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*W.A. No. 1568 of 2019
& W.P. Nos. 8669 & 8894 of 2018*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.04.2025

PRONOUNCED ON : 03.06.2025

CORAM

THE HON'BLE DR. JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR. JUSTICE C.KUMARAPPAN

W.A. No. 1568 of 2019, W.P. Nos. 8669 & 8894 of 2018

& W.M.P. Nos. 10592, 10593, 10751, 10752, 15990 & 14658 of 2018

W.A.No. 1568 of 2019:

Puducherry Institute of Medical Sciences,
rep. by its Chairman Dr.K. Jacob,
Kalapet, Puducherry – 605 014.

..Appellant

Vs.

1. The Government of Puducherry,
rep. by the Under Secretary to Government
(Health),
Chief Secretariat, Puducherry.

2. Central Admissions Committee (CENTAC),
rep. by Chairman/Convener,
Pondicherry Engineering College Campus,
Puducherry 605 014.

..Respondents

Prayer: Writ Appeal under Clause 15 of Letters Patent Act as against
the order dated 11.04.2019 in W.P. No. 8555 of 2019.



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For Appellant :: Mr.Abishek Jenasenan
For Respondents :: Mr.T.P. Manoharan,
Senior Counsel for
Mr.V. Vasanthakumar,
Addl. Govt. Pleader

W.P. No. 8669 of 2018:

Pondicherry Institute of Medical Sciences,
rep. by its Chairman Dr.K. Jacob,
Kalapet, Puducherry – 605 014.

..Petitioner

Vs.

1. The Government of Puducherry,
rep. by the Under Secretary to Government,
(Health),
Chief Secretariat, Puducherry.
2. The Medical Council of India,
rep. by its Joint Secretary,
Pocket -14, Sector – 8,
Dwarka, Phase I,
New Delhi 110077.
3. Central Admissions Committee (CENTAC),
rep. by Chairman/Convener,
Pondicherry Engineering College Campus,
Puducherry 605 014.

Prayer: Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Certiorari to call for the records of the 1st
respondent in G.O.Ms. No. 10, Chief Secretariat (Health) Puducherry



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dated 04.04.2018 and quash the same.

For Petitioner :: Mr.Abishek Jenasenan
For Respondents :: Mr.T.P. Manoharan
Senior Counsel for
Mr.V. Vasanthakumar
Addl. Govt. Pleader for R1 & R3
Ms.Akshara for
Mrs. Shubaranjani Ananth for R2

W.P. No. 8894 of 2018:

Sri Venkateswara Medical College
Hospital and Research Centre,
rep. by its Chairman,
B. Ramachandhiran,
No.13-A, Pondy Villupuram Main Road,
Ariyru, Pondicherry – 605 102.

..Petitioner

Vs.

1. The Union Territory of Puducherry,
rep. by its Under Secretary to Government,
Health Department,
Office of the Chief Secretariat,
Puducherry – 605 001.
2. The Director,
Directorate of Health and Family Welfare
Services,
Government of Puducherry.
3. The Convenor,
Centralized Admission Committee
(CENTAC),
PEC Campus, ECR Road,
Pillaichavadi,



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4. Medical Council of India,
rep. by its Secretary,
Pocket – 14, Sector – 8,
Dwarka Phase 1,
New Delhi 110077.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Declaration declaring G.O.Ms.No.10 dated
04.04.2018 issued by the 1st respondent as unconstitutional and violative
of fundamental rights of the petitioner guaranteed under Articles 15(5),
19(1)(g) and 30(1) of the Constitution of India.

For Petitioner :: Mr.T.V. Lakshmanan

For Respondents :: Mr.T.P. Manoharan,
Senior Counsel for
Mr.V. Vasanthakumar,
Addl. Govt. Pleader for R1 to R3
Ms. Akshara for
Mrs. Shubaranjani Ananth for R4

COMMON JUDGMENT

(Delivered by Dr. ANITA SUMANTH,J.)

A common order is passed in the Writ Appeal and Writ Petitions,
since the issue arising for determination is one and the same.

