In the High Court of Judicature at Madras

Dated : 31/7/2017

Coram :

The Honourable Mr.Justice NOOTY.RAMAMOHANA RAO

and

The Honourable Mr.Justice M.DHANDAPANI

Writ Appeal Nos.838, 843 to 856, 870, 872 of 2017
and all connected pending MPs

W.A.No.838 of 2017 :

1. The State of Tamil Nadu, Department
   of Health and Family Welfare, rep.
   By Secretary, Fort.St.George,
   Chennai.

2. The Selection Committee, Director of
   Medical Education, 162, Periyar
   EVR High Road, Kilpauk, Chennai-10.

3. S.Gaayathrie, minor rep.by her father
   and natural guardian G.Selvam

   (impleaded vide CMP.No.12015 of 2017 vide
   order dated 28.7.2017 by NRRJ & MDIJ)

4.V.Vinitha, minor (rep.by her father
   and natural guardian S.Velmani)

  (impleaded vide CMP.No.12016 of 2017 vide
   order dated 28.7.2017 by NRRJ & MDIJ) ...Appellants

Vs

1. V.S.Sai Sachin, minor rep.by his
   father and natural guardian
   V.Suresh

2. The President, Medical Council of
   India, Pocket-14, Phase-I,
   Sector-8, New Delhi.

3. The Registrar, the Tamil Nadu
   Dr.MGR Medical University,
   No.69, Anna Salai, Chennai-32.

4.Minor K.Varshinidevi rep.by her
mother and next friend A.Geetha

(R4 impleaded vide CMP.No.11614 of 2017 vide order dated 28.7.2017 by NRRJ & MDIJ)

5.Gunasekar Mohan
6.Sripathy Vadivel
7.Harshavarthani Kumaresan
8.Shakithyan Dhanapal
9.Subiksha Ramakrishnan
10.Kavya Suthakarasamy
11.E.Suresh
12.K.Poorani
13.M.Sathish

(R5 to R13 impleaded vide CMP.No.11665 of 2017 vide order dated 28.7.2017 by NRRJ and MDIJ)

14.S.Amritha rep.by her father and
natural guardian S.Suresh Kumar

15.S.Akkshaya, rep.by her father and
natural guardian S.Suresh Kumar

16.K.Santhana Krishnan, rep.by his father
and natural guardian K.Kaliraj

(R14 to R16 impleaded vide CMP.No.11744 of 2017 vide order dated 28.7.2017 by NRRJ and MDIJ)

17.Minor K.Ponmani rep.by her
mother K.Valarmathi

(R17 impleaded vide CMP.No.11745 of 2017 vide order dated 28.7.2017 by NRRJ and MDIJ)

18.S.Janani, minor rep.by her father
and natural guardian Mr.Suyamb Ananthan

(R18 impleaded vide CMP.No.12046 of 2017 vide order dated 28.7.2017 by NRRJ & MDIJ)

19.J.Nijasri

(R19 impleaded vide CMP.No.12176 of 2017 vide order dated 28.7.2017 by NRRJ & MDIJ)

20.Minor T.V.Lakshanna, rep.by
father Thangavel

(R20 impleaded vide CMP.No.11766 of 2017 vide order dated 28.7.2017 by NRRJ & MDIJ) ...Respondents

WA.No.843 of 2017 :

1. The State of Tamil Nadu, rep by Principal Secretary Health & Family Welfare (MCA-1) Department, Fort St. George, Chennai.

2. The Additional Director of Medical Education/Secretary, Selection Committee, O/o the Director of Medical Education, Poonamallee High Road, Kilpauk, Chennai-10 ...Appellants

Vs

1. Minor Darnish Kumar, rep by his Mother C.Kayalvizhi

2. The Medical Council of India, rep.by President, Pocket-14, Sector-8, Dwarka Phase-I New Delhi-110 077 ...Respondents

WA.No.844 of 2017 :

1. The State of Tamil Nadu, rep.by Principal Secretary, Health and Family Welfare (MCA-1) Department, Fort.St.George, Chennai.

2. The Additional Director of Medical Education, Secretary, Selection Committee, O/o. The Director of Medical Education, Poonamallee High Road, Kilpauk, Chennai. ...Appellants

Vs

1. Minor Surya, S., rep.by his father Senthil Kumar

2. The Medical Council of India, rep.by President, Pocket-14, Sector-8, Dwarka Phase, New Delhi. ...Respondents

WA.No.845 of 2017 :

1. The State of Tamil Nadu, rep.by Principal Secretary to Government, Ministry of Health and Family Welfare,

Fort.St.George, Chennai.

2. The Director of Medical Education,
No.162, Poonamallee High Road,
Opp. MJRC Clinic, New Bupathy Nagar,
Chetput, Chennai.

3. The Secretary, Selection Committee,
the Directorate of Medical Education,
Government of Tamil Nadu, No.162,
EVR Periyar Salai, Kilpauk, Chennai. ...Appellants

Vs

1.V.Poojitha

2. The Medical Council of India, rep.by
President, Pocket-14, Sector-8,
Dwarka Phase, New Delhi.

3. The Central Board of Secondary
Education, rep.by Chairman, Siksha
Sadan, No.17, Institutional Area Rouse
Avenue, Delhi. ...Respondents

WA.No.846 of 2017 :

1. The State of Tamilnadu, rep.by the
Secretary to Government, Ministry of
Health and Family Welfare, Fort
St. George, Chennai-9.

2. The Director of Medical Education,
No.162, Poonamallee High Road,
Opposite MJRC Clinic, New Bupathy Nagar,
Chetpet, Chennai.

3. The Secretary, Selection Committee ,
the Directorate of Medical Education,
Government of Tamilnadu, No.162,
EVR Periyar Salai, Kilpauk, Chennai-10. ...Appellants

Vs

1.Sivany.A
2.Jose Levison.J.

3.The Medical Council of India, rep.by
its Director, Pocket 14, Sector 8,
Dwarka Phase, New Delhi-110077.

4. The Central Board of Secondary
   Education, rep. by its Chairman, Siksha
   Sadan, No.17, Institutional Area Rouse
   Avenue, Delhi-110002. ...Respondents

WA.No.847 of 2017 :

1. The State of Tamilnadu, rep.by its
   Secretary to Government Health
   & Family Welfare Department, Secretariat,
   Fort St. George, Chennai.

2. The Selection Committee, Directorate
   of Medical Education, No.162, Periyar
   EVR High Road, Keelpauk, Chnenai-10. ...Appellants

Vs

1. Minor M.Anupama, rep by Guardian Mother
   C.D.Chitra

2. The President, Medical Council of India,
   Pocket 14, Phase 1, Sector-8, New Delhi.

3. The Registrar, the Tamilnadu Dr.M.G.R.
   Medical University, No.69 Anna Salai,
   Chennai-32. ...Respondents

WA.No.848 of 2017 :

1. The State of Tamilnadu, rep.by its
   Secretary to Government, Health
   & Family Welfare Department, Secretariat
   Fort St. George, Chennai.

2. The Selection Committee, Directorate
   of Medical Education, No.162,
   Periyar EVR High Road, Keelpauk, Chennai-10. ...Appellants

Vs

1. Minor A.Mirnalini, rep. by Guardian
   father TMN.Asokan

2. The President, Medical Council of India,
   Pocket 14, Phase 1, Sector-8, New Delhi.

3. The Registrar, The Tamilnadu Dr.M.G.R.
   Medical University, No.69, Anna Salai,
   Chennai-32. ...Respondents

WA.No.849 of 2017 :

1. The State of Tamil Nadu rep by
   Principal Secretary Health & Family
   Welfare (MCA-1) Department,
   Fort St. George, Chennai

2. The Additional Director of Medical
   Education/Secretary, Selection
   Committee, O/o The Director Of Medical
   Education, Poonamallee High Road,
   Kilpauk, Chennai-10 ...Appellants

Vs

1. Minor L.Jairam, rep.by father &
   Guardian K.Lakshminarayanan

2. The Medical Council of India,
   rep. by President, Pocket 14, Sector-8,
   Dwaraka Phase-I, New Delhi-110 077. ...Respondents

WA.No.850 of 2017 :

1. The State of Tamil Nadu Rep.by its
   Principal Secretary, Health & Family
   Welfare (MCA-1) Department,
   Fort St.George, Chennai.

2. The Additional Director of Medical
   Education/Secretary Selection
   Committee, O/o. The Director of Medical
   Education, Poonamallee High Road, Kilpauk,
   Chennai-10. ...Appellants

Vs

1. Minor R.Poojitha, Rep.by her Father S.Rajesh

2. The Medical Council of India, rep.by its
   President, Pocket 14, Sector-8,
   Dwarak Phase-1, New Delhi-110 007. ...Respondents

WA.No.851 of 2017 :

1. The State of Tamil Nadu, rep.by its
   Principal Secretary Health &
   Family Welfare (MCA-1) Department,
   Fort St. George, Chennai-9.

2. The Additional director of Medical
   Education/Secretary, Selection
   Committee, O/o.the Director of Medical
   Education, Poonamallee High Road, Kilpauk,
   Chennai-10. ...Appellants

Vs

1. R.Raghul
2. The Medical Council of India, rep.by
   its President, Pocket-14, Sector-8,
   Dwarka Phase-I, New Delhi-110 077. ...Respondents

WA.No.852 of 2017 :

1. The State of Tamilnadu, rep.by its
   Secretary to Government, Health &
   Family Welfare (MCA 1) Department,
   Secretariat, Fort St.George, Chennai.

