of course, the subjects are so arbitrarily chosen as to have not the slightest connection with the object of examination. Such a situation is not likely to arise as the authorities may be expected to act reasonably.'

Judged in the light of the aforesaid observations, the action of the Board in prescribing 'General English' as one of the subjects for the entrance examination cannot be held to be arbitrary or unreasonable. As observed by the Supreme Court in *(Dr. Dinesh Kumar v. Motilal Nehru Medical College, Allahabad)*, AIR 1986

SC 1877 students must have some knowledge of English as a language of comprehension, for otherwise they would not be able to pursue the courses in English language.

4. The decision reported in *Amisha Nagpaul* (AIR 1988 Orissa 190) (*supra*) on which reliance was placed by the petitioners is distinguishable on facts. In that case, the question for consideration was whether prescribing 'Oriya' as a subject in the entrance test for admission to the M.B.B.S. Course in the Medical College of the State for assessing the individual merit could be said to have any reasonable nexus with the object to be achieved. It was held by the Orissa High Court that the subject 'Oriya' has no reasonable connection with the study of medical science and that if Oriya as a subject could not have any rational nexus with the study of M.B.B.S. course or in obtaining M.B.B.S. Degree, prescribing such a subject at the entrance test to assess the relative merit of a candidate was arbitrary and unreasonable. The decision of the Orissa High Court, instead of supporting the case of the petitioners, supports the case of the respondents. In the instant case, English has undoubtedly reasonable connection with the study of medical science and engineering. In the circumstances of the case, therefore, we cannot uphold the contention urged on behalf of the petitioners that 'General English' as a subject, can have no rational nexus with the object of the entrance examination conducted by the Board. No interference can be made with the decision of the respondents in that behalf.

5. It was then contended on behalf of the petitioners that prescribing English as one of the subjects for entrance test was anti-national and violative of the provisions of Article 29(2) of the Constitution. It is no doubt true that English is a foreign language, but as the matter stands today, knowledge of that language is absolutely essential for those who want to pursue studies in medical science and engineering. The following observations of the Supreme Court in *Dr. Dinesh Kumar* (AIR 1986 SC 1877) (*supra*) are pertinent.

'Of course we do recognise that in order to strengthen the unity and integrity of the country and promote mobility from one State to another and to avoid creating a situation where an Indian from one State will be a stranger in another State, it is

necessary that there should be one common language which should operate as a link language and particularly man in public life, professionals, intellectuals, academics and the like should know such link language and some day, hopefully with the consensus of the people, Hindi might become such link language, but as the matter stands today, since the medium of instruction in the M.B.B.S./B.D.S. Course and Post Graduate Courses is English and the entire medical education is being imparted in the English language throughout the country and it is not practically feasible to hold the All India Entrance Examination in diverse regional languages, we are of the view that for the present, at least the All India Entrance Examination should be held in the English language'

In view of the aforesaid observations of the Supreme Court, the contention that the action of the respondents in Prescribing English as one of the subjects for the entrance examination is anti-national cannot be upheld.

6. The contention that prescribing General English as one of the subjects for the entrance examination is violative of the provisions of Article 29(2) of the Constitution has to be stated to be rejected. Article 29, as indicated by the marginal note, is for the protection of interests of minorities. All that Article 29(2) lays down is that no citizen shall be denied admission is to any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them. But if a person is denied admission on the ground that he has failed to qualify for admission because he has not passed the requisite test in a language which is compulsory for seeking admission, it cannot be held that he is denied admission on the ground of language. If the argument of the petitioners were to be carried to its logical conclusion, it would mean that if, to be eligible for admission to an educational institution run or aided by the State, it is necessary to pass a certain examination for which any language is prescribed as one of the compulsory subjects, a candidate would be deemed to have passed that examination even though he has failed in that examination on account of failure to obtain the minimum marks prescribed for passing in the language paper. Such a construction cannot be spelt out of the provisions of Article 29(2) of the Constitution. The contention that the action of the respondents in holding that the petitioners have not qualified for

admission as they have failed to obtain the requisite marks in the subject 'General English' cannot be held to be violative of the provisions of Article 19(2) of the Constitution.