2. W.A.No.1568 of 2018 and W.P.No.8669 of 2018 have been



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filed by the Puducherry Institute of Medical Sciences (in short, either appellant or PIMS). The Government of Puducherry, represented by the Under Secretary to Government (Health) is arrayed as R1 in both the Writ Appeal and the Writ Petition and the Central Admissions Committee (CENTAC) is arrayed as R2 in the Writ Appeal and R3 in W.P.No.8669 of 2018. The Medical Council of India (MCI) is arrayed as R2 only in the Writ Petition and not in the Writ Appeal.

3. W.P.No.8894 of 2018 is at the instance of Sri Venkateswara Medical College Hospital and Research Centre (hereinafter referred to as petitioner). The Union Territory of Puducherry, represented by the Under Secretary to Government (Health) is arrayed as R1, the Director, Directorate of Health and Family Welfare Services is arrayed as R2 and CENTAC and MCI are arrayed as R3 and R4 respectively.

4. The prayer before the Writ Court by PIMS was for a Writ of Certiorari calling for the records of the Government of Puducherry dated 07.03.2019 and quash of the same. The impugned order was the seat matrix stipulating the college-wise minority quota seats for admission to students in Post Graduate (PG) Medical Courses for academic year 2019-20. The



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Writ Petition had come to be dismissed by order dated 11.04.2019.

5. The question that was crystallized for determination by the learned Judge was whether PIMS, being a Christian Minority Institution is bound to admit 50% of the total intake of Christian students only from Puducherry or from other States also.

6. In dismissing the Writ Petition, the learned Judge followed the ratio of the judgment of the nine Hon'ble Judges of the Supreme Court in *P.A. Inamdar and Others V. State of Maharashtra and Others* ¹, particularly paragraphs 133 to 135 onwards, wherein mention has also been made to the judgment of the Supreme Court in *T.M.A. Pai Foundation and Others V. State of Karnataka and Others* ².

7. The Writ Court holds that though the minority institutions are free to admit students of its own religion, the Institute cannot admit students from neighbouring States, wherein the same religion may not be a minority. The operative portion of the impugned order, at paragraphs 18 to 20 are as follows:

18. It has been categorically held that though the minority institute is free to admit the students of its own

1 (2005) 6 SCC 537

2 (2002) 8 SCC 481



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religion, the institute cannot admit the students from neighbouring states, wherein, the same religion may not be a minority. It cannot be generally stated that the Christians are minorities throughout the length and breadth of the country and that the petitioner should be permitted to admit the students from across the country.

19. The analogy would be if the petitioner admits students from across the country giving preference to Christian students as long as they fulfill the minimum eligibility criteria fixed by the MCI, it would take away the rights of the better qualified students from general quota, whereas, when the petitioner institution is permitted only to those minority students within the Union Territory of Puducherry and the balance seats have to be given back to the All- India quota, whereupon, the meritorious students from all categories can be considered.

20. When the Hon'ble Supreme Court specifically stated that it should not spill out to other states, the notification of the first respondent cannot be said to be violative of any law or it is illegal.

8. As far as the Writ Petitioner is concerned, it is a linguistic minority, intending to serve Telugu speaking candidates. The prayer in the Writ Petition was for a declaration to the effect that G.O.Ms.No.10 dated 04.04.2018 issued by the Government of Puducherry was unconstitutional and violative of fundamental rights of the petitioner guaranteed under Articles 15(5), 19(1)(g) and 30(1) of the Constitution of India.



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9. The impugned G.O.Ms.No.10 dated 04.04.2018 reads as follows:

GOVERNMENT OF PUDUCHERRY

Abstract

Health Secretariat – Conversion of unfilled Minority quota seats (Linguistic and Religious) in Post Graduate Medical courses in Private Self-Financing Medical Colleges to Management Quota seats and filled by students of Union Territory of Puducherry – Orders – Issued.

CHIEF SECRETARIAT (HEALTH)

G.O.Ms.No.10

Puducherry, dated: 04.04.2018

Read: F.No.27209/H5/Health/2016-17/PF-Vol. IV of Health Secretariat, Chief Secretariat, Puducherry.

