

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9419 of 2007

For Approval and Signature:

HONOURABLE MS.JUSTICE H.N.DEVANI

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
- 5 Whether it is to be circulated to the civil judge ?

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JIGNESHKUMAR KISHOREBHAI DODIA - Petitioner(s)

Versus

BHAVNAGAR UNIVERSITY & 3 - Respondent(s)

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Appearance :

MR GM JOSHI for Petitioner
 MR DC DAVE for Respondents : 1 - 2.
 MR UMANG OZA, AGP for Respondent : 3,
 MR AJAY L PANDAV for Respondent : 4,

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CORAM : HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 25/05/2007

ORAL JUDGMENT

1. By this petition under Article 226 of the Constitution of India, the petitioner seeks the

following substantive relief :

"7. On the facts and circumstances mentioned hereinabove, the petitioners pray to Your Lordships that :

a). be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction quashing and setting aside Rule 4.1 of the Admission Rules framed by Bhavnagar University as irrational, arbitrary, unreasonable, discriminatory and violative of Article 14 of the Constitution of India and holding the rule to be ultra vires be pleased to direct the respondent University and the Admission Committee for Post-graduate medical courses to prepare the merit list for the candidates who have passed their M.B.B.S. Degree and completed their internship from Bhavnagar University without giving any en block preference to the students who have passed M.B.B.S. and have completed their internship between 31.3.2005 to 31.3.2007.

OR IN THE ALTERNATIVE

be pleased to read down the rule as enabling the respondent University and the respondent Admission Committee to prepare the merit list by including all candidates belonging to Bhavnagar University as a class for all categories and giving preference to a candidate who has completed his / her internship on or after 31.3.2005 if he/she is meritorious as compared to the candidate who has completed internship before that period."

2. The facts stated briefly are that the petitioner is a student belonging to the Scheduled Caste community who has passed the M.B.B.S. Examination from Bhavnagar University in August, 2003 and has completed one year's internship in September 2004. Accordingly, he became eligible

to apply for the Post-Graduate Course at Bhavnagar University commencing from the academic year 2005. It appears that, in the year 2005, the petitioner was not in a position to secure admission to the Post Graduate Course. For the academic year 2006, the petitioner has applied both in the open as well as Scheduled Caste category wherein he was offered admission to the Post Graduate Course in the subject of Anaesthesia, Anatomy and Pathology as a general category candidate. However, the petitioner did not accept the same as he did not get the subject of his choice. The petitioner, therefore, applied for admission to the Post Graduate Course for the subsequent year which commenced from May 2007, again in both the Scheduled Caste as well as General Category. It is the case of the petitioner that, as per the roster applied by the Bhavnagar University, a seat is available to a Scheduled Caste candidate in the discipline of Obstetrics & Gynaecology (O & G). It is also the case of the petitioner that, on the basis of his merit, he is likely to get his choice of subject, namely, Obstetrics & Gynaecology, however, the petitioner is not likely to be offered the seat because of operation of the Admission Rules. In the circumstances, the petitioner has filed the present petition, seeking the reliefs as noted hereinabove.

3. Heard Mr.G.M.Joshi, learned advocate for the petitioner, Mr.D.C.Dave, learned advocate for

the respondents No.1 and 2, Mr.Umang Oza, learned Assistant Government Pleader for respondent No.3 and Mr.Ajay L. Pandav, learned advocate appearing on behalf of respondent No.4.

4. Learned Advocate Mr.G.M.Joshi for the petitioner has submitted that the eligibility criteria for the proposed admission to the Post Graduation Course is 3 years. By virtue of Rule 4.1 of the Rules, a sub-class is sought to be created of those who have passed and cleared internship within a period of 2 years, which does not have any nexus with the object sought to be achieved and is, therefore, violative of Article 14 of the Constitution of India.

[4.1] It was submitted that Rule 1. (e) of the Rules governing the admission to Post Graduate Degree and Diploma Medical Courses other than M.Ch. and D.M. at Bhavnagar Medical College (hereinafter referred to as the Rules) provides that only those candidates who have completed their internship within past three years before, 31st March of the year of admission shall be eligible to appear. Thus, the eligibility criteria for the purpose of admission to the postgraduate course is three years from the date of completion of internship. However, by virtue of Rule 4.1 of the Rules, a sub-class is sought to be created of those students who have passed and cleared internship within a period of two years, which does not have any nexus with the object sought to be

achieved and is therefore, violative of Article 14 of the Constitution of India.

