

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Public Interest Litigation No.87 of 2018

Akhil Bhartiya O.B.C. Mahasangh, through its Chairman- Shri Baban Bhauraoji
Taywade, Nagpur, and another

Versus

Union of India, through its Secretary, Department of Human Resource and
Higher Education, New Delhi, and others.

Office Notes, Memoranda of Coram,
 appearances, Court's orders or directions Court's or Judge's orders
 and Registrar's order

Shri P.B. Patil, Advocate for Petitioners.

Shri U.M. Aurangabadkar, ASGI for Respondent Nos.1 to 4.

Ms M.A. Barbade, Assistant Government Pleader for Respondent No.5.

Coram : R.K. Deshpande & Vinay Joshi, JJ.

Date : 12th June, 2019

This Public Interest Litigation claims the reliefs as under :

“(i) hold and declare that the action of respondent no.3 – Union of India, through its Secretary, Ministry of Health and Family Welfare, New Delhi and respondent no.4 – Director General of Health Services, Nirman Bhavan, New Delhi in not providing 27% reservation to O.B.C. students for admission to Medical Courses (First Year) in State of Maharashtra under 15% All India Quota is void and illegal with further direction to these respondents to provide 27% reservation to O.B.C. students, under 15% A.I.Q. forthwith;

(ii) direct the respondent no.4 – Director General of Health Services, Nirman Bhavan, New Delhi to consider the claim of petitioner no.2 provisionally for admission to first year Medical

Course in the State of Maharashtra under 15% All India Quota forthwith;

(iii) direct the respondent no.4 – Director General of Health Nirman Bhavan, New Delhi to cancel the first round of allotment conducted on 20 and 21 June, 2018 and conduct the fresh process for providing 27% reservation to O.B.C. student under 15% A.I.Q. for admission in 1st year Medical Course for academic year 2018-19;

(iv) grant any other relief which this Hon'ble Court deems fit and proper in the facts and circumstances of the case.”

The interim relief was also claimed in this PIL to direct the respondent No.4 – Director General of Health Services, New Delhi, not to publish the list of second round of Admission (Allotment) under 15% All India Quota to be published on 10th and 11th July, 2018 during the pendency of this PIL. The further interim relief was also claimed to stay the further process of medical admissions until further orders.

On 16-7-2018, this Court noted the argument that by the order passed by the Madras High Court, the entire admission process is held in abeyance. It was a statement made by the learned ASGI that during the said period, no steps to the prejudice of the petitioners will be taken. On the basis of such statement, this Court passed an interim order in Para 3 of the said order as under :

“3. Till then no steps to the prejudice of the present petitioners be taken.”

The Union of India approached the Apex Court challenging the aforesaid interim order by filing SLP No.20287 of 2018. The Apex Court passed a reasoned order, making a reference to Writ Petition (C) No.443 of 1993, titled “Sharwan Kumar vs. Director General of Health Services & Anr.”, and the other connected writ petitions pending in the Apex Court in which an order was passed on 30-4-1993. The Apex Court had directed that in case of any difficulty felt by the Director General of Health Services or any other person including the State Authorities or Universities in the implementation of the All India Quota Scheme, they can approach the Apex Court. In view of the said order, the Apex Court observed in the order dated 1-8-2018 that there was no reason why this issue had fallen for consideration before the High Court. The Apex Court also observed in the order dated 1-8-2018 that the existence of OBC quota is clearly a matter of the scheme vide the Apex Court's order dated 31-1-2007 passed in Writ Petition (C) No.138 of 2006 titled “Abhay Nath & Ors. vs. University of Delhi & Ors.”. The Apex Court, therefore, stayed the interim order passed by this Court on 31-7-2018 and also the further proceedings before this Court in this PIL.

Ultimately, when the matter came up before the Apex Court on 17-9-2018, the SLP was permitted to be withdrawn with liberty to the parties to file an application for impleadment in the pending matter/s.

In view of the aforesaid factual position, we find that the petitioners are entitled to approach the Apex Court by way of an application for intervention in the pending matter/s or adopt such other remedies as are available in law. However, we are sure that in view of the order passed by the Apex Court, this PIL cannot be kept pending.

Hence, with the aforesaid observations, we dismiss this PIL. Needless to say that all civil applications filed in this PIL stand disposed of.

(Vinay Joshi, J.)

(R.K. Deshpande, J.)