

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision:03.07.2013

+ W.P.(C) 4010/2013 & CM 9470/2013 (stay)
RAM AWATAR MANDA & ORS

..... Petitioner

Through: Mr. P.C. Chandra, Mr. Ashish Kumar and
Mr. Mithilesh Kumar, Advs.

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY AND ORS.

..... Respondent

Through: Dr. Rakesh Gosain with Mr. Vineet Ajmani,
Advs. For UOI

CORAM:
HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

Section 3 of the Central Educational Institutions (Reservation in Admission) Act, 2006 provides for 27% reservation of seats in admission to the Central Educational Institutions. It also provides for 15% reservation in such institutions for Scheduled Caste and 7.5% for the Scheduled Tribes. The 'Central Educational Institutions' has been defined in Section 2(d) of the Act, as under:

"Central Educational Institution" means-

(i) a university established or incorporated by or under a Central Act;

(ii) an institution of national importance set up by an Act of Parliament;

(iii) an institution, declared as a deemed University under section 3 of the University Grants Commission Act, 1956, and maintained by or receiving aid from the Central Government;

(iv) an institution maintained by or receiving aid from the Central Government, whether directly or indirectly, and affiliated to an institution referred to in clause (i) or clause (ii), or a constituent unit of an institution referred to in clause (iii);

(v) an educational institution set up by the Central Government under the Societies Registration Act, 1860”

Section 2(g) of the Act provides that “Other Backward Classes” means the class or classes of citizens who are socially and educationally backward, and are so determined by the Central Government.

2. Respondent no.2 Guru Gobind Singh Indraprastha University had been conducting examinations for admission to Post Graduates Medical Courses. However, for the current year i.e. 2013-2014, it did not conduct any examination and has adopted the rank obtained in the examination conducted for this period by National Board of Examinations (NBE).

3. In its admission broacher for the Academic Year 2012-2013, the respondent no.2 stipulated providing reservation for 27% of seats for OBC candidates. Reservation was also provided for Scheduled Caste and Scheduled Tribes candidates. Clause 7.2.2 of the prospectus for the Academic Year 2012-2013 expressly provided that 27% seats shall be reserved for candidates belonging to OBCs Category as per the guidelines of Government of India and OBC certificate in the names of the candidate from a Competent Authority as per central list of OBCs will have to be submitted at the time of counselling.

4. It would thus be seen that for the Academic Year 2012-2013, the respondent no.2 was providing benefit of reservation for OBC candidates only to those

candidates, whose caste was included in the list issued by the Central Government for this purpose. Admittedly, Central Government has notified its own list of Other Backward Classes and it was only that list which was applicable for the Academic Year 2012-2013. Though, the State Government has notified its own list of Other Backward Classes, the State List was not applicable for the Academic Year 2012-2013. However, for the Academic Year 2013-2014, respondent no.2 going not only by the list of OBCs issued by the Central Government but also by the list issued for this purpose by the Government of NCT of Delhi as far as the seats under the State Quota are concerned. For filling up the seats under All India Quota, respondent no.2 is relying upon the list of OBCs issued by the Central Government alone.

The grievance of the petitioners is that though the Act mandates reservation only for the candidates from such classes which are included in the list issued by the Central Government, the respondent no.2 is permitting even those candidates who belong to classes which do not find inclusion in the list issued by the Central Government though are included in the list issued by the State Government, as far as filling up the State Quota Seats are concerned. This, according to the learned counsel for the petitioners reduces their chances of admission since the candidates who belong to classes which do not find inclusion in the Central Government list are also sought to be granted admission to fill up the seats under the State Quota.

5. Since the expression 'Central Educational Institution' has been defined in the Act itself, the petitioners, in order to succeed must show that respondent no.2 or the institutes which are affiliated to it and where the students would be pursuing their PG Medical Courses are 'Central Educational Institutions' within the meaning of Section 2(d) of the Act. Admittedly, respondent no.2 is not a university established or incorporated by or under Central Government, it being a university set up under an Act passed by Delhi Legislative Assembly. Since respondent no.2 has not been

set up by the Act of Parliament, it is also not included in Clause (ii) of Section 2(d) of the Act. Admittedly, respondent no.2 is not an institution declared to be a deemed university under Section 3 of the University Grants Commission Act, 1956. The respondent no.2 is also not an educational institution set up by the Central Government under the Societies Registration Act, 1860 and, therefore, is not covered by Clause (v) of Section 2(d). Coming to Clause (iv) of Section 2(d), there are two requirements before the said clause can be attracted. Firstly, the institution where the admission is being granted should be maintained by or are receiving aid from the Central Government, though it could be direct as well as interim aid. The second requirement of the aforesaid Clause is that such institutions which is being maintained by or receiving aid from the Central Government should also be affiliated to an institution referred to in Clause (i) or clause (ii) i.e. it should be affiliated either to a university established or incorporated by or under a Central Act or an institution of national importance set up by the Act of Parliament. The alternative requirement is that it should be a constituent unit of an institution referred to in clause (iii) i.e. an institution declared to be a deemed university under Section 3 of the University Grants Commission Act, 1956. Since respondent no.1 is not an institution affiliated to a university established or incorporated by the Central Act or an institution of national importance set up by the Act of Parliament nor is this a constituent unit of a deemed university under Section 3 of the University Grants Commission Act, it is not included in Clause (iv) of Section 2(d). None of the institutions affiliated to respondent no.2 where education is imparted for PG Medical Courses qualifies is an institution within the meaning of Clause (iv) of section 2(d) of the Act. Therefore, the provisions contained in Central Educational Institutions (Reservation in Admission) Act, 2006 do not apply either to respondent no.2 or to the institute affiliated to it for the purpose of imparting education in PG Medical Courses.

6. The learned counsel for the petitioners relies upon the prospectus issued by respondent no.2 in support of his contention that 3 Post Graduates Institutes of Medical Education i.e. Dr. RML Hospital, Dr. Maulana Azad Medical College, Mahavir Vardhman Medical College, Safdarjung Hospital and ESI Post Graduates Institute of Medical Sciences are concerned are covered under Clause (iv) of Section 2(d). However, neither there is any averment in the writ petition nor is there any material on record to show that any of these institutions is affiliated to a university established or incorporated by or under Central Government Act or an institution of national importance set up by the Act of Parliament or a constituent unit of a deemed university under Section 3 of the University Grants Commission Act, 1956. Therefore, the contention cannot be accepted.

7. There is no other statutory provision which requires respondent no.2 to rely to rely only upon the list of OBCs issued by the Central Government for the purpose of granting reservation in admission to PG Medical Courses. Consequently, there is no merit in the writ petition and the same is hereby dismissed without there being any order as to costs.

V.K. JAIN, J

JULY 03, 2013/rd