2. The Selection Committee, Directorate
   of Medical Education, No.162,
   Periyar EVR High Road, Keelpauk,
   Chennai-10 ...Appellants

Vs

1. Minor.G.Dhanush, rep. by Guardian
   father Ganesan

2. The President, Medical Council of India,
   Pocket 14, Sector 8, Dwarka Phase 1,
   Sector-8, New Delhi.

3. The Registrar, The Tamilnadu Dr.M.G.R.
   Medical University, No.69 Anna Salai,
   Chennai-32. ...Respondents

WA.No.853 of 2017 :

1. The State of Tamilnadu, rep.by its
   Secretary to Government Health
   & Family Welfare (MCA 1) Department,
   Secretariat, Fort St. George, Chennai.

2. The Selection Committee, Directorate
   of Medical Education, No.162,
   Periyar EVR High Road, Keelpauk, Chnenai-10. ...Appellants

Vs

1. Raghavender Srinivas

2. The President, Medical Council of India, Pocket 14, Sector 8, Dwarka Phase 1, New Delhi.

3. The Registrar, the Tamilnadu Dr.M.G.R. Medical University, No.69, Anna Salai, Chennai-32. ...Respondents

WA.No.854 of 2017 :

1. The State of Tamilnadu, rep. by its Secretary to Government, Health & Family Welfare (MCA 1) Department, Secretariat, Fort St. George, Chennai.

2. The Selection Committee, Directorate of Medical Education, No.162, Periyar EVR High Road, Keelpauk, Chennai-10 ...Appellants

Vs

1. Minor S.Soorria Sreenivasan rep.by Guardian father Dr.S.Narayanaswamy

2. The President, Medical Council of India, Pocket 14, Sector-8, Dwarka Phase-1, New Delhi.

3. The Registrar, the Tamil Nadu Dr.MGR Medical University, No.69, Anna Salai, Chennai. ...Respondents

WA.No.855 of 2017 :

1. The State of Tamilnadu, rep.by its Secretary to Government, Health & Family Welfare Department, Secretariat, Fort St. George, Chennai.

2. The Selection Committee, Directorate of Medical Education, No.162 Periyar EVR High Road, Keelpauk, Chennai-10. ...Appellants

Vs

1. Minor P.Arun Shreenivas rep by
   Guardian father P.Pugalendhi

2. The President, Medical Council of India,
   Pocket 14, Phase 1, Sector-8, New Delhi.

3. The Registrar, the Tamilnadu Dr.M.G.R.
   Medical University, No.69, Anna Salai,
   Chennai-32. ...Respondents

WA.No.856 of 2017 :

1.The State of Tamilnadu, rep.by its
  Secretary to Government, Health
  & Family Welfare (MCA 1) Department,
  Secretariat, Fort St. George, Chennai.

2.The Selection Committee, Directorate
  of Medical Education, No.162,
   Periyar EVR High Road, Keelpauk, Chennai-10 ...Appellants

Vs

1.A.Apharna

2.The President, Medical Council of India,
  Pocket 14, Phase 1, Sector-8, New Delhi.

3.The Registrar, the Tamil Nadu Dr.MGR
  Medical University, No.69, Anna Salai,
  Chennai. ...Respondents

WA.No.870 of 2017 :

1.Rahul, S.B. S/O S.Bhaskar

2.S.Jeeva Harini (minor), rep.by father
  and natural guardian K.Saravanan

3.M.Mahil, minor, rep.by father and
  natural guardian D.Meikandan

4.Sivanandhini.R.
  D/O P.Ramalingam

5.Shri Lekhaa.M.
  D/O D.Manikkam ...Appellants

Vs

1.The State of Tamil Nadu, Department
of Health and Family Welfare rep. by
Secretary, Fort St George, Chennai.

2.The Selection Committee, Director of
Medical Education, 162, Periyar E.V.R.
High Road, Kilpauk, Chennai-10.

3.The President, Medical Council of
India, Pocket 14, Phase-I, Sector-8,
New Delhi

4.The Registrar, the Tamil Nadu Dr.M.G.R.
Medical University, No.69, Anna Salai,
Chennai-32

5.V.S.Sai Sachin (minor) rep.by his
father and natural guardian V.Suresh ...Respondents

WA.No.872 of 2017 :

S.Jeevanandam, minor, rep.by his
father and natural guardian
J.Subramanian ...Appellant

Vs

1. V.S.Sai Sachin, minor rep.by his
father and natural guardian
V.Suresh

2. The State of Tamil Nadu
Department of Health and Family Welfare rep
by Secretary Fort St George Chennai

3. The Selection Committee
Director of Medical Education 162 Periyar E.
V.R.High Road Kilpauk Chennai-10

4. The President
Medical Council of India Pocket 14 Phase-I
Sector-8 New Delhi.

5. The Registrar
The Tamil Nadu Dr.M.G.R.Medical University
No.69 Anna Salai Chennai-32. ...Respondents

APPEALS under Clause 15 of the Letters Patent against the common order dated 14.7.2017 made in W.P.Nos.16341, 16379, 16380, 17103, 17104, 17143, 17144, 17184, 17199, 17312, 17139, 17140, 17141, 17142 and 17137 of 2017.

Prayer in W.P. 16341 of 2017:

These Writ Petitions are filed under Article 226 of the constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the Prospectus for MBBS/ BDS admission 2017-18 on the file of first and second respondents pertaining to admission to MBBS/ BDS Courses in Tamil Nadu Government Colleges Government Seats in Self Financing Medical Colleges affiliated to the fourth respondent University and seats in Rajah Muthiah Medical College (Annamalai University) and quash that decision made in the alternate clause of Clause-IV (19) of the Prospectus for MBBS/ BDS admission 2017-18 that out of the State Quota seats in Government Medical Colleges and Government Quota in Self Financing Private Medical Colleges 85 per cent of seats shall be earmarked to the students who have studied in the Tamil Nadu State Board only with reservation 15 % will be reserved for students from CBSE and other boards so for as it relates to the petitioner and consequently direct the first and second respondents to consider the petitioners against all available seats in MBBS and BDS Courses offered in colleges and Education institutions within the state of Tamil Nadu for the Academic year 2017-2018.

ii) Common Prayer in W.Ps 16379/17,16380,17139/17 to 17144/17, 17137/17, 17184/17, 17199/17 and W.P. 17312/17:

To call for the records of the 1st Respondent herein G.O. Ms No 233 Health and Family Welfare (MCA-I) Department, dated 22.06.2017 and quash the same.

iii)W.P. No 17103 & 17104/2017:

declaring the reservation of 85% of seats to the students who have studied in Tamil Nadu State Board and 15% of the Seats to the students who have studied in CBSE and other Boards for admission to MBBS/ BDS Courses for 2017-18 session after surrendering 15% of the seats to All India Quota as per G.O.Ms. No.233 dated 22.06.2017 issued by the 1st respondent as illegal and unreasonable.

For State : Mr.R.Muthukumarasamy, AG
assisted by
Mr.T.N.Rajagopalan, SGP

For Medical Council
of India : Mr.V.P.Raman

For Tamil Nadu Dr.MGR Medical University : Mr.P.R.Gopinathan

For CBSE : Mr.G.Nagarajan

For Appellants 3 & 4 in WA.No.838 of 2017 : Mr.Hari Radhakrishnan

For Appellants in WA.No.870 of 2017 : Mr.P.Wilson, SC for Mr.Richardson Wilson

For Appellant in WA.No.872 of 2017 : Mr.S.R.Rajagopal

For R1 in WA.Nos.838 & 872 of 2017 & R5 in WA.No.870 of 2017 : Mr.N.C.Ramesh, SC for Ms.S.Rajalakshmi

For R4 in WA.No.838 of 2017 : Mr.Kandan Doraiswamy

For R5 to R16 in WA.No.838 of 2017 : Mr.N.L.Rajah, SC for Mr.K.Balu

For R17 in WA.No.838 of 2017: Mr.G.Murugendhiran

For R18 & R19 in WA.No.838 of 2017 : Mr.M.Ganesh

For R20 in WA.No.838 of 2017 : Mr.Sivagnanasambandam

For R1 in WA.Nos.843 & 844 of 2017 : Mrs.Hema Muralikrishnan

For R1 in WA.No.845 of 2017 & For R1 & R2 in WA.No.846 of 2017: Mr.Bharatha Chakravarthy forM/s.Sai Bharath & Ilan

For R1 in WA.No.847 of 2017 & For R1 in WA.No.848 of 2017 & For R1 in WA.Nos.852 to 856 of 2017 : Mr.K.Suresh for Mr.E.K.Kumaresan

For R1 in WA.No.849 of 2017 & For R1 in WA.No.850 of 2017 : Mr.A.Muthukumar

For R1 in WA.No.851 of 2017 : Mr.T.Karunakaran

For Petitioner in W.P.16681/2017 : Mr.Rahul Balaji

For Petitioner in W.P.17528/2017 : Mrs.Nalini Chidambaram for Mrs.C.Uma

For Petitioner in W.P.17533/2017 : Mr.AR.L.Sunderasan, SC for Mrs.A.L.Ganthimathi

For Petitioner in W.P.17540/2017 : Mr.P.S.Raman, SC for Mr.R.Sivaraman

For Petitioners in WP.Nos.17525 & 17565 of 2017 : Mr.V.T.Gopalan, SC for Mr.T.Meikandan

For Appellant in WA.SR.No. 12170 of 2017 : Mrs.Karthika Ashok

For Appellant in WA.SR.No. 56796 of 2017 : Mr.Paramasivadoss

For Appellant in WA.SR.No. 12161 of 2017 : Mr.M.Velmurugan

COMMON JUDGMENT

(Judgment was delivered by NOOTY.RAMAMOHANA RAO,J)

All these Writ Appeals, except W.A.Nos.870 and 872 of 2017, are preferred by the State of Tamil Nadu, while W.A.Nos.870 and 872 of 2017 are preferred by the individual students, calling in question the correctness of the order passed by the learned single Judge in a batch of writ petitions, and the same are heard together, as the issue raised in all these cases is one and the same. Further, the learned counsel appearing on either side have advanced elaborate arguments to sustain the policy decision of the State Government contained in their G.O.Ms.No.233, Health and Family Welfare (MCA-1) Department, dated 22.06.2017, henceforth referred to as "the impugned policy decision", for brevity, and also against the same. Hence, we dispose of all these cases by this common judgment.