[4.2] It was submitted that the manner in which the rule is interpreted by the respondents would amount to reservation instead of preference, for the reason that the word preference would mean that when claims of all the candidates who are eligible and who possess the requisite educational qualifications prescribed in the rules are taken into consideration and when one or more of them are found to be equally positioned, then only the additional factor may be taken as a tilting factor, in favour of the candidate vis-à-vis others in the merit list prepared by the University. In support of his contention the learned Advocate placed reliance upon the decision of the Supreme Court in the case of ***State of U.P. and another v. Om Prakash and others***, (2006) 6 SCC 474. In the facts of the said case the requisite academic qualification for the post of Medical Officer of Homeopathy as prescribed in the advertisement was a recognized degree in homeopathy. A proviso has been added that preference will be given to degree-holders. The Court observed that this would mean that a recognized diploma in homeopathy prescribed in the advertisement is also a required minimum qualification with which they are entitled to compete with those candidates possessing the degree. The Court held that the word "preference" would mean that when the claims of

all candidates who are eligible and who possess the requisite educational qualification prescribed in the advertisement are taken for consideration and when one or more of them are found equally positioned, then only the additional qualification may be taken as a tilting factor, in favour of candidates vis-à-vis others in the merit list prepared by the Commission. But preference does not mean en bloc preference irrespective of inter se merit and suitability.

[4.3] It was argued that the Supreme Court has recognized institutional reservation to some extent. However, within the category of the institutional students, a degree of preference which is excessive and makes substantial departure from the rule of merit and equality is liable to be struck down as violative of Article 14 of the Constitution of India.

[4.4] It was contended that in any event, the preference under the scheme of the rules and context cannot mean an absolute en bloc preference akin to reservation or separate and distinct method of selection to them alone. It was submitted that mere rule of preference made to give weightage to the additional qualification cannot be enforced as a rule of reservation or rule of complete precedence.

[4.5] It was argued that the impugned rule is bad and ultra vires Article 14 of the

Constitution of India, inasmuch as it creates discrimination from amongst the students who have passed from the same institute, on an irrational basis of year of passing the examination. More so, when after three years of passing and completion of internship, the students cease to be eligible for post-graduate seats.

[4.6] It was urged that post-graduate seats being few in number and the competition being tough, any unreasonable precedence given to students would deprive meritorious students from getting admission. Therefore, also, the rule giving en bloc precedence to such students is bad in law and ultra vires the Constitution of India.

[4.7] In support of his contentions the learned Advocate for the petitioner has also placed reliance upon the decision of the Apex Court in the case of ***Secy. (Health) Deppt. Of Health & F.W. and another v. Dr. Anita Puri and others***, (1996) 6 SCC 282 for the proposition that when an advertisement stipulates a particular qualification as the minimum qualification for the post and further stipulates that preference should be given for higher qualification, the only meaning it conveys is that some additional weightage has to be given to the higher qualification candidates. But by no stretch of imagination it can be construed that a higher qualified person

automatically is entitled to be selected and appointed.

[4.8] Reliance was also placed upon the decision of the Apex Court in the case of **P. Rajendran v. State of Madras**, AIR 1968 SC 1012. In the facts of the said case for admission to professional colleges allocation had been made district-wise. The Court held that such allocation would result in many cases in the object being destroyed, and if that is so, the classification even if reasonable would result in discrimination, inasmuch as better qualified candidates from one district may be rejected while less qualified candidates from other district may be admitted. The Court held that the said classification is violative of Article 14 of the Constitution of India, specially when no justification worth the name can be made out.

[4.9] Reliance was also placed upon the decision of the Apex Court in the case of **A. Periakaruppan v. State of T.N.**, AIR 1971 SC 2303 wherein unitwise distribution of seats for admission to Medical Colleges was held to be violative of Articles 14 and 15 of the Constitution.

[4.10] It was accordingly submitted that the impugned rule being violative of Article 14 of the Constitution, is required to be struck down.

[5] Mr. D.C. Dave, learned Advocate for respondents No.1 and 2 has vehemently opposed the petition. It was submitted that the petitioner has sought to question the legality and validity of Rule 4.1 of the Rules governing the admission to post-graduate degree and diploma medical courses at the Bhavnagar Medical College affiliated to the Bhavnagar University, however, he did not have any case to question the said Rule on the touchstone of Article 14 of the Constitution of India.