&&&&

ORDER:

WHEREAS, clause 9A (3) of “Post Graduate Medical Education (Amendment) Regulations 2017”, lays down that, the counseling for admission to Diploma and MD/MS in all Medical Institutions in a State/Union Territory, including, Medical Educational Institutions established by the State Government, University established by an Act of State/Union Territory Legislature, Municipal Bodies, Trust, Society, Company or Minority Institutions, shall be conducted by the State/Union Territory Government.

2. AND WHEREAS, CENTAC has been designated for conduct of counseling for admission of students in Post Graduate Medical courses in the three Private Self-Financing Medical Colleges functioning in the Union Territory of Puducherry of which the two Private Self-Financing Medical Colleges viz. (i) The Pondicherry Institute of Medical Sciences, Puducherry, (Religious Minority (Christian)) and ii) Sri Venkateshwara Medical College Hospital & Research Centre, Puducherry Linguistic Minority (Telugu) are minority institutions.

3. AND WHEREAS, the Minority status was conferred to Pondicherry Institute of Medical Sciences, Puducherry vide Letter No.1240/H4/Health/99, dated 04-03-2002 and Sri Venkateshwara



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Medical College Hospital & Research Centre vide Letter No.3672/HS/2007/Health, dated 09-05-2015. These letters of the Government of Puducherry were issued on the basis of requests from these institutions, insisting providing of 50% of the seats in their institutions to their minority students.

4. *AND WHEREAS, Sri Venkateshwaraa Medical College Hospital & Research Centre has executed a Memorandum of Agreement with the Government of Puducherry to this effect.*

5. *AND WHEREAS, the Hon'ble High Court of Madras in its interim Order, dated 25.07.2017, in Writ Petition No. 17467 of 2017 has ordered that the Minority Status of the Pondicherry Institute of Medical Science, Puducherry shall continue, till the disposal of the Writ Petition.*

6. *AND WHEREAS, the Hon'ble Supreme Court of India vide Judgment in TMA Pai case has ordered that the Minority status of educational institution is to be determined by treating the State in which the Institute is located as a unit.*

7. *AND WHEREAS, the Pondicherry Institute of Medical Sciences, Puducherry (Religious Minority (Christian)) has to fill up 50% of the total intake i.e, 25 seats out of total intake of 50 seats in various Post Graduate Medical Courses with the students of Religious Minority (Christian) of Union Territory of Puducherry, Likewise, Sri Venkateshwaraa Medical College Hospital & Research Institute, Puducherry (Linguistic Minority (Telugu)) has to fill up 50% of the total intake i.e. 19 seats out of total intake of 38 seats in various Post Graduate Medical Courses with the students of Linguistic Minority (Telugu) of Union Territory of Puducherry.*

8. *AND WHEREAS, the Puducherry students had access to 162 Post Graduate seats under Government quota during the year 2017-18, including the seats in Indira Gandhi Medical College and Research Institute, Puducherry, three Self-Financing Medical Colleges and the 4 Deemed University Medical Colleges in Puducherry.*

9. *AND WHEREAS, the number of seats available to Puducherry students under Government Quota in Private Self-Financing Medical*



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Colleges and Indira Gandhi Medical College and Research Institute has been reduced to 84 due to change in Post Graduate Medical Education Regulations authorising counseling for Post Graduate seats in Deemed Universities by the Directorate General of Health Services, Govt. of India, New Delhi. This has substantially reduced the access of NEET qualified Puducherry students to Post Graduate seats which were hitherto available to them.

10. *NOW THEREFORE, it is ordered that:*

The Minority (Religious/Linguistic) quota seats in Post Graduate Medical courses remaining vacant in Pondicherry Institute of Medical Science, Puducherry, (Religious Minority (Christian)) and Sri Venkateshwaraa Medical College Hospital & Research Centre, Puducherry (Linguistic Minority (Telugu)), after two rounds of counseling shall be filled up as open merit management quota seats during mop-up counseling based on NEET-PG 2018 rank from among the Puducherry domicile candidates and the fee structure for these seats will be that for Management Quota seats.