2. Writ Petitions had been filed, challenging the validity of the abovesaid G.O. The learned single Judge upheld the contention canvassed by the writ petitioners that the impugned policy decision of the State is not sustainable.

3. Sri R.Muthukumaraswamy, learned Advocate General, who led the arguments on behalf of the appellants, would trace out the backdrop history that led to issuance of the impugned policy decision. He would submit that when the Medical Council of India (MCI) published the Notification on 21.12.2010, there were divergent opinions with regard to participation in National Eligibility -cum- Entrance Test, for short, "NEET", conducted by the Central Board of Secondary Education (CBSE), regulating the admission process to various medical colleges in the country. That Notification was initially struck down by the Supreme Court in the Case of Christian Medical College, Vellore, v. Union of India, since reported in 2014 (2) SCC 305. However, subsequently, that judgment was recalled on 11.04.2016, entertaining Review Petitions.

4. Then, the Parliament has stepped in and amended the Indian Medical Council Act,1956, in short, "the Act", by incorporating therein Section 10-D, by the Amending Act 39 of 2006, which was brought into force on 24.05.2016. Section 10-D of the Act reads as under :

> "10-D. Uniform entrance examination for undergraduate and postgraduate level.- There shall be conducted a uniform entrance examination to all medical educational institutions at the undergraduate level and post-graduate level through such designated authority in Hindi, English and such other languages and in such manner as may be prescribed and the designated authority shall ensure the conduct of uniform entrance examination in the aforesaid manner.
>
> Provided that notwithstanding any judgment or order of any court, the provisions of this section shall not apply, in relation to the uniform entrance examination at the undergraduate level for the academic year 2016-2017 conducted in accordance with any regulations made under this Act, in respect of the State Government seats (whether in Government Medical College or in a private Medical College) where such State has not opted for such examination."

5. As a consequence of the introduction of Section 10-D to the Act, a uniform entrance examination to regulate the admission process of all medical educational institutions, both at undergraduate and postgraduate levels, was required to be conducted by the designated authority, who was required to ensure that the entrance examination was conducted in the manner

specified therein. The proviso incorporated therein was exclusively rendered applicable only for the academic year 2016-2017, and since it has no bearing upon the present controversy, which concerns the academic year 2017-2018, we do not detain ourselves in considering the effect and impact of the said proviso.

6. By virtue of the obligation supplied by Section 10-D of the Act, one common entrance examination is required to be conducted by the designated authority. The designated authority being CBSC, it conducted the NEET on 07.05.2017. After the NEET was conducted, the State Government has received certain proposals from the Additional Director of Medical Education – cum – Selection Committee, for admission to undergraduate medical courses in the State on 22.06.2017 and upon consideration of the said proposals, the State Government has announced its policy decision, which was impugned before the learned single Judge.

7. The learned Advocate General has elaborated that though up to the year 2006 an entrance examination was conducted for regulating the admissions to MBBS course and other related professional courses, after the legislature has enacted Tamil Nadu Admission in Professional Educational Institutions Act,2006, Tamil Nadu Act 3 of 2007, after obtaining the assent of the President of India, making it very clear in its Section 7 that any admission made in violation of the provisions contained in the said Act 3 of 2007 would be rendered invalid, notwithstanding anything contained in any other law for the time being in force. Thus, the Tamil Nadu Act 3 of 2007 was operating in this State ever since. As per Section 5 of the Tamil Nadu Act 3 of 2007, a normalisation method is provided for regulating the admissions of students drawn from various streams, with the result from the year 2007 onwards, admissions to various medical colleges in the State have been regulated, purely following the marks secured in the relevant subjects at 10+2 course duly applying the normalisation method, thereby causing no injustice to any segment of students, who pursue the qualifying examination of +2 course either from the State Board or the Central Board of Secondary Education or any other Board, whereas, by introduction of Section 10-D to the Act, the provisions contained in Section 5, read with Section 7 of the Tamil Nadu Act 3 of 2007, could not be operated for regulating the process of admission of MBBS/BDS courses. The learned Advocate General, hence, would submit that the State legislature has unanimously considered it desirable to protect the policy pursued by the State of Tamil Nadu hitherto, for securing admission equitably to students, based on +2 examination marks in the relevant subjects and, consequently, the State legislature has unanimously passed the Tamil Nadu Admission to MBBS and BDS Courses Bill,2017, (Tamil Nadu Legislative Assembly

Bill No.7 of 2017) on 01.02.2017, and the Governor of the State has reserved the Bill for the assent of the President under Article 254 (2) of the Constitution on 18.02.2017, as the field is now occupied by the Parliamentary enacement. The assent of the President to Bill No.7 of 2017 is still awaited.

8. In these circumstances, the impugned policy decision has been announced by the State Government, directing the Additional Director of Medical Education / Secretary, Selection Committee, to allocate 85% of the seats to the students, who have studied in Tamil Nadu State Board, and 15% of the seats to the students, who have studied in CBSE and other Boards, for admission to MBBS/BDS courses for the academic year 2017-2018 session, after surrendering 15% of the seats to the All India Quota in Government Medical Colleges and Government Quota seats in Self-financing private medical colleges, including the seats to be surrendered to the Government by Raja Muthaiah Medical and Dental College of Annamalai University, Chidambaram. (emphasis supplied)

9. The learned Advocate General would, therefore, contend that the State has only attempted to provide for an even platform for securing admission to the students, who pursued '+2 course' under the Tamil Nadu State Board, while, at the same time, making available adequate number of seats to the students, who have pursued '+2 courses in CBSE' and other Boards. The learned Advocate General would urge that the impugned policy decision is, in no manner, affecting or denying the effect of Section 10-D of the Act. On the other hand, those students belonging to both Tamil Nadu State Board and CBSE or other Boards are required to appear for NEET and then qualify in the said test for securing admission and, amongst them, preference to the extent of 85% of the seats is made available to those students, who pursued +2 courses under the State Board. (emphasis supplied)

10. It is further urged by the learned Advocate General that there is no necessity for anyone to doubt the competence of the State legislature to enact Tamil Nadu Legislative Assembly Bill No.7 of 2017, in view of Entry 25 of List III of the VII Schedule read with Article 246 of the Constitution, or for the formulation of the impugned policy decision, in exercise of the executive power available to it under Article 162. It is also urged that the question of examining the impugned policy decision from an altogether different perspective, as is attempted to be done by the writ petitioners, is uncalled for.

11. The arguments advanced on behalf of the State have been well supported by Sri N.L.Rajah and Sri P.Wilson, Senior Counsel, as well as Sri S.R.Rajagopal and Sri G.Murugendran.

12. Per contra, Sri V.T.Gopalan, learned Senior Counsel, would urge that the impugned policy decision is an unconstitutional exercise. According to him, since the Tamil Nadu Legislative Assembly Bill No.7 of 2017 has not yet received the assent of the President to transform into an Act, as is required under Article 254 (2) of the Constitution, by a circuitous method, the impugned policy decision has been announced, to achieve the same objective. Hence, what could not be achieved so far directly, is sought to be achieved indirectly.

13. Smt.Nalini Chidambaram, Sri AR.L.Sundaresan and Sri P.S.Raman, learned Senior Counsel, would submit that the impugned policy decision is attempting to bifurcate eligible students into two different segments, without there being any differential element existing in between the two groups. An artificial segregation is attempted by the impugned policy decision for achieving the objective, which cannot be tolerated in law. It is urged by the learned Senior Counsel that there could not have been proportionate representation of the students in the matter of granting admission to them to MBBS/BDS Courses, depending upon the Board, through which they passed the qualifying +2 examination, such as, Tamil Nadu State Board, CBSE etc. The artificial classification, according to the learned Senior Counsel, has no nexus whatsoever to the object sought to be achieved. Hence, the impugned policy decision falls foul of Article 14 of the Constitution.