[5.1] It was submitted that Rule 4.1 classifies the students who have passed their MBBS Examination from the Bhavnagar University into two broad categories for the purpose of regulating their admission to post graduate courses in the discipline of Medicine, both at the level of degree and diploma conducted by the Bhavnagar Medical College, affiliated to the Bhavnagar University. It was submitted that the classification was to the effect that students who have passed their MBBS examination from Bhavnagar University and have thereafter completed their internship within a period of two years before 31st March of the concerned year of admission (hereinafter referred to as the relevant date), have been put in one category, whereas the students who have completed their MBBS from Bhavnagar University and have completed their internship beyond the said period of two years, but within three years of the relevant date, have been put in a separate

category.

[5.2] It was submitted that the students who have passed their MBBS examination from the Bhavnagar University and have completed their internship within a period of two years prior to the relevant date, form a class by themselves. Accordingly, it cannot be said that a rule providing for such classification is violative of the mandate flowing from Article 14 of the Constitution of India.

[5.3] Shri Dave further submitted that clubbing the concerned students who have completed their internship two years prior the relevant date is based upon an intelligible differentia, having a nexus to the object sought to be achieved thereby. It was submitted that the object sought to be achieved is that those students who have completed their internship three years prior to the relevant date and hence, become eligible for admission to post-graduate courses on earlier occasions, but could not avail of admission for any reason, should not be preferred to the students who have completed their internship two years prior the relevant date and hence, had lesser chances of securing admission to post-graduate courses as compared to the other category of students who had completed their internship three years prior to the relevant date.

[5.4] It was further submitted that the

object for which the said classification has been resorted to is based upon an academic decision, by way of policy, in the set up of the Bhavnagar University to the effect that when seats for post-graduate courses are limited in number, those who became eligible for admission earlier, but could not avail of admission, should not be preferred to those who had become eligible for admission to post-graduate courses subsequently. It was accordingly, submitted that the classification has a reasonable and justifiable nexus with the object sought to be achieved thereby and the yardstick of classification is based upon an intelligible differentia.

[5.5] Learned Advocate for the respondent University further submitted that considering the conduct of the petitioner, in that, on two occasions he was eligible for admission to the post-graduate course but did not opt for admission to the available branches on his own volition, as a result of which he could not avail of admission in the last two years; it was wholly improper on his part to question the validity of the said rule in the current year, when he himself had availed of the benefit thereunder in the earlier years. It was contended that the petitioner who had availed of benefit under the said rule in the preceding two years cannot be permitted to challenge the same in the current year merely because the same does not suit the requirement of the petitioner.

[5.6] It was also submitted that the expression 'preference' appearing in rule 4.1 of the Rules simply connotes that those who fall within the category referred to therein, form a class by themselves and the said class would be treated separately for the purpose of admission as compared to the category carved out by operation of rule 4.2 of the Rules.

[5.7] Learned Advocate for the respondent University has further submitted that on account of operation of roster no seats were earmarked for Scheduled castes on the earlier occasions when the petitioner had applied for admission, hence, the question of offering a seat to the petitioner in the post graduate courses in the category reserved for Scheduleddd Castes did not arise at all. It was emphatically argued that merely because on earlier occasions there were no seats reserved for Scheduleddd Caste candidates as noted hereinabove, the petitioner cannot insist that in the current year of admission the petitioner should be considered as a Scheduleddd Caste candidate at par with those Scheduleddd Caste candidates who have completed their internship two years prior to the relevant date.

[5.8] Lastly it was contended that the petition was barred by delay, laches and acquiescence on the ground that despite the fact that the Rules were made operational to the

knowledge of all concerned, the petitioner has thought it fit to challenge the same only in April 2007.

[5.9] Attention of the Court was also drawn to the fact that the entire process of admission has been completed and the respondent No.4 has already been admitted to the concerned course to which the petitioner is claiming admission. It was submitted that if the claim of the petitioner were to be entertained, the entire process of admission would be required to be carried out again.

