

Krupasheela Vs. State of Karnataka

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Court : Karnataka

Decided On : Oct-10-1985

Judge : Chandrakantaraj Urs, J.

Acts : Karnataka Medical Colleges (Selection of Candidates for Admission) Rules, 1984 - Rule 4(1); Karnataka Dental Colleges (Selection of Candidates for Admission) Rules, 1983 - Rule 4(1)

Appeal No. : W.P. No. 17666 of 1984

Appellant : Krupasheela

Respondent : State of Karnataka

Advocate for Def. : N. Devadas, Adv.

Advocate for Pet/Ap. : B. Veerabhadrappe, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

Chandrakantaraj Urs, J.

1. In this Petition, the petitioner has prayed for quashing of Rule 4(1) of the Karnataka Medical Colleges (Selection of Candidates for Admission) Rules, 1984

as well as Rule 4(1) of the Karnataka Dental Colleges (Selection of Candidates for Admission) Rules, 1983, (hereinafter referred to as the Rules). Those Rules of 1983-84 referred to academic year 1984-85 and 1983-84 respectively for M.B.B.S. Course and Dental Surgery Course. Rule 4(1) of the Rules deals with the distribution of seats i.e., where the seats should be distributed after reservation is given effect to. The reservation is to be made in accordance with another rule in the same Rules in regard to Backward Classes, Backward Communities, Scheduled Castes and Scheduled Tribes. But Rule 4(1)(a) of the Rules specifically provides for reservation of a special category of persons such as :

(a) Students nominated by the Government of India.

(b) Children of Defence and Ex-Defense Personnel.

(c) Children of Political Sufferers/Freedom Fighters.

xx xx xx (f) Children of persons who have rendered Medical Service to the Society as Doctors.

(g) Children of parents whose mother tongue is Kannada and who normally reside outside Karnataka but within India other than those from disputed Kannada speaking areas.

(h) Children of parents whose mother tongue is Kannada and who normally reside outside Karnataka in the disputed Kannada speaking areas.

(i) Persons who have studied for not less than ten full years including the qualifying examination in educational institutions in Rural Areas. xx xx xx

The real challenge is to the reservation made in favour of students who have studied for not less than ten years till the qualifying examination in rural areas. In a note to the said Rules, 'Rural Area' is defined as a necessary (SIC) place in the State of Karnataka which has less than 20,000 population.

2. Somewhat similar Rule of Maharishi Dayanand University in Punjab fell for consideration by the Supreme Court in the case of Suneel Jatley v. State of Haryana Etc, : [1985]1SCR272 . The reservation in favour of such students was

held to be unconstitutional as it was not based on any reasonable classification and therefore violative of Article 14 of the Constitution. In the light of the decision of the Supreme Court in that case I should have no hesitation to strike down the Rule as unconstitutional in so far as it relates to reservation in favour of students from rural areas But the question is whether it should be done so at the instance of the petitioner and consequential direction should be given to consider his case for a seat in the Medical College or the Dental College in the ensuing academic years.

3. The learned High Court Government Pleader has argued to distinguish Suneel Jatley's case, : [1985]1SCR272 with reference to another decision of the Supreme Court where the present Chief Justice has pointed out that students coming from rural areas do have a disadvantage which other students not coming from such rural areas do not have. I do not think I should be persuaded by such distinction sought to be made out. Without expressing any opinion about the disadvantageous conditions obtaining in rural areas in India, there is no material placed before this Court that in areas where there is a population of more than 20000, those disadvantages do not exist. Even in a metropolitan City, it is possible some schools are hopelessly ill-equipped, nevertheless given recognition and permitted to educate the students. Merely because some students for their misfortune are in the urban areas is no reason why they should not have the advantage which the rural areas have. The Ruling of the Supreme Court in Suneel Jatley's case, : [1985]1SCR272 is more directly on the point. Therefore, it should be followed.

4. No useful purpose will be served in striking down that rule. That rule is no longer in force as the same has been repealed or replaced by new sets of Rules for the selection of candidates to Medical Colleges and Dental Colleges in the academic year subsequent to the years with which we are concerned. The petitioner has not chosen to challenge the corresponding provisions in the new Rules.

5. Mr. B. Veerabhadrappe, Learned Counsel appearing for the petitioner, however, contended that this Court should strike down the Rule and then the petitioner will be entitled to the consequential relief of direction by this Court to have his case considered in the same manner as Supreme Court directed in Suneel Jatley's

case, : [1985]1SCR272 . He drew my attention to first paragraph as reported in the All India Reporter. So far as the direction of the Supreme Court is concerned, it is not for me to comment on the facts of that case. The Supreme Court had directed that 25 seats reserved for rural areas students should in the subsequent year be given to students who would have been otherwise eligible on the basis of merit in the previous academic year after notifying them all. If I were to follow the same in the case of the petitioner, I should do so only after setting out some more facts. Admittedly, the petitioner stands at rank 592 in the merit list common to both the I Year M.B.B.S. and the Dental Surgery Course. The last student selected in the merit list had obtained 365th rank for the relevant academic year. Only 50 seats were allotted to students coming from rural areas in each of the courses. If we have to assume that those seats should really go to general pool and not to any reserved category, then this Court must examine whether the petitioner had a chance to be selected to either of the courses which is admittedly a common list. All things being equal in the merit list up to 465 rank would have been selected, had there been no reservation under the category of rural areas students. That still leaves the petitioner 127 ranks behind. In such situation, I do not think it is prudent for this Court to give similar directions which appear to have been promptly given by the Supreme Court as is apparent. The directions were first given in that case and reasons for their conclusion to strike down those rules came much later. Position here is reversed though the Petition was filed in time, for various reasons it has not been heard and disposed of. In the result more than a year has elapsed and new course has commenced and started in the current academic year and the selections are practically over. In that circumstance, having regard to the very low rank obtained by the petitioner, I do not propose to make any direction.

6. The Writ Petition is dismissed as having become infructuous.

7. But that does not preclude him from challenging the existing rules currently which is more or less identical, if he is so advised.