7. It was then contended that the entrance test could not have been conducted by the respondents because that was the exclusive function of the Universities. It was also urged that when the Universities had prescribed passing of the Higher Secondary School Certificate Examination or an examination equivalent thereto as a sufficient qualification for eligibility to admission in Medical and Engineering Colleges, the comparative merit of the candidates could not be decided on the basis of an entrance examination. The contention cannot be upheld. It may be that a University can hold an entrance test for deciding the comparative merit of candidates seeking admission, but no provision of the Madhya Pradesh Vishwavidyalaya Adhiniyam 1973, or any other law was brought to our notice which prohibits the respondents from holding an entrance test for admission to institutions run or aided by the State. As observed by the Supreme Court in *Ajay Hasia v. Khalid Mujib Sehravardi*, AIR 1981 SC 487 it is difficult to appreciate how a procedure for admission which does not take into account the marks obtained at the qualifying examination, but prefers to test the comparative merit of the candidates by insisting on an entrance examination can even be said to be arbitrary. The Supreme Court has further held that the entrance test facilitates the assessment of the comparative talent of the candidates by application of a uniform standard and is always preferable to evaluation of comparative merit on the basis of marks obtained at the qualifying examination when the qualifying examination is held by two or more different authorities and lack of uniformity is bound to creep into the assessment of candidates by different authorities with different modes of examination. Regulating admissions on the basis of entrance test cannot be held to be illegal or arbitrary.

8. It was then contended that though for the P.M.T., General English was prescribed as one of the compulsory subjects, it was introduced for the first time for the P.E.T. held in the year 1988. It was urged that when for last so many years, the respondents had not considered it necessary to prescribe General English as one of the compulsory subjects for the P.E.T., there was no justifiable reason for

introducing that subject in the year 1988. In reply, it was contended on behalf of the respondents that it was true that till the year 1988, General English was not one of the compulsory subjects prescribed for the P.E.T., the necessity to introduce that subject was realised in view of the experience gained for all these years. It was stated that General English was one of the compulsory subjects prescribed for the first year and in some cases, for the second year degree course in engineering and that from the results of the first year and second year degree examination held by the Engineering Colleges, it was noticed that those who had failed in that examination on account of failure to pass in English had not studied English as one of the subjects for the qualifying examination. The respondents have produced a chart (Annexure R-II) by way of a specimen to show from the tabulation of results for the last three years in an Engineering College, that those who had failed in English in the first year and second year degree examination had failed because they had not studied English for their Higher Secondary School Certificate Examination. It was contended on behalf of the respondents that to avoid such failures and wastage of time and money consequent upon such failure that a decision was taken that to judge the suitability of a candidate for admission to the degree course in engineering, General English should be introduced as one of the subjects for the P.E.T. The reason given by the respondents for introducing English as one of the subjects for the P.E.T. from the year 1988 is sound. Introduction of General English as one of the compulsory subjects for the P.E.T. from the year 1988 cannot, therefore, be held to be the result of any whim on the part of the respondents.

9. It was then contended that the impugned action of the respondents was discriminatory because English was not prescribed by the respondents as one of the compulsory subjects for admission to some courses in the engineering and medical science groups. It was also contended that for candidates seeking admission to medical colleges from the All India quota, English was not one of the compulsory subjects prescribed for the All India Pre-Medical Entrance Test Examination 1988, and hence there was discrimination between candidates selected for admission in medical colleges from different sources. Now it cannot be lost sight of that the All India quota for admission to medical colleges has been fixed in pursuance of the directions given in that behalf by the Supreme Court in