11. *Any seats remaining vacant thereafter shall be filled up as management quota seats from the All India merit list.*

12. *This order will come into force with immediate effect.*

//BY ORDER OF THE LIEUTENANT GOVERNOR//

Sd/-

(V. JEEVA)

UNDER SECRETARY TO GOVERNMENT (HEALTH)

10. The impugned Government Order for the first time proceeds to insist upon admission of 50% of the students from the linguistic minority (Telugu) and religious minority (Christian) only from the Union Territory



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of Puducherry. G.O.Ms.No.10 dated 04.04.2018 is specific to both PIMS and the Writ Petitioner,

11. There is yet another aspect to the matter. The impugned Government Order relates to academic year 2017-18 onwards. An order of interim stay has been obtained by the Writ Petitioners on 12.04.2018 and hence admissions for those years have been concluded as per the procedure followed for the previous years. With the dismissal of the writ petitions, the Appellant/Petitioner are bound by the dictates of the impugned Government Order and admissions are being granted in terms thereof.

12. The question for determination before us is as to whether, for the purpose of admissions for PG medical courses in a minority unaided institution, it is only that State where the educational institution is located that is to be considered as the unit for priority of admissions (either religious or linguistic), or whether admissions are to be effected taking the Country as a unit.

13. To put it otherwise, the question is as to whether a particular State or Union Territory can impose a condition according priority to those candidates domiciled in its own State or Union Territory in the prospectus/seat matrix/information brochure for PG medical admissions.



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14. This question is no longer res integra. In *Dr. Pradeep Jain and Others V. Union of India*³, three Hon'ble Judges of the Supreme Court considered the admission to Under Graduate (UG) medical courses and PG medical courses. While they held that reservation of seats on the basis of domicile in the case of UG medical courses (MBBS/BDS) would be valid, having regard to the socio-economic disparities and inequities, such a domiciliary condition is impermissible in the case of admission to PG medical courses.

15. Even in the case of UG medical courses, the Court indicated that such domiciliary reservation is only as an interim measure and admission on All-India basis should be the ultimate goal. The operative portion of the judgment is as follows:

The Medical Education Review Committee has also expressed the opinion that “all admissions to the post-graduate courses in any institution should be open to candidates on an all-India basis and there should be no restriction regarding domicile in the State/Union Territory in which the institution is located”. So also in the policy statement filed by the learned Attorney-General, the Government of India has categorically expressed the view that:

³ (1984) 3 SCC 654



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So far as admission to the institutions of post-graduate colleges and special professional colleges is concerned, it should be entirely on the basis of all-India merit subject to constitutional reservations in favour of Scheduled Castes and Scheduled Tribes.

We are therefore of the view that so far as admissions to post-graduate courses, such as MS, MD and the like are concerned, it would be eminently desirable not to provide for any reservation based on residence requirement within the State or on institutional preference. But, having regard to broader considerations of equality of opportunity and institutional continuity in education which has its own importance and value, we would direct that though residence requirement within the State shall not be a ground for reservation in admissions to postgraduate courses, a certain percentage of seats may in the present circumstances, be reserved on the basis of institutional preference in the sense that a student who has passed MBBS course from a medical college or university, may be given preference for admission to the post-graduate course in the same medical college or university but such reservation on the basis of institutional preference should not in any event exceed 50 per cent of the total number of open seats available for admission to the post-graduate course. This outer limit which we are fixing will also be subject to revision on the lower side by the Indian Medical Council in the same manner as directed by us in the case of admissions to the MBBS course, But, even in regard to admissions to the post-graduate course, we would direct that so far as super specialities such as neuro-surgery and cardiology are concerned, there should be no reservation at all even on the basis of institutional preference and admissions should be granted purely on merit on all-India basis.



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16. This view has been reiterated by three Hon'ble Judges of the Supreme Court in a recent judgment in the case of *Dr. Tanvi Behl V. Shrey Goel and Others*⁴. The question crystallized was as to 'whether residence-based reservations in Post Graduate (PG) medical courses by a State is constitutionally valid' as follows:

1. As to whether providing for domicile/residence-based reservation in admission to "PG Medical Courses" within the State Quota is constitutionally invalid and is impermissible?
2. (a) If answer to the first question is in the negative and if domicile/residence-based reservation in admission to "PG Medical Courses" is permissible, what should be the extent and manner of providing such domicile/residence-based reservation for admission to "PG Medical Courses" within the State Quota seats?

