

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3294 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 NO.

DARVESH RAVINDRA KUMAR

Versus

STATE OF GUJARAT

Appearance:

MR NAVIN K PAHWA for Petitioners

MR B.Y. Mankad, A.G.P. for respondent Nos.1 & 2.

MR A.R.Thakkar for Mr.JR NANAVATI for Respondent No. 3

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 30/06/1999

ORAL JUDGEMENT

1. Heard learned counsel. Rule. Mr. B.Y.Mankad, A.G.P. waives service of Rule on behalf of the respondent Nos. 1 and 2 and Mr. A.R.Thakkar waives services of Rule on behalf of the respondent No.3. On the request of both the sides, the matter is taken up for final hearing today looking to the matter as the

admissions to the P.G. Course are likely to be finalised on 13th July, 1999. The petitioners herein were the students of Medical Colleges in the graduation course of M.B.B.S. in the State of Jammu and Kashmir at Srinagar. They requested for the transfer to any Medical Colleges in this State, after passing first M.B.B.S 1995. While these students were to prosecute the course of M.B.B.S., they were permitted by the State of Gujarat to be admitted in the M.P.Shah Medical College, Jamnagar, affiliated to Saurashtra University at Rajkot and accordingly they were admitted in the said College in second M.B.B.S.. A letter was then sent in the year 1996 to the Dean of the M.P.Shah Medical College, Jamnagar by the Government, that these students were permitted admission in the second year on the basis of transfer on compassionate ground and in future for prosecuting the course of Post Graduation, they will have to compete in the Central quota of 15 %. A xerox copy of this letter dated July 1996 has been produced by the Assistant Government Pleader during the course of arguments. The fact remains that all these students have now completed the course of M.B.B.S. and they are Medical Graduates of Saurashtra University. In the year 1996 when this letter was sent to the Dean, these students had no option but to accept whatever conditions were imposed and conveyed. Now admittedly they are the Medical Graduates of Saurashtra University, there cannot be any further class within a class to make a distinction between the status of graduates of Saurashtra University and other graduates of Saurashtra University like the petitioners who are admitted by way of transfer. This Court finds that the conditions which have been imposed in the letter of July 1996 cannot be said to be reasonable and it also does not withstand the test of reasonable classification. Once they were permitted to prosecute their studies in M.B.B.S. on the basis of transfer quota in the Saurashtra University by the State of Gujarat, now they cannot be deprived of competing for Post Graduate Course as the Medical Graduates of Saurashtra University. This Court, therefore, finds that the claim of the petitioners for consideration for admission to P.G.Course in Saurashtra University as Medical Graduate of Saurashtra University cannot be defeated on the basis of the letter of July 1996 which has been produced on record by the learned Assistant Government Pleader. In the facts and circumstances of the case, this Special Civil Application is allowed. The respondents are directed to consider the candidature of all the petitioners of this Special Civil Application at par with the other Medical Graduates of Saurashtra University for admission to Post Graduate Courses. The order dated 21-4-99, issued by the

respondent No.2, Annexure "G" is hereby quashed and set aside. Rule is made absolute. No order as to costs. D.S.permitted.

30-6-99 (M.R.Callan,J.)

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