Pradeep Jain v. Union of India, AIR 1984 SC 1420. Candidates are selected for the quota allotted to All India seats on the basis of the result in the All India Pre-Medical Entrance Examination held by the Central Board of Secondary Education. Under the rules framed by the Central Board of Secondary Education for that examination, it is clear that only those students are eligible to appear at the entrance examination who have passed the Higher Secondary School Examination or any equivalent examination with English at a level not less than the core course for English as prescribed by the National Council for Educational Research and Training. Moreover, the All India Pre-Medical Test conducted by the Central Board of Secondary Education is held only in English unlike the P.M.T. Therefore, candidates who are selected on the basis of All India Pre-Medical Entrance Examination form a different group. Students belonging to that group have studied English language for their qualifying examination. That is not the case with the candidates who appeared for the P.M.T. conducted by the respondents. The qualifying examination for P.M.T. is Higher Secondary School Certificate Examination conducted by the Board of Secondary Education in Madhya Pradesh and English is not one of the compulsory subjects for that examination. The two categories of candidates seeking admission thus form two different groups which are not similarly situated and there is intelligible basis for differential treatment between the two groups. The question as to whether English should or should not have been prescribed as a compulsory subject for qualifying admission to some other courses like veterinary science is for the consideration of those who are imparting instruction in these courses. That cannot be a matter for the decision of the court. In any event, prescribing English as one of the compulsory subjects for pursuing studies in some courses only cannot be held to be discriminatory because such a requirement is not prescribed for pursuing studies in other courses. The contention that the impugned action of the respondents is discriminatory cannot, therefore, be upheld.

10. It was then contended that the question paper set in the subject 'General English' was very difficult. We have perused that question paper. No doubt, the unseen passage which was set to judge the comprehension of a candidate is not easy to understand. But in a competitive test, there are bound to be some difficult questions to test the merit of candidates. The questions are equally difficult for all

the candidates and those who have studied very well are alone able to solve those questions. Moreover, the marks obtained by a candidate in the paper on General English were not to be added to the aggregate of marks obtained by the candidates in other subjects which formed the basis for preparation of the merit list. The candidates had merely to secure 25% marks in General English to qualify for admission to the courses in question. It was also contended that some of the questions set in the question paper were incorrect and hence the result of the examination deserved to be quashed. It was, however, pointed out on behalf of the respondents in reply that before valuation of the answer books in the subject 'General English', it was discovered that Q. Nos. 30, 40, 45, 56, 63, 64, 65, 73, 79, 80, 86, 87, 97 and 99 each carrying 3 marks, were defective in the opinion of the experts on the subject and, therefore, as recommended by the experts, a decision was taken by the respondents to give 42 marks to each candidate in General English to avoid any prejudice to anybody. This statement made on behalf of the respondents is supported by an affidavit filed by the Controller, respondent 2. It has not been pointed out on behalf of the petitioners that questions other than those as admitted by the respondents were incorrect. When certain questions set in a question paper are admittedly incorrect, the question as to whether the result should be quashed or whether marks assigned to the incorrect questions should be added to the marks obtained by a candidate came up for consideration in *Anil Kumar Jain v. State of M. P.*, (1986) 4 Serv LR 745 : (1985 Lab IC 1059). The following observations made by the Division Bench of this Court in that case are pertinent :

'As regards the lengthy nature of questions, the time that it will take to read and the inaccuracy in translation, some mistakes in printing are such things which were common to all the candidates. All the candidates had to face the same situation and even if it is held that the manner in which the question paper was prepared was not very good, still it could not be said that there is any unfairness adopted by the Public Service Commission because of these common flaws all the candidates either suffered equally or took advantage equally. Under these circumstances, it could not be said that there is any unfair treatment to the petitioners in particular. Some of the questions which were admittedly wrong, the Public Service Commission, in their return, have frankly admitted and stated that they had

instructed the examiners to give marks to all those who attempted these questions and this statement made in the return has not been challenged.'

In view of the aforesaid decision, the contention that the result of the examination deserves to be quashed because some of the questions set in the question paper were incorrect cannot be upheld.

11. It was then contended that the method of holding test in General English by setting objective type questions and by adopting negative marking was not justified. The contention cannot be upheld. The manner in which the question paper in any subject should be set and the manner in which answer books should be examined are matters in which a Court cannot interfere unless it is shown that the matter is unjust or arbitrary. Setting objective type questions and adoption of the method of negative marking so long as it is uniform for all the candidates cannot be held to be unjust or arbitrary.

12. Aggrievance was made by some of the petitioners that though in the prospectus issued by the respondents, it was stated that in the subject 'General English', no separate answer sheet would be provided and that the candidates were required to answer the question paper in test booklet only, yet in the examination hall, sometime after the commencement of the examination, the candidates were told that they had to indicate their answers in the answer sheet and not in the test booklet. Now the instructions given to candidates in the question paper in General English are given prominently and are expected to be read by candidates before they proceed to answer the questions. These instructions were as follows :

(i) There are 100 questions each carrying 3 marks. All questions are to be attempted.