14. Sri Rahul Balaji, learned Standing Counsel appearing for CBSE; Sri V.P.Raman, learned Standing Counsel appearing for Medical Council of India; and the other learned counsel Sri K.Suresh and Smt.Hema Muralikrishnan would further urge that once all the students, who are otherwise eligible to solicit admission to MBBS/BDS Courses have appeared for NEET examination held on 07.05.2017, the admission process has got to be strictly regulated, based upon the 'inter se merit ranking obtained at NEET' and it cannot be made to depend upon through which Board they appeared for and passed +2 examinations. Sri V.P.Raman, learned counsel, would also specifically urge that the entire admission process to the first MBBS course is regulated by the 'Undergraduate Medical Admission Regulations framed by MCI, in particular, Regulation 5 thereof, and, hence, the impugned policy decision of the State, which is attempting to modify the said admission process, is unsustainable.

Legal Regime :

15. Article 245 (1) of the Constitution of India makes it clear that the Parliament may make laws for the whole or any part of the territory of India and the Legislature of the State may make laws for the whole or any part of the State, subject, of course, to the provisions of the Constitution.

16. Article 246 (1) declares that the Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I of the VII Schedule. Similarly, Clause (3) thereof sets out that the legislature of any State has power to make laws with respect to any of the matters enumerated in List II of the VII Schedule, whereas, Clause (2) has set out that notwithstanding anything contained in Clause (3), the Parliament and, subject to Clause (1), the legislature of any State also have power to make laws with respect to any of the matters enumerated in List III of the VII Schedule, called as "Concurrent List". Article 254 deals with inconsistencies between the laws made by the Parliament and the laws made by Legislatures of States. Clause (2) thereof unambiguously makes it clear that where a law made by a legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by the Parliament in respect of that matter, then, the law so made by the Legislature of such State shall prevail in that State, if it has been reserved for consideration of the President and has received assent therefor.

17. Section 5 of the Tamil Nadu Act 3 of 2007 seeks to regulate the admission process to MBBS/BDS courses, based upon the marks secured in the relevant subjects at 10+2 course, after adopting the normalisation method. Section 10-D of the Act, which was brought into force on 24.05.2016, intends to regulate the admission process, based upon the merit ranking at NEET', but not upon the marks secured at 10 + 2 course. Thus, there was inconsistency in the matter of admission to MBBS course in between the Regulations framed by the Medical Council of India and Section 5 of the Tamil Nadu Act 3 of 2007. It is relevant to extract Section 5, which reads as under :

> "5. (1) The marks obtained by the students in the relevant subjects in the qualifying examination conducted by various Boards or Authority shall be equated with the marks obtained by the students in the same subjects in the qualifying examination conducted by the State Board, by adopting the method of normalization.
>
> Explanation : Under the method of normalization, the highest mark obtained by the students of various Boards in each subject shall be equated to the highest mark obtained by the students of State Board in that subject and the relative marks obtained by other students in that subject shall be determined accordingly.
>
> Illustration : If the highest marks secured by the student of State Board in

Physics is 100 and the highest mark secured by a student of any other Board in the same subject is 90, both the highest marks will be considered to be equal to 100. If a student of the other Board secures 60 marks in Physics when the first mark in Physics in the same Board is 90, the 60 marks will be considered to be equal to 66.66 marks as arrived at below :

100x60 / 90 = 66.66%

(2) After normalization of marks in the relevant subjects in the qualifying examination conducted by different Boards, the qualified students of different Boards shall be merged into a common merit list.

(3) In cases where more than one student have got the same marks in the common merit list, the inter-se seniority among such students shall be determined in such manner as may be prescribed.

(4) The appropriate authority and the consortium of unaided professional educational institution shall prepare the rank lists for admission of students to the seats referred in Section 3 and Section 4, respectively and allot students through centralised counselling."

18. Thus, when we read Articles 245, 246 and 254 comprehensively and together, it emerges that the provision contained in Section 10-D of the Act, being a Parliamentary legislation, will prevail in the State of Tamil Nadu till such time the Tamil Nadu Legislative Assembly Bill No.7 of 2017 receives the assent of the President. There is hardly any quarrel on this legal premise.

19. Section 10-D, as was noticed by us supra, requires a uniform entrance examination to all medical institutions at the undergraduate level and postgraduate level to be conducted. What is the purpose then of conducting such an examination, if it has no bearing upon the process of admission to medical courses ? It is, plainly obvious, intended to regulate the admission process to both undergraduate and postgraduate medical courses. It goes without saying that, subject to the reservations provided for by the respective States, the admissions to undergraduate and postgraduate medical courses will have to be exclusively regulated, based upon the merit ranking obtained at the said common entrance examination. The examination contemplated by Section 10-D is not a qualifying examination or a mere eligibility test. It seeks to regulate the follow-up action of the admission process itself. The need to conduct an entrance examination common to everyone has arisen from out of recognition of varying contents of the syllabi

adopted or followed by the States across the length and breadth of this country and also because of the variation of the course content, methodology of teaching and testing as well as the standards of evaluation of the performance of the students. When once the course content varies and the methodology of teaching and evaluation varies, there will not be any uniformity, by which the performance of the students pursuing the same +2 course through various State Boards or other boards, such as, CBSE can be judged. By the very nature of the differences existing, it will not be possible to evaluate the relative comparative performance of the students, either going by the overall percentage of marks secured by them or the marks secured by them in specified subjects, such as, Botany, Zoology or Biology and Physics and Chemistry. Therefore, the necessity to provide for a uniform standard test for judging the inter se merit of the students has arisen. It is in recognition of this necessity and to have the relative merit of the candidates across the spectrum can be got evaluated, by adopting an objective and uniform criterion, the Parliament has stepped in and provided for conducting a common entrance examination compulsorily, by introducing Section 10-D with effect from 24.05.2016. Thus, the main objective behind Section 10-D, which can be culled out from the objects and reasons of the Amending Act 39 of 2016 through which this provision has been introduced, emerges that a level playing field is created and a uniform standard is prescribed for evaluating the relative merit of all the competing candidates. Once the relative merit of the students is evaluated, based upon the performance at NEET in particular, one can assume that the hitherto existing different standards of course curriculum, their content, the methodology of teaching and evaluation would relegate themselves to back stage. What is now getting tested is the knowledge acquired by the students in the subject matter concerned. By subjecting all the candidates to one single common test and also by subjecting the students to be judged by a uniform standard of evaluation, the relative merit could be drawn easily, and once that is drawn, whatever advantages or for that matter disadvantages encountered in pursuing +2 course thus far, fade out and hold no more significance. The following reasoning assigned by the Supreme Court in Preeti Srivastava (Dr.) & Another v. State of Madhya Pradesh & Others, AIR 1999 SC 2894, would bring out the rationale behind such common entrance tests:

> "This argument ignores the reasons underlying the need for a common entrance examination for post-graduate medical courses in a State. There may be several universities in a State which conduct M.B.B.S. courses. The courses of study may not be uniform. The quality of teaching may not be uniform. The standard of assessment at the M.B.B.S. examination also may not be uniform in the

different universities. With the result that in some of the better universities which apply more strict tests for evaluating the performance of students, a higher standard of performance is required for getting the passing marks in the M.B.B.S. examination. Similarly, a higher standard of performance may be required for getting higher marks than in other universities. Some universities may assess the students liberally with the result that the candidates with lesser knowledge may be able to secure passing marks in the M.B.B.S. examination; while it may also be easier for candidates to secure marks at the higher level. A common entrance examination, therefore, provides a uniform criterion for judging the merit of all candidates who come from different universities. Obviously, as soon as one concedes that there can be differing standards of teaching and evaluation in different universities, one cannot rule out the possibility that the candidates who have passed the M.B.B.S. examination from a university which is liberal in evaluating its students, would not, necessarily, have passed, had they appeared in an examination where a more strict evaluation is made. Similarly, candidates who have obtained very high marks in the M.B.B.S. examination where evaluation is liberal, would have got lesser marks had they appeared for the examination of a university where stricter standards were applied. Therefore, the purpose of such a common entrance examination is not merely to grade candidates for selection. The purpose is also to evaluate all candidates by a common yardstick. One must, therefore, also take into account the possibility that some of the candidates who may have passed the M.B.B.S. examination from more "generous" universities, may not qualify at the entrance examination where a better and uniform standard for judging all the candidates from different universities is applied. In the interest of selecting suitable candidates for specialised education, it is necessary that the common entrance examination is of a certain standard and qualifying marks are prescribed for passing that examination. This alone will balance the competing equities of having competent students for specialised education..."

20. When we bear the objective behind Section 10-D and read it along with Regulation 5 of the Regulations on Graduate Medical Education,1997, it clearly emerges that all admissions to MBBS course within the respective categories shall be based solely on the marks obtained in NEET. In other words, Regulation 5 (V), which has been inserted on 21.12.2010, which reads : "All admissions to MBBS course within the respective categories shall be based solely on marks obtained in the National Eligibility-cum-Entrance Test" brings out that the admission process to MBBS course within the respective categories shall be based only on the marks obtained at NEET and no other criteria can be adopted thereafter. To put it differently, it is the relative merit ranking obtained by the candidates who took NEET is the only key factor for regulating their admission to MBBS course. Thus, the candidates belonging to the respective categories, meaning thereby various social segments, such as, Scheduled Castes, Scheduled Tribes, Other Backward Classes and Most Backward Classes or children of Army Personnel, Cadets of NCC, Eminent Sports Persons, Differently Abled etc., have to be regulated strictly, in the descending order of their merit at NEET.