(b) Again, if domicile/residence-based reservation in admission to "PG Medical Courses" is permissible, considering that all the admissions are to be based on the merit and rank obtained in NEET, what should be the modality of providing such domicile/residence-based reservation in relation to the State/UT having only one Medical College?
3. If answer to the first question is in the affirmative and if domicile/residence-based reservation in admission to "PG Medical Courses" is impermissible, as to how the State Quota seats, other than the permissible institutional

4 2025 SCC OnLine SC 180



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17. After noting various judgments on point, i.e, *The State V. Narayandas Mangilal Dayame*⁴, *Dr.Pradeep Jain* (supra), *Jagadish Saran V. Union of India*⁵ and *Saurabh Chaudri V. Union of India*⁶, the Supreme Court had this to say at paragraphs 31 to 33.

31. We are all domiciled in the territory of India. We are all residents of India. Our common bond as citizens and residents of one country gives us the right not only to choose our residence anywhere in India, but also gives us the right to carry on trade & business or a profession anywhere in India. It also gives us the right to seek admission in educational institutions across India. The benefit of 'reservation' in educational institutions including medical colleges to those who reside in a particular State can be given to a certain degree only in MBBS courses, for which we have assigned reasons in the preceding paragraphs. But considering the importance of specialists doctors' in PG Medical Course, reservation at the higher level on the basis of 'residence' would be violative of Article 14 of the Constitution of India. This has been explained with pronounced clarity both in Jagadish Saran and Pradeep Jain. If such a reservation is permitted then it would be an invasion on the fundamental rights of several students, who are being treated unequally simply for the reasons that they belong to a different State in the Union! This would be a violation of the equality clause in Article 14 of the Constitution and would amount to a denial of equality before the law.

⁴ AIR 1958 Bombay 68 (FB)

⁵ (1980) 2 SCC 768

⁶ (2003) 11 SCC 146



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32. *The law laid down in Jagadish Saran and Pradeep Jain has been followed by this Court in a number of decisions including the Constitution Bench decision in Saurabh Chaudri. We may also refer here judgments such as Magan Mehrotra and Ors. v. Union of India (UOI) and Ors. (2003) 11 SCC 186, Nikhil Himthani vs. State of Uttarakhand and Others (2013) 10 SCC 237, Vishal Goyal and Others v. State of Karnataka and Others (2014) 11 SCC 456 and Neil Aurelio Nunes (OBC Reservation) and Others v. Union of India and Others (2022) 4 SCC 1, which have all followed Pradeep Jain. Thus, residence-based reservations are not permissible in PG medical courses.*

33. *Having made the above determination that residence-based reservation is impermissible in PG Medical courses, the State quota seats, apart from a reasonable number of institution-based reservations, have to be filled strictly on the basis of merit in the All- India examination. Thus, out of 64 seats which were to be filled by the State in its quota 32 could have been filled on the basis of institutional preference, and these are valid. But the other 32 seats earmarked as U.T. Chandigarh pool were wrongly filled on the basis of residence, and we uphold the findings of the High Court on this crucial aspect.*

18. More so, in the present cases, both institutions hold minority status and do not depend on any aid for their functioning. In such circumstances, the question of placing a domiciliary restriction on their intake of students for PG medical courses does not arise and is clearly contrary to the ratio of the judgments set out above.



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19. In light of the discussion as aforesaid, the Writ Appeals and the Writ Petitions are allowed. Impugned order dated 11.04.2019 passed in W.P.No.8555 of 2019 and impugned G.O.Ms.No.10 dated 04.04.2018 are set aside. No costs. Connected Miscellaneous Petitions are closed.

[A.S.M., J] [C.K., J]
03.06.2025

Index: Yes
Speaking Order
Neutral Citation: Yes
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To

1. The Under Secretary to Government
(Health),
Chief Secretariat, Puducherry.
2. Central Admissions Committee (CENTAC),
rep. by Chairman/Convener,
Pondicherry Engineering College Campus,
Puducherry 605 014.
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Directorate of Health and Family Welfare
Services,
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DR. ANITA SUMANTH,J.
AND
C. KUMARAPPAN,J.

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