[5.10] In support of his contentions the learned Advocate for the respondent University has placed reliance upon the following decisions rendered by the Supreme Court:

1. *Confederation of Ex-Servicemen Association & Ors. v. Union of India and Ors.* AIR 2006 SC 2945,
2. *Ashutosh Gupta v. State of Rajasthan and others*, AIR 2002 SC 1533,
3. *K. Thimmappa and others v. Chairman Central Bd. Of Dirs., SBI and another*, AIR 2001 SC 467,
4. *The State of Jammu & Kashmir v. Triloki Nath Khosla and others*, AIR 1974 SC 1,
5. *Miss Rita Kumar v. Union of India and others*, AIR 1973 SC 1050,
6. *Maharashtra State Board of Secondary and Higher Secondary Education and another v. Paritosh Bhupesh Kumarsheth, etc.* AIR 1984 SC 1543,

7. *Kumari N. Vasundara v. The State of Mysore, AIR 1971 SC 1439,*
8. *M.R. Mini (Minor) represented through her guardian and father M.P. Rajappan v. State of Kerala, AIR 1980 SC 838,*

In conclusion it was submitted that the petition is entirely devoid of any merit and deserves to be rejected.

[6] Mr Ajay L. Pandav, learned Advocate for the respondent No.4 has adopted the arguments advanced by learned Advocate Mr. D.C. Dave. He has also pointed out that pursuant to the admission process, the respondent No.4 has already been given admission in the discipline of Obstetrics & Gynaecology (O & G), which commences from May 2007 in Scheduled Caste category as per the Rules & Regulations for Post Graduate Course framed by Bhavnagar University.

[7] As can be seen from the reliefs prayed for in the present petition, the same are in the nature of alternative reliefs. The petitioner has challenged the legality and validity of Rule 4.1 of the Rules governing the admission to post-graduate degree and diploma medical courses at the Bhavnagar Medical College affiliated to the Bhavnagar University as being violative of Article 14 of the Constitution of India, and in the alternative he has prayed that the rule be read down so as to enable the respondent University and the respondent Admission Committee

to prepare the merit list by including all candidates belonging to Bhavnagar University as a class for all categories and giving preference to a candidate who has completed his internship on or after 31.3.2005, if he is meritorious as compared to the candidate who has completed internship before that period.

[7.1] Before discussing the case on merits it would be necessary to refer to the relevant provisions of the Rules governing the admission to post-graduate degree and diploma medical courses at the Bhavnagar Medical College affiliated to the Bhavnagar University.

"Rule 1.(e) Only those candidates who have completed their internship within past 3 years before, 31st March of the year of admission shall be eligible to apply.

Rule 1.1 The candidates must have completed internship within the previous 3 calendar years. (For non clinical subject; it may be relaxed at the discretion of the admission committee)

Rule 4. Selection : Selection of candidates eligible under Rule 1 for seats under Rule 3.0 will be done category wise on the basis of merits as laid down here in further.

4.1 With implementation of rules for once a year interview (as per directive of MCI & Supreme Court). Preference will be given to candidates who have graduated from this University and have completed their internship in last two year on or before 31st March of year of admission.

i.e. For interview of year 2007 preference will be given to the candidates who have completed their

internship between 1-4-05 to 31-3-07. However, there are students who have completed their internship on 31st March 2005 and are not getting second chance as per rule they also will be given preference under this rule. This will be considered as a special case only for this year and will not be carried forward in next year.

EXPLANATION :

As final M.B.B.S. Exam is conducted twice a year, the batch can be designated as Batch A & Batch A1 thus batch A, A1 & B can be included in 1st yearly interview. In second yearly interview Batches B, B1 & C can be included and likewise. In any circumstances if any supplementary examination is conducted, then candidate passing in that exam shall be treated along with candidates passing in one of the two regular exams provided he/she has completed internship in the aforesaid period.

- 4.2 After 4.1 the next preference shall be given to the candidates who have passed from this university and have completed internship within 3 years previous to the last date of submission of forms, and are not eligible to apply under rule 4.1.
- 4.3 Candidates graduating from any other University located in Gujarat State, not enrolled anywhere in P.G. courses (Diploma or degree) will be considered after selection of the candidates in the merit list as per rule 4.1 and 4.2.
- 4.4 Any remaining vacancy after operation of Rule 4.3 in the subjects of Anatomy, Physiology, Biochemistry, Forensic Medicine, Preventive and Social Medicine, Pharmacology and Microbiology only can be filled up by the tutors working in those department irrespective of age.
- 4.5 The candidate will be given a choice of subject according to his merit level. He will have to choose Registration with residency out of the available choices in

different subjects at the time of interview. The allotment of P.G. teacher will be done by P.G. committee. No student shall be given P.G. Admission without Residency (or higher post).