(ii) Read carefully 'instructions regarding method of answering questions' given on the last page. Indicate your answer on the answer sheet provided in this booklet.

(iii) Negative marking will be done as indicated.

A candidate is expected to carefully read instructions given to candidates printed on the question paper before proceeding to answer that question paper. It was not

disputed on behalf of the petitioners that a separate answer sheet had been provided along with the question paper in General English. It is true that there is some discrepancy as regards the method of indicating answers to questions set in the question paper in 'General English' as given out in the prospectus and that set out in the question paper. But the instructions given to candidates in the question paper would prevail over any other instructions to the contrary given anywhere and a separate answer sheet was admittedly provided to candidates along with the question paper. If any candidate at the examination omits to follow the instructions printed on the question paper and if his attention is pointed out to the instructions by the Invigilator, no grievance can be made by the candidate that he was misled by the instructions given in the prospectus.

13. It was also urged on behalf of the petitioners that the State Government had taken a decision that those who had failed to obtain 25% marks in General English in P.E.T. and P.M.T. held in the year 1988, but were otherwise qualified for admission to the engineering and medical courses would be considered eligible for admission in the next year. It was contended that if these candidates could be considered fit enough for being admitted to the courses next year, there was no reason why admission should be denied to them this year. If such a decision alleged to have been taken by the respondents is operative next year the validity of such a decision can be enquired into at that time if assailed. At this stage, we refrain from expressing any opinion in this behalf.

14. Lastly it was contended that the decision taken by the State Govt. on 19th August 1988, subsequent to the declaration of the result that the State Govt. had further relaxed the percentage of minimum qualifying marks for admission to medical college in case of candidates belonging to the Scheduled Caste and Scheduled Tribe was unjust and illegal. It was contended that in the Rules, it was specifically stated that the percentage of minimum qualifying marks fixed by the Rules would not be relaxed further and yet the respondents have acted in violation of that Rule. It was further contended that the Rules laid down that if candidates for any reserve category were not available, then the vacant seats of the reserve category would be filled from the list of waiting candidates in the general category and, therefore, the decision of the State Government relaxing the percentage of

minimum qualifying marks in the case of Scheduled Caste and Scheduled Tribe candidates has adversely affected the interests of the students in the general category. In reply, it was contended on behalf of the respondents that though it was stated that the percentage of minimum qualifying marks for admission would not be relaxed further, Rule 7.2 provided that the State Govt. had reserved the right to amend any Rule for admission. It was stated that it had always been the intention of the State Govt. that seats reserved for the members of the SC/ST should go to them and only when eligible candidates were not available, then alone the seats reserved for SC/ST should go to general category. Now it was not and could not be contended before us that as a result of relaxation in percentage of qualifying marks in the case of candidates who are members of SC/ST, any candidate not eligible for admission to the professional courses in question would be admitted. A candidate had to satisfy the eligibility test as prescribed for those courses. For the further selection of such eligible candidates, there is relaxation in the percentage of qualifying marks. Seats in the reserve category become available to candidates in general category only when eligible candidates in the reserve category are not available. That is evident from Rule 2.5.8 which is as follows :

' 2.5.8 Vacant Seats in Reserved Categories :

In case eligible candidates to the extent of representation in any reserve category are not available, then the vacant seats of the reserve category will be filled from the waiting list of candidates in General Category.'

The question as to whether there should be relaxation in the percentage of qualifying marks in case of SC/ST candidates came up for consideration before this Court in *Nivedita Jain v. State of M. P.*, AIR 1981 Madh Pra 129. In that case, there was total relaxation of minimum qualifying marks for the candidates belonging to SC/ST category. It was held by this Court that such an action could not be sustained in law. The decision of this Court was, however, reversed by the Supreme Court in *State of M. P. v. Nivedita Jain*, AIR 1981 SC 2045. The Supreme Court observed as follows :

'It cannot be disputed that State must do everything possible for the upliftment of the Scheduled Castes and Scheduled Tribes and other backward communities and the State is entitled to make reservations for them in the matter of admission to medical and technical institutions. In the absence of any law to the contrary, it must also be open to the Government to impose such conditions as would make the reservation effective and would benefit the candidates belonging to these categories for whose benefit and welfare the reservations have been made. In any particular situation, taking into consideration the realities and circumstances prevailing in the State, it will be open to the State to vary and modify the conditions regarding selection for admission, if such modification or variation becomes necessary for achieving the purpose for which reservation has been made and if there be no law to the contrary.'