21. A Three Judge Bench of the Supreme Court in Medical Council of India v. State of Karnataka, 1998 (6) SCC 131, has held that the MCI Regulations have a statutory force and are mandatory. The Constitution Bench of the Supreme Court, in the case of Preeti Srivatsava, referred to supra, has approved the reasoning assigned by it in M.C.I. v. State of Karnataka, referred to above. The Supreme Court, speaking through Sujatha Manohar, J., held :

> "...These Regulations, therefore, are binding and the States cannot, in the exercise of power under Entry 25 of List-III, make rules and regulations which are in conflict with or adversely impinge upon the Regulations framed by the Medical Council of India..."

22. This far, there is no quarrel. But, however, by the impugned policy decision, the State has virtually provided for a reservation for the students, who have passed +2 courses from the State Board. In other words, it has provided quota for the +2 students of State Board to the extent of 85% of the available seats, after making available 15% seats to the All India Quota. Tuus, out of 85% of the seats available, once again, 85% of them, has exclusively been earmarked for the +2 students of State Board to the exclusion of the others and the remaining paltry 15% out of the 85% of the available seats has been made available to those students, who have pursued +2 courses from other boards, such as CBSE. Mainly, the impugned

policy decision is trying to classify those students, who have pursued +2 courses through Tamil Nadu State Board, as a distinct group from that of other students, who have pursued +2 courses from other boards. The question, therefore, boils down as to whether this classification is justified at all or not ?

23. We are conscious, that the policy decision of a State is not to be interfered with lightly and also by way of substituting the opinion of the Court to that of the decision taken. We are also conscious that while scrutinising any such policy decision, the Court does not sit in any appellate jurisdiction, but the scope of scrutiny is exclusively confined to the limited ground of constitutionality or judicial review only.

24. At the outset, we need to advert to two contentions canvassed by Sri P.Wilson, learned Senior Counsel, appearing for the appellants. Placing reliance upon the judgment of the Supreme Court in Deena @ Deena Dayal and Others v. Union of India and Others, 1983 (4) SCC 645, the learned Senior Counsel would submit that the burden to prove lies heavily on those who allege the violation of the right to equality guaranteed by Article 14 and the writ petitioners have failed to discharge the said burden.

25. It is true, as spelt out in the judgment relied upon by the learned Senior Counsel, the initial burden is cast on the person, who complains of the violation of equality clause, but, once that burden is discharged, the onus to sustain the impugned action shifts on to the State. In the instant case, the writ petitioners are not claiming discrimination based upon personal identification or and comparative merit criterion. They are complaining of the unjust classification brought about by the impugned policy decision. No factual data or detailed statement of facts is needed to establish the unjustifiable classification, except demonstrating that the entire student community, who have passed the +2 course and secured a merit ranking at the NEET, is entitled to secure admission strictly in the descending order of such merit ranking, but not otherwise whereas the impugned Policy has attempted a departure therefrom. We are, therefore, of the opinion, that the writ petitioners have discharged the initial burden and, as such, the contention canvassed by Sri Wilson, learned Senior Counsel, need not detain us.

26. Sri Wilson, learned Senior Counsel, would also urge that mechanical adherence to the regulations framed by Medical Council of India should not be adverted to and the State Government must not be denied its right to properly balance the aspirations of the student community and their competing claims. He placed reliance upon the judgment of the Supreme Court

rendered in State of Punjab v. Dayanand Medical College and Hospital and Another, 2001 (8) SCC 664, wherein, it has been held as under :

> "12...Thus, proper balance will have to be struck both by the Medical Council of India and by the Government, Central and State, in exercise of their respective powers. The Medical Council of India, a creature of a statute, cannot be ascribed with such powers to reduce the State Governments to nothing on and in respect of areas over which the States have constitutional mandate and goal assigned to them to be performed..."

27. We have hardly entertained any doubt about the competence of the State to cater to the peculiar needs of the student community, it seeks to serve well. It is entitled to provide for reservations in favour of the distinguished social groups, but, however, the question that is raised in these batch of cases is, with regard to the justifiability of the classification that has been brought about between the same class of students.

28. Sri Wilson, learned Senior Counsel, also placed reliance on another decision of the Supreme Court in Dr.Ambesh Kumar v. Principal, I.L.R.M.Medical Collelge, Meerut, 1986 (Supp) Supreme Court Cases 543, wherein it has been held as under :

> "18... Two questions arise for our consideration which are firstly whether the State Government is competent to make the aforesaid order in question in exercise of its executive powers under Article 162 of the Constitution. This Article specifically provides that the executive powers of the State shall extend to matters with respect to which the legislature of the State has power to make laws. Entry 25 of the Concurrent List i.e., List III of the Seventh Schedule to the Constitution provides as follows :
>
> Education, including technical education, medical education and universities, subject to the provisions of entries 63,64,65 and 66 of List I; vocational and technical training of labour.
>
> 19. The State Government can in exercise of its executive power make an order relating to

matters referred to in entry 25 of the Concurrent List in the absence of any law made by the State legislature. The impugned order made by the State Government pursuant to its executive powers laying down the eligibility qualification for the candidates to be considered on merits for admission to the post-graduate courses in Medical Colleges in the State, is valid and it cannot be assailed on the ground that it is beyond the competence of the State Government to make such order provided it does not encroach upon or infringe the power of the Central Government as well as the Parliament provided in entry 66 of List I. Entry 66 of List I is in the following terms :

> Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions."

29. We are conscious of this power available to the State Government and bear the same in mind, while proceeding further.

30. The Supreme Court, in State Financial Corporation v. M/s.Jagadamba Oil Mills, AIR 2002 SC 834, in para 10, has forcefully brought out this limitation on exercise of power by Courts and the said principle is set out in the following words :

> "10. The obligation to act fairly on the part of the administrative authorities was evolved to ensure the rule of law and to prevent failure of justice. This doctrine is complementary to the principles of natural justice which the quasi-judicial authorities are bound to observe. It is true that the distinction between a quasi-judicial and the administrative action has become thin, as pointed out by this Court as far back as 1970 in A.K.Kraipak v. Union of India (1969 (2) SCC 262). Even so the extent of judicial scrutiny/judicial review in the case of administrative action cannot be larger than in the case of quasi-judicial action. If the High Court cannot sit as an appellate authority over the decisions and orders of quasi-judicial authorities, it follows equally that it cannot do so in the case of administrative authorities. In the matter of administrative action, it is well known, more than one choice is available to the

administrative authorities; they have a certain amount of discretion available to them. They have "a right to choose between more than one possible course of action upon which there is room for reasonable people to hold differing opinions as to which is to be preferred". (As per Lord Diplock in Secretary of State for Education and Science v. Metropolitan Borough Counsel of Tameside (1977 AC 1014). The Court cannot substitute its judgment for the judgment of administrative authorities in such cases. Only when the action of the administrative authority is so unfair or unreasonable that no reasonable person would have taken that action, can the Court intervene. To quote the classic passage from the judgment of Lord Greene M.R.in Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation (1947 (2) All ER 680) :

"It is true the discretion must be exercised reasonably. Now what does that mean ? Lawyers familiar with the phraseology commonly used in relation to exercise of statutory discretions often use the word 'unreasonable' in a rather comprehensive sense. It has frequently been used and is frequently used as a general description of the things that must not be done. For instance, a person entrusted with the discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules, he may truly be said, and often is said, to be acting 'unreasonably'. Similarly, there may be something so absurd that no sensible person could every dream that it lay within the powers of the authority"

31. However, when a challenge to a decision of the State is brought on the anvil of Article 14 of the Constitution, it is wholly appropriate to remind ourselves that Article 14 is rested upon a high public policy, for securing equality of law and equal protection of laws, by couching the language therein, more in the form of injunction directed towards the State. In other words, the State has been commanded by Article 14 not to discriminate from people to people in the matter of equality and equal protection of laws, but, at the same time, has, as a postulate of law, recognised that the class legislation is forbidden by Article 14, but not classification, per se. S.R.Das,J. (as the learned CJI then was), in Budhan Choudhry v. State of Bihar, AIR 1955 SC 191, at page 193, speaking on

behalf of a seven Judge Bench of the Supreme Court, has brought out the principle in the following words :

> "The provisions of Article 14 of the Constitution have come up for discussion before this Court in a number of cases, namely, Chiranjit Lal Chowdhuri v. The Union of India, 1950 SCR 869, The State of Bombay v. F.N.Balsara, 1951 SCR 682, The State of West Bengal v. Anwar Ali Sarkar, 1952 SCR 284, Kathi Raning Rawat v. The State of Saurashtra, 1952 SCR 435, Lachmandas Kewalram Ahuja v. The State of Bombay, 1953 SCR 581, and Qasim Razvi v. The State of Hyderabad, 1952 SCR 710, and Habeeb Mohamad v. The State of Hyderabad, 1953 SCR 661. It is, therefore, not necessary to enter upon any lengthy discussion as to the meaning, scope and effect of the Article in question. It is now well established that while article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification, two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and (ii) that 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 bases; namely, geographical, or according to objects or occupations or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration. It is well established by the decisions of this Court that Article 14 condemns discrimination not only by a substantive law but also by a law of procedure..."

Hence, the State's action, be it legislative or executive, to pass the test of classification, the two essential conditions spelt out in the above judgment have necessarily to be passed.

32. It is also appropriate for us to notice right at this stage, that a Constitution Bench of the Supreme Court in Vice Chancellor, Osmania University, v. Chancellor, AIR 1967 SC 1305, has brought out the principle as to how the Court can get satisfied about the reasonableness of the classification, in the following words :

> "43... this Court must be satisfied that there is a reasonable basis for grouping the appellant as a class by himself and that such a reasonable basis must appear either in the statute itself or must be deducible from other surrounding circumstances..."