4.6 Seats can be utilized in the same academic year by 31st May or unless directed by competent authority such as MCI, DGHS, Supreme Court, Govt. of India or Govt. of Gujarat."

[7.2] A perusal of the aforesaid rules shows that it is Rule 4, which provides for category wise selection of eligible candidates. The subsequent provisions only lay down the categories in order of preference. Thus Rule 4.1 cannot be read in isolation, but has to be read in conjunction with Rule 4 of the Rules. As noted hereinabove, it is Rule 4, which lays down that selection shall be category wise on the basis of merits as laid down further under the rules. Rule 4.1 is merely the first category in order of preference laid down thereunder.

[7.3] Rule 4.1, which provides for giving preference to candidates who have graduated from the respondent University and have completed their internship in the last two years or before 31st March of the year of admission is the first category in order of preference.

[7.4] Rule 4.2, which provides that after 4.1, the next preference shall be given to candidates who have passed from the respondent University and have completed internship within 3 years previous to the last date of submission

of forms and are not eligible to apply under Rule 4.1, is the second category in order of preference.

[7.5] A conjoint reading of the aforesaid Rules make it amply clear that the object of the Rules is to make category wise selection viz. firstly to operate Rule 4.1 and select candidates falling under the category specified therein; and it is only after Rule 4.1 is fully operated that rule 4.2 can be resorted to and candidates belonging to the category specified there under can be selected. Likewise after operating rule 4.2 the category specified under Rule 4.3 and after operation of Rule 4.3 the category specified under Rule 4.4 can be considered for the purpose of admission.

[7.6] Rule 4.1 and 4.2 specify two categories of students, viz. those who have acquired eligibility within the last preceding two years and those who have acquired eligibility prior thereto, but are eligible to admission under the Rules. The object of the rules appears to be to ensure that fresh candidates have a better opportunity to secure admissions to the post graduate course as compared to those who have already twice availed of the said opportunity prior thereto, but for some reason or the other have not succeeded in securing admission to the post graduate course/course of their choice.

[7.7] Insofar as the contention that the

impugned rule is violative of Article 14 is concerned, as already noted hereinabove, it is Rule 4 which lays down that there shall be category wise selection. Rule 4.1 merely specifies the first category. Hence the challenge to Rule 4.1 of the Rules, which only specifies the category, without any challenge to Rule 4 of the Rules which is the principal rule laying down that selection will be category wise as laid down there under, is misplaced.

[7.8] In any case examining the challenge to the legality and validity of Rule 4.1, it may be noticed that the said rule operates in favour of all candidates who have passed their M.B.B.S. examination from the respondent university and have completed their internship in the last two years or before 31st March of the year of admission. Therefore, candidates who fall within the scope of Rule 4.2 would be beneficiaries of the Rule 4.1 till they cease to fall within the scope of that rule. Therefore, in the preceding years candidates who fall within the category carved out under Rule 4.2 would also have availed of the benefit of preference under Rule 4.1 as against those candidates who fell the category specified under Rule 4.2. However, due to various circumstances they may not have been able to secure admission to the postgraduate course/course of their choice. May be due to fortuitous circumstances, as in the present case, the course of choice may not have been available to a particular reserved category of

candidates, as has happened in the present case, but that by itself would not make the rule invalid or violative of the constitutional mandate.

[7.9] In the case of ***Rita v. Union of India***, AIR 1973 SC 1050, wherein seats for the MBBS course were reserved for repatriates and preference was given to those repatriates who had arrived within five years of the selection as against those who had arrived prior thereto, a Constitution Bench of the Supreme Court held as follows:

"It is true that the petitioners are repatriates like some of the respondents but there is a difference between the two categories as the petitioners had come to India earlier while the respondents had immigrated much later. The former were more re-settled than the latter and since the object of the rule creating reservations of seats was rehabilitation and re-settlement it cannot be said that the classification so made administratively had no reasonable nexus to the object in view. The respondent candidates were also repatriates though, it is true, they received a lesser percentage of aggregate marks than the petitioners. If both the categories had been placed in similar circumstances it would have been possible to urge that there has been discrimination. But since the petitioners and their families have been better settled and rehabilitated than the respondents and their families it was open to the Selection Committee to decide administratively how best the purpose of rehabilitation of repatriates could be served. In our view, therefore, the discrimination is not invalid and the petitions must fail."