On behalf of the petitioners, it was contended that the aforesaid decision of the Supreme Court in *State of M. P. v. Nivedita Jain* (supra) was distinguishable, because there was a rule specifically empowering the Government to grant relaxation in the minimum qualifying marks to the extent considered necessary. It is, however, clear from the decision of the Supreme Court that that decision did not turn on the question as to whether there was a Rule empowering the State Government to grant relaxation in the minimum qualifying marks for the SC/ST candidates. The Supreme Court held that as there was no provision of law to the contrary, it was open to the Government to vary and modify the conditions regarding selection for admission if such modification or variation becomes necessary for achieving the purpose for which reservation had been made. The decision in *State of M. P. v. Nivedita Jain* (supra) came up for consideration before the Supreme Court in *Aarti Gupta v. State of Punjab*, AIR 1988 SC 481. The Supreme Court observed as follows :

'As pointed out in *Nivedita Jain*'s case. *State of M. P. v. Nivedita Jain* (supra), the selection is at two stages. The Medical Council prescribed a percentage of marks as the basic minimum to be obtained in the qualifying examination (conducted by the University) and qualified candidates only applied for admission. Since the seats available are much less than the candidates seeking admission, a further selection becomes necessary to eliminate candidates in excess of the available

seats. The candidates belonging to the Scheduled Castes and the Scheduled Tribes who applied for admission and were to be subjected to selection, must have secured appropriate marks in the qualifying examination or otherwise they could not have applied. The plea which is raised before us, namely, that there would be an element of estoppel and the action would be branded as arbitrary, would certainly have arisen in the case of Nivedita Jain *supra*, but the Court did not find the total abolition of the percentage qualification as either arbitrary or hit by rules of estoppel. Reservation is not in dispute. The State Govt. had really intended that 100 seats should go to the candidates of Scheduled Castes and Scheduled Tribes. When in the selection test that number of candidates wasnot available, the question of reduction of the qualifying marks arose. In the facts of the case, we are not prepared to accept the contention of Dr. Singhvi that Government's action is arbitrary.'

In the instant case, facts are similar to those in Aarti Gupta v. State of Punjab (*supra*). The State Govt. had really intended, as is tear from the affidavit filed in that behalf, that all the seats reserved for the SC/ST candidates should go to those candidates only. The question of promissory estoppel, as urged on behalf of the petitioners, does not arise. It has not been shown or even averred that the petitioners who had appeared for the P.M.T. and P.E.T. would not have appeared if there had been a rule empowering relaxation in the percentage of qualifying marks prescribed in he case of SC/ST candidates. It has also not been averred or shown that as a result of any representation made by the State Govt. in that behalf, the petitioners have altered their position to their detriment. It was then urged that relaxation in qualification was bound to affect general efficiency of the professional men. As regards this aspect of the matter, we cannot do better than reproduce the following passage from the Supreme Court in Aarti Gupta v. State of Pubjab (*supra*) :

'Before we part with the appeal, we think it appropriate to indicate that the standard of medical profession should not be compromised in national interest. There has been perceptible fall in national standards and general efficiency of the professional men. While it is not necessary for us to say anything against reservation, we approve of the concern shown by the Indian Medical Council that

high standards of efficiency should be maintained and that can only be possible if the State and the Council cooperate to maintain a high standard. This aspect should be kept in view while guidelines are prescribed for selection of students for the medical courses. The impugned notification of the State Government shows that the reduction is confined for this year. We hope (here would not be necessity for a repetition of this action.'

15. Having given our anxious consideration to the contentions raised on behalf of the petitioners, we have come to the conclusion that no case is made out on behalf of the petitioners for grant of any relief under Article 226 of the Constitution. The petitions, therefore, fail and are accordingly dismissed. In the circumstances of the case, parties shall bear their own costs of these petitions. Security amount, if any, be refunded to the petitioners.

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