33. To satisfy ourselves that the classification is made on intelligible criteria and that it has also a reasonable relationship to the object intended to be achieved, it is wholly appropriate to notice the contents of the impugned Government Order, which read as under :

> "G.O.Ms.No.233 Health and Family Welfare (MCA-I) Department dated 22.6.2017
>
> In this letter read above, the Additional Director of Medical Education/Secretary, Selection Committee, has stated that till 2016-17, admission to MBBS and BDS courses were done through Tamil Nadu Admission in Professional Educational Institutions, 2006 (TN Act 3 of 2007), which was enacted after obtaining the assent of His Excellency the President of India under Article 254(2) of The Constitution of India. As per Section 7 of the said Act 'notwithstanding anything contained in any other law in force, any admission made in violation of the provisions of this Act or the Rule made thereunder shall be invalid'.
>
> 2. Now, the Government of India have issued the IMC (Amendment) Act, 2016 and Dentists (Amendment) Act, 2016 by inserting, a new Section mandating common entrance examination for undergraduate and postgraduate courses with the exemption to States from National Eligibility cum Entrance Test (NEET) only for the academic year 2016-17 for MBBS and BDS admissions in Government Medical Colleges and Government quota seats in private medical colleges. However, from the academic year 2017-18, NEET has become mandatory for all medical/ dental courses, both in UG/PG. State quota seats in Government Medical Colleges and Government quota seats in self financing private medical colleges and Government quota seats in self financing private medical colleges including the seats

surrendered to Government by Raja Muthiah Medical and Dental College, Annamalai University, Chidambaram and also for the management quota seats in self financing private medical/ dental colleges.

3. To protect the policy decision of Tamil Nadu for admission of students based on + 2 examination marks in relevant subjects, "Tamil Nadu Admission to MBBS and BDS Courses Bill, 2017" (TNLA Bill No.7 of 2017) was introduced and unanimously passed in the Tamil Nadu Legislative Assembly on 01.2.2017. Honourable Governor of Tamil Nadu has reserved the Bill for the assent of His Excellency the President of India under Article 254(2) of The Constitution of India on 18.2.2017. The assent of His Excellency the President of India is awaited.

4. In the case, if the assent for the said Bill is received from His Excellency the President of India, before the date of declaration of rank list, then the admission for the MBBS/BDS courses for the year 2017-18 shall be made on the basis of +2/equivalent Board of Examination marks for the 85% of State quota seats in Government Medical Colleges and Government quota seats in self financing private medical colleges including the seats surrendered to Government by Raja Muthiah Medical and Dental College, Annamalai University, Chidambaram. The management quota seats in self financing private medical/ dental college shall be filled up on the basis of NEET scores only.

5. In case, if the assent for the said Bill by His Excellency the President of India under Article 254(2) of The Constitution of India, is not received before the date of declaration of the rank list, then the admission shall be made on the basis of NEET score for the MBBS/BDS course for the year 2017-18 for the State quota in Government Medical Colleges and Government quota seats in self financing private medical colleges including the seats surrendered to Government by Raja Muthiah Medical and Dental College, Annamalai University, Chidambaram and also for the management quota seat in self financing

private medical/dental colleges.

6. As per the NEET Information Bulletin issued by the CBSE, the reservation of the seat in medical/dental colleges for respective categories shall be as per applicable laws prevailing in States/Union Territories. All admissions to MBBS/BDS courses within the respective categories shall be based solely on the marks obtained in the NEET-UG.

7. The Additional Director of Medical Education/Secretary, Selection Committee has stated that the CBSE has conducted the NEET for admission of the MBBS/BDS courses for the academic year 2017-18 on 07.5.2017 all over India. In Tamil Nadu from the State Board in 2016-17, 4.2 lakhs students studied in Science with Biology in 6877 higher secondary schools, while only 4675 students studied in CBSE stream from 268 schools. More importantly, the CBSE schools are mostly found in urban area. Within the State of Tamil Nadu, a maximum of 88,431 students appeared for NEET. Out of 88,431 students, only 4675 students studied Biology in CBSE could have appeared for the NEET i.e not more than 5% would have been from CBSE, while 95% are more would have been written the 12th Standard examination through the State Board, whose syllabus, methodology and pattern of examination are entirely different from the Central Board of Secondary Education (CBSE). To ensure equal opportunity to the students of varying Boards, normalisation has been followed till now under the Tamilnadu Admission in Professional Educational Institutions Act, 2006. Since NEET is the basis of admission, to ensure that fair and equal opportunity to the candidates from different Boards, out of the State quota seats in Government Medical Collages and Government quota seats in self financing private medical colleges including the seats surrendered to Government by Raja Muthiah Medical and Dental College, Annamalai University, Chidambaram, he has proposed that 85% of seats may be earmarked to the students, who have studied in the Tamil Nadu State Board only with the rest available for the other Boards on a pro-rata basis even though more than 95% students

appeared in the State Board and not more than 5% appeared in the remaining Boards. The Additional Director, Medical Education/Secretary, Selection Committee has requested the Government to consider a policy to facilitate the students from all the parts of the State to get an opportunity to study medicine and dental courses. He has further proposed that within the State, under the two proposed allocations and admissions, would be based on the rule of reservation as applicable with NEET ranking. Hence, he has requested the Government to take a policy decision on this proposal and issue orders in this regard seeking fair allocation of seats to the State Board students as well as CBSE and other Board's students for admission to the MBBS/BDS course for 2017-18 sessions.

8. The Government have examined the proposal of the Additional Director of Medical Education/Secretary Selection Committee at paragraph 7 above and decided to accept the same. Accordingly, the Government have taken a policy decision and direct the Additional Director of Medical Education/ Secretary Selection Committee to allocate the 85% of the seats to the students who have studied in Tamil Nadu State Board and 15% of the seats to the students who have studied in CBSE and other Boards for admission to the MBBS/BDS course for 2017-2018 session after surrendering 15% of the seats to All India Quota, in Government Medical Colleges and Government Quota seats in Self Financing Private Medical Colleges including the seats to be surrendered to Government by Rajah Muthiah Medical and Dental College, Annamalai University, Chidambaram.

(By Order of the Governor)

Sd/-
Principal Secretary to Government"

34. Thus, the theme pursued by the State seems to be that in case the assent of the President is secured to Tamil Nadu Legislative Assembly Bill No.7/ 2017, admissions for the MBBS/ BDS courses for the academic year 2017-18 shall be made on the basis of Plus 2/Equivalent Board of Examination marks for the 85% of State quota seats available. So long as the assent is

not received, the State is also aware that the admissions shall be made only on the basis of the NEET score for the MBBS/BDS courses for the academic year 2017-18. In paragraph 7, the sole objective behind the Policy Decision is set out that 95% or more students would have appeared at the NEET examination from the State are the students, who have pursued 12th Standard examination through the State Board, whereas 5% of the students, who appeared for the NEET from the State would have pursued Plus 2 course from the Central Board of Secondary Education or other similar Boards and then the Policy Decision proceeds to set out that with a view to ensure a fair and equitable opportunity to the students of varying Boards, normalization method was followed till now under Tamil Nadu Act 3 of 2007 and hence, 85% of the seats are now earmarked for the students, who have studied 12th Standard through the Tamil Nadu State Board on pro-rata basis.

35. In our opinion, the objective sought to be achieved by this Policy Decision has no connection with the classification attempted. The spelt out objective is to ensure fair and equal opportunities to all the students, who have pursued the eligibility examination, namely, +2 course, through various Boards, in the matter of admission to MBBS/BDS courses against the available State quota seats. That objective stands accomplished already when all the students, drawn from State Board as well as other Boards such as CBSE, etc., have appeared at the NEET examination held on 07.5.2017 pursuant to introduction of Section 10D to the Indian Medical Council Act. In other words, equal opportunity to all the students across the board has been secured by their appearing at the NEET examination and testing their merit by a common standard/yardstick.

36. Once the NEET examination has been taken by all the competing students, no one has been denied or deprived of any fair opportunity to secure appropriate ranking based upon his or her meritorious performance commensurate to the knowledge acquired while pursuing +2 course. So, the very objective of providing equal opportunities to all the students and also providing a level playing field for everyone to establish his individual merit having already been accomplished, the further allotment, on pro-rata basis, of seats at 85% and 15% and allocating 85% of seats to those, 12th Standard students, who have pursued the said course from the Tamil Nadu State Board is an artificial one. This is an attempt of further classification amongst all the students, who have appeared for the entrance examination, namely, the NEET.

37. The State is now proposing to divide the eligible students into two compartments based upon the source, from which, they have pursued the eligibility examination, namely,

the +2 course. They are now sought to be identified and segregated as +2 students of the Tamil Nadu State Board and +2 students of the Central Board of Secondary Education and other Board students. That has no rational relationship to the objective sought to be achieved namely providing equal opportunities to all the students across the spectrum. Even if we were to examine it from the perspective of the broader objective contained under Section 10D of the Indian Medical Council Act read with Regulation 5(v) of the Graduate Medical Education Regulations, 1997 namely only inter se merit ranking of the students must be the key factor for securing admission, the impugned Policy Decision fails on that count, as well.