[7.10] In the case of **K. Thimmappa v. Chairman Central Board of Directors, SBI**, AIR 2001 SC 467, the Apex Court has held as follows:

"...what Article 14 prohibits is class legislation and not reasonable classification for the purpose of legislation. If the rule Making Authority takes care to reasonably classify persons for a particular purpose and if it deals equally with all persons belonging to a well defined class then it would not be open to the charge of discrimination. But to pass the test of permissible classification two conditions must be fulfilled:-

(a) that the classification must be founded on an intelligible differentia which distinguishes persons or things which are grouped together from others left out of the group; and

(b) that the differentia must have a rational relation to the object sought to be achieved by the statute in question.

The classification may be founded on different basis and what is necessary is that there must be a nexus between the basis of classification and the object under consideration. Article 14 of the Constitution does not insist that the classification should be scientifically perfect and a Court would not interfere unless the alleged classification results in apparent inequality. When a law is challenged to be discriminatory essentially on the ground that it denies equal treatment or protection, the question for determination by Court is not whether it has resulted in inequality but whether there is some difference which bears a just and reasonable relation to the object of legislation. Mere differentiation does not per se amount to discrimination within the inhibition of the equal protection clause. To attract the operation of the clause it is necessary to show that the selection or

differentiation is unreasonable or arbitrary; that it does not rest on any rational basis having regard to the object which the legislature has in view. If a law deals with members of well defined class then it is not obnoxious and it is not open to the charge of denial of equal protection on the ground that it has no application to other persons. It is for the Rule Making Authority to determine what categories of persons would embrace within the scope of the rule and merely because some categories which would stand on the same footing as those which are covered by the rule are left out would not render the Rule or the Law enacted in any manner discriminatory and violative of Article 14. It is not possible to exhaust the circumstances or criteria which may afford a reasonable basis for classification in all cases. It depends on the object of the legislation, and what it really seeks to achieve."

[7.11] Applying the principles laid down in the aforesaid decision to the facts of the present case, Rule 4 of the Rules provides for category-wise selection of candidates for the purpose of admission to the post-graduate courses at Bhavnagar Medical College. Rule 4.1 to 4.4 specify the categories thereunder, in order of preference. Thus, what has to be seen is as to whether Rule 4.1 of the Rules satisfies the twin conditions laid down to pass the test of permissible classification viz. that the classification must be founded on intelligible differentia which distinguishes the persons or things which are grouped together from others left out of the group; and the differentia must have a rational relation to the object sought to be achieved by the statute in question.

[7.12] As submitted by the learned advocate for the respondent University, Rule 4.1 classifies students into two categories on the basis of the period prior to which they have passed their final M.B.B.S. Examination and completed internship. Rule 4.1 classifies students who have passed their M.B.B.S. Examination from Bhavnagar University, and completed internship within a period of 2 years before 31st March of the concerned year of admission as one category and those who have completed the internship upon passing their M.B.B.S. Examination from the Bhavnagar University beyond the period of 2 years, but within 3 years before 31st March in a separate category. Thus, the classification is founded on a intelligible differentia which distinguishes one set of students from the others who are left out from the group. The basis for such differentia is that those who have completed internship, 3 years prior to 31st March of the concerned year of admission and became eligible for admission to post graduate course on earlier occasion, but could not avail admission for any reason, should not be preferred to the students who have completed internship two years prior to 31st March of the concerned year of admission and hence, had lesser chances of securing admission to the post graduate course as compared to the said category of students who had completed internship of three years prior to the concerned year of

admission. The object behind such a classification is that when seats for post graduation course are limited in number, those students who became eligible for admission earlier but could not avail of the same, should not be preferred to those who have become eligible for admission to the post graduate course subsequently. Thus, the classification can be said to have a reasonable and justifiable nexus with the object sought to be achieved and can be said to be based upon intelligible differentia. In the circumstances, the challenge to Rule 4.1 of the Rules as being violative to the provisions of Article 14 of the Constitution of India, is misplaced and is, therefore, rejected.

[7.13] As regards the alternative prayer, in view of what is held hereinbefore, granting the alternative prayer would amount to setting at nought the object sought to be achieved by enacting Rules 4 and 4.1 of the Rules. In the circumstances, the said relief also cannot be granted.

[8] For the reasons stated hereinabove, the petition fails and is hereby rejected. Rule is discharged with no order as to costs.

[HARSHA DEVANI, J.]