38. It is appropriate to notice that when once the State has now set apart 85% of the available State quota seats for those students, who have passed 12th Standard (Plus 2 course) from the Tamil Nadu State Board, to that extent of number of seats, the students, who have pursued Plus 2 course from other Boards, stand excluded from competing, in spite of their proven superior merit.

39. For instance, if students, who have pursued Plus 2 course from the Central Board of Secondary Education and other Boards, have secured more marks and a better ranking than an equally positioned student, who pursued his 12th Standard course from the Tamil Nadu State Board, the student, who has secured more mark and better ranking to a certain extent i.e., beyond 15% made available to them, is denied admission and the admission is now liable to be granted to a student, who has secured lesser mark and lesser ranking correspondingly only on the ground of his passing Plus 2 course from the Tamil Nadu State Board. This is plainly discriminatory.

40. It is appropriate to notice the principle enunciated by the Supreme Court in the case of Kedar Nath Vs. State of West Bengal [reported in AIR 1953 SC 404], which reads thus :

> "Now, it is well settled that the equal protection of the laws guaranteed by Article 14 of The Constitution does not mean that all laws must be general in character and universal in application and that the State is no longer to have the power of distinguishing and classifying persons or things for the purposes of legislation. To put it simply, all that is required in class or special legislation is that the legislative classification must not be arbitrary, but should be based on an intelligible principle having a reasonable

relation to the object, which the legislature seeks to attain. If the classification, on which, the legislation is founded, fulfills this requirement, then the differentiation, which the legislation makes between the class of persons or things, to which, it applies and other persons or things left outside the purview of the legislation cannot be regarded as a denial of the equal protection of the law, for, if the legislation were all-embracing in its scope, no question could arise of classification being based on intelligible legislative purpose..." (emphasis is mine)

41. It is also appropriate to notice the principle enunciated by the Constitution Bench of the Supreme Court in the case of Anandji Haridas Vs. S.P. Kasture [reported in AIR 1968 SC 565], in which, the relevant portions read as under :

> "To be a valid classification, the same must not only be founded on an intelligible differentia, which distinguishes persons and things that are grouped together from others left out of the group but that differentia must have a reasonable relation to the objects ought to be achieved.
>
> .....
>
> It is true the State can by classification determine who should be regarded as a class for the purpose of legislation and in relation to a law enacted on a particular subject, but the classification must be based on some real and substantial distinction bearing a just and reasonable relation to the object sought to be attained and cannot be made arbitrarily and without any substantial basis." (emphasis is played by me)

42. Viewed in the above backdrop, the basis for classification now attempted by the impugned policy is completely an artificial one. When once the students drawn both from the Tamil Nadu State Board and the Central Board of Secondary Education and other Boards have taken the NEET examination, all of them have an equal and fair opportunity to compete against each other and establish their relative merit. When once this objective had already been achieved, the present classification does not bear any further relationship to the object sought to be achieved.

43. Sri.S.R.Rajagopal, learned counsel, placed reliance upon a judgment of the Supreme Court in the case of Ashutosh Gupta Vs. State of Rajasthan [reported in 2002 (4) SCC 34], in which, the relevant portion reads thus :

> "The concept of equality before law does not involve the idea of absolute equality amongst all, which may be a physical impossibility. All that Article 14 guarantees is the similarity of treatment and not identical treatment. The protection of equal laws does not mean that all laws must be uniform. Equality before the law means that among equals, the law should be equal and should be equally administered and that the likes should be treated alike. Equality before the law does not mean that things which are different shall be treated as though they were the same. It is true that Article 14 enjoins that the people similarly situated should be treated similarly, but what amount of dissimilarity would make the people disentitled to be treated equally, is rather a vexed question. A legislature, which has to deal with diverse problems arising out of an infinite variety of human relations must of necessity, have the power of making special laws, to attain particular objects; and for that purpose, it must have large power of selection or classification of persons and things, upon which, such laws are to operate. Mere differentiation or inequality of treatment does not "per se" amount to discrimination within the inhibition of the equal protection clause. The State has always the power to make classification on a basis of rational distinctions relevant to the particular subject to be dealt with. In order to pass the test of permissible classification, two conditions must be fulfilled, namely (i) that the classification must be founded on an intelligible differentia, which distinguishes persons or things that are grouped together from others, who are left out of the group, and (ii) that differentia must have a rational relation to the object sought to be achieved by the Act. What is necessary is that there must be a nexus

between the basis of classification and the object of the Act. When a law is challenged as violative of Article 14, it is necessary in the first place to ascertain the policy underlying the statute and the object intended to be achieved by it. Having ascertained the policy and the object of the Act, the Court has to apply a dual test in examining the validity, the test being, whether the classification is rational and based upon an intelligible differentia, which distinguished persons or things that are grouped together from others that are left out of the group, and whether the basis of differentiation has any rational nexus or relation with its avowed policy and objects. In order that a law may be struck down under this Article, the inequality must arise under the same piece of legislation or under the same set of laws, which have to be treated together as one enactment. Inequality resulting from two different enactments made by two different authorities in relation to the same subject will not be liable to attack under Article 14. It is well settled that Article 14 does not require that the legislative classification should be scientifically or logically perfect..."

44. Realizing the difficulty to sustain artificial distinction drawn between the two groups, the learned Advocate General has pressed into service the judgment of the Constitution Bench rendered in the case of Mohd. Shujat Ali Vs. Union of India [reported in 1975 (3) SCC 76], in support of his plea that the historically existing differences between two sets of groups can lend legitimacy to the classification.

45. It will be wholly appropriate, before deducing the ratio decidendi in Mohd. Shujat Ali, to bear in mind the facts prevailing in the two sets of cases that were considered by the Supreme Court. At the very opening part of the judgment, it was brought out that W.P.No. 385 of 1969 and other connected civil appeals concern a dispute, which has been going on the last over 15 years in regard to absorption and integration of supervisors of the erstwhile State of Hyderabad in the Engineering Service of the reorganized State of Andhra Pradesh, which was so reorganized on and from 01.11.1956.

46. It was the contention of the supervisors of the erstwhile State of Hyderabad that on absorption and integration

into Engineering Service of the newly formed State of Andhra Pradesh, equality of opportunity has been denied to them in the matter of promotion as Assistant Engineers by the State of Andhra Pradesh and their conditions of service have been altered to their disadvantage without complying with the requirements of law. The other competing claim in W.P. No.218 of 1970 was that prescribing different qualifying period of service for directly recruited graduate supervisors and directly recruited non graduate supervisors for promotion to the posts of Assistant Engineers is unconstitutional and void. Thus, in both the sets of cases, a kind of classification amongst peers is what has been attempted. In the course of the said judgment, in paragraph 21, the Supreme Court has noticed that under the Hyderabad Rules, the post one stage above of supervisors was the post of Sub-Engineers and it was only from the post of Sub-Engineers that promotion lay to the post of Assistant Engineer. The post of Assistant Engineer was, therefore, not a post of one stage promotion from the post of Supervisor.

47. In that context, in Mohd. Shujat Ali, the principle has been spelt out in the following words :

> "23. Now we proceed to consider the challenge based on infraction of articles 14 and 16 of the Constitution. Article 14 ensures to every person equality before law and equal protection of the laws and Article 16 lays down that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. Article 16 is only an instance or incident of the guarantee of equality enshrined in Article 14: it gives effect to the doctrine of equality in the sphere of public employment. The concept of equal opportunity to be found in Article 16 permeates the whole spectrum of an individual's employment from appointment through promotion and termination to the payment of gratuity and pension and gives expression to the ideal of equality of opportunity which is one of the great socioeconomic objectives set out in the Preamble of the Constitution. The constitutional code of equality and equal opportunity, however, does not mean that the same laws must be applicable to all persons. It does not compel the State to run "all its laws in the channels of general legislation". It recognizes that having regard to differences and disparities which exist among men and things, they cannot all

be treated alike by the application of the same laws.' "To recognise marked differences that exist in fact is living law; to disregard practical differences and concentrate on some abstract identities is lifeless logic (Mary Vs. Doud 354 US 457, 473)." The Legislature must necessarily, if it is to be effective at all in solving the manifold problems which continually come before it, enact special legislation directed towards specific ends limited in its application to special classes of persons or things. "Indeed, the greater part or all legislation is special, either in the extent to which it operates, or the objects sought to be attained by it."

24. We thus arrive at the point at which the demand for equality confronts the right to classify. For it is the classification which determines the range of persons affected by the special burden or benefit of a law which does not apply to all persons. This brings out a paradox. The equal protection of the laws is a "pledge of the protection of equal laws." But laws may classify. And, as pointed out by Justice Brewer, "the very idea of classification is that of inequality". The court has tackled this paradox over the years and in doing so, it has neither abandoned the demand for equality nor denied the legislative right to classify. It has adopted a middle course of realistic reconciliation. It has resolved the contradictory demands of legislative specialization and constitutional generality by a doctrine of reasonable classification. This doctrine recognizes that the legislature may classify for the purpose of legislation but requires that the classification must be reasonable. It should ensure that persons or things similarly situated are all similarly treated. The measure of reasonableness of a classification is the degree of its success in treating similarly those similarly situated. (The Equal Protection of Laws 37 CLR 341).

25. But the question is : what does this ambiguous and crucial phrase,

”similarly situated" mean ? Where are we to look for the test of similarity of situation which determines the reasonableness of a classification ? The inescapable answer is that we must look beyond the classification to the purpose of the law. A reasonable classification is one which includes all persons or things similarly situated with respect to the purpose of the law. There should be no discrimination between one person or thing and another, if as regards the subject-matter of the legislation their position is substantially the same. This is sometimes epigrammatically described by saying that what the constitutional code of equality and equal opportunity requires is that among equals, the law should be equal and that like should be treated alike. But the basic principle underlying the doctrine is that the legislature should have the right to classify and impose special burdens upon or grant special benefits to persons or things grouped together under the classification, so long as the classification is of persons or things similarly situated with respect to the purpose of the legislation, so that all persons or things similarly situated are treated alike by law. The test which has been evolved for this purpose is-and this test has been consistently applied by this Court in all decided cases since the commencement of the Constitution-that the classification must be founded on an intelligible differentia which distinguishes certain persons or things that are grouped together from others and that differentia must have a rational relation to the object sought to be achieved by the legislation.

26. But we have to be constantly on our guard to see that this test which has been evolved as a matter of practical necessity with a view to reconciling the demand for equality with the need for special legislation directed towards specific ends necessitated by the complex and varied problems which require solution at the hands of the legislature, does not degenerate into rigid formula to be blindly and mechanically applied whenever the validity of any

legislation is called in question. The fundamental guarantee is of equal protection of the laws and the doctrine of classification is only a subsidiary rule evolved by courts to give a practical content to that guarantee by accommodating it with the practical needs of the society and it should not be allowed to submerge and drown the precious guarantee of equality. The doctrine of classification should not be carried to a point where instead of being a useful servant, it becomes a dangerous master, for otherwise, as pointed out by Chandrachud, J., in State of Jammu & Kashmir Vs. Triloki Nath Khosa (1974 (1) SCC 19 : 1974 SCC L & S 49), "the guarantee of equality will be submerged in class legislation masquerading as laws meant to govern well-marked classes characterized by different and distinct attainments." Overemphasis on the doctrine of classification or an anxious and sustained attempt to discover some basis for classification may gradually and imperceptibly deprive the guarantee of equality of its spacious content. That process would inevitably end in substituting the doctrine of classification for the doctrine of equality : the fundamental right to equality before the law and equal protection of the laws may be replaced by the overworked methodology of classification. Our approach to the equal protection clause must, therefore, be guided by the words of caution uttered by Krishna Iyer, J., in State of Jammu & Kashmir Vs. Triloki Nath Khosa : (at SCC p. 42)

"Mini-classifications based on micro-distinctions are false to our egalitarian faith and only substantial and straightforward classifications plainly promoting relevant goals can have constitutional validity. To overdo classification is to undo equality."

48. The principle enunciated in the case of Mohd. Shujat Ali, cited above, is the one, which has been orchestrated all through setting forth the nexus in between classification attempted and the object sought to be achieved should run hand in hand, but not parallelly. In the instant case, the object

sought to be achieved by the Executive vide the impugned Government policy was to secure equal opportunity to all the students, who have pursued 12th Standard (Plus 2 course) from the Tamil Nadu State Board and to those students, who have pursued Plus 2 course from the Central Board of Secondary Education or other Boards.

49. That objective, as was noticed by us, was already achieved, when they took a common eligibility cum entrance test (NEET), their relative knowledge is tested by a common question paper and a common yardstick of evaluation. When once the relative ranking of merit is determined at the NEET, a further classification of the qualified candidates of the NEET attempted now meanders into an artificial one.

50. The premise, upon which, this impugned Policy Decision was adopted, is that even the Regulations framed by the Medical Council of India spelt out that the reservation of the seats in the medical/dental colleges for respective categories shall be as per the applicable laws prevailing in the States/Union Territories. What the MCI Regulations mean by "respective categories" are those categories of students, who represent the scheduled caste, scheduled tribe, other backward classes, most backward classes, persons differently abled, the children of Army personnel, etc. They do not represent the students drawn from different Boards in the qualifying examination of Plus 2. We are, therefore, of the opinion that the impugned Policy Decision, which attempted at a classification is an arbitrary one being artificial and it has no nexus with the object sought to be achieved.

51. Smt.Hema Muralikrishnan, learned counsel has placed reliance upon the decision in the case of State of A.P. Vs. U.S.V.Balram [reported in 1972 (1) SCC 660] in support of her contention that there cannot be drawn any further classification between the State Board students and the Central Board Secondary Education students, when they have already been tested by a common entrance test. In fact, in paragraph 26 of the judgment of the Supreme Court, the contention advanced before it has been noted in the following words :

> "Mr. Gupte, learned counsel for the State urged that the P.U.C. and H.S.C. candidates form two separate categories and that unless such reservation of seats is made, the H.S.C. candidates may not be able to get adequate number of seats in the Medical Colleges. He further contended that the Medical Colleges being run by the Government, it is open to the State to specify the sources from which the candidates will

have to be selected for admission to those Colleges. He also pointed out that such a categorisation of students into two separate groups as P.U.C. and H.S.C. has been held to be valid by the High Court."

52. Repelling the said contention, this is what has been ruled in paragraph 51 :

"It is no doubt open to the State to prescribe the sources from which the candidates are declared eligible for applying for admission to the Medical College; but when once a common Entrance Test has been prescribed for all the candidates on the basis of which selection is to be made, the rule providing further that 40% of the seats will have to be reserved for the H.S.C. candidates is arbitrary. In the first place, after a common test has been prescribed there cannot be a valid classification of the P.U.C. and H.S.C. candidates. Even assuming that such a classification is valid, the said classification has no reasonable relation to the object sought to be achieved namely selecting the best candidates for admission to the Medical Colleges. The reservation of 40% to the H.S.C. candidates has no reasonable relation or nexus to the said object. Hence we agree with the High Court, when it struck down this reservation under rule 9 contained in G. No. 1648 of 1970 as violative of Article 14."

53. In view of this authoritative pronouncement, we find no difficulty whatsoever in arriving at the conclusion that the classification attempted by the impugned Policy Decision is an unrealistic and artificial one lacking any nexus to the object sought to be achieved.

54. Sri.Murugendiran, learned counsel, sailing along with the State, has placed reliance upon the judgment rendered by the Supreme Court in the case of State of A.P. Vs. Lavu Narendranath [reported in 1971 (1) SCC 607]. Repelling the contention canvassed on behalf of the respondent before the Supreme Court that the State has no power to trench upon the powers given to the University and the Executive cannot be allowed to usurp a law making power in prescribing a test, when

the Universities Act has already provided for the eligibility for admission to medical courses, the said contention has been answered in the following words :

> "In our view there is no substance in any of the contentions as will be apparent from our conclusions noted above and the decisions of this Court bearing on this point. The Universities Act, as pointed out, merely prescribed a minimum qualification for entry into the higher courses of study. There was no regulation to the effect that admission to higher course of study was guaranteed by the securing of eligibility. The Executive have a power to make any regulation which would have the effect of a law so long as it does not contravene any legislation already covering the field and the Government order in this case in no way affected the rights of candidates with regard to eligibility for admission : the test prescribed was a further hurdle by way of competition when mere eligibility could not be made the determining factor."

55. We have absolutely no doubt in our mind that the Executive power available to the State under Article 162 can be utilized, subject, of course, to two specific legal requisites, namely, (i) it shall not entrench upon any law made by the competent legislature, and, (ii) such power can be used for filling up the gaps, if any, by supplementing the existing legal regime, but not by supplanting the provision having effect of law.

56. In the instant case, the field is already covered by the sweep of Section 10D of the Indian Medical Council Act read with Regulation 5 (v) of the Graduate Medical Education Regulations, 1997, which enjoy enforceability.

57. The learned counsel has also placed reliance on the decision in the case of K.Thimmappa Vs. Chairman, Central Board of Directors, SBI [reported in 2001 (2) SCC 259]. The relevant principle has been brought out by the Supreme Court at page 270 of the report in the following words :

> "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."

58. Sri Murugendiran, learned counsel, has further relied upon the decision in the case of Saurabh Chaudri Vs. Union of India [reported in 2003 (11) SCC 146], wherein it has been clearly postulated that the State, in the absence of any Parliamentary Act, has the legislative competence to enact a statute laying down reservations for entry in any course of studies including medical courses.

59. Since our finding is, that, as of now, the field is occupied by a Parliamentary Legislation in the form of Section 10-D of the Indian Medical Council Act and the Subordinate Legislation made thereunder in the form of Regulation 5 (v) of the Graduate Medical Education Regulations, 1997, this judgment of the Supreme Court is of no avail to Mr.Murugendhiran, learned counsel, so also to the State.

60. It is wholly apt to recall the following words of wisdom that have fallen from Justice Chandrachud (as the learned CJI then was), in the case of State of Jammu & Kashmir Vs. Triloki Nath Khosa [reported in 1974 (1) SCC 1] :

> "The seniority list of Assistant Engineers as of January 1, 1971 discloses a significant phenomenon. The list comprises 78 Assistant Engineers and omitting the very first amongst them who was only a matriculate, the remaining 77 were appointed as Assistant Engineers between October 19, 1960 and December 24, 1970. Prior to August 6, 1962 when the rules of 1962 came into force, only 7 Assistant Engineers held an Engineering Degree as against 13 who held a diploma. The position on February 27, 1968 when the rules of 1968 came into force was that the number of degree-holders had increased to 38 while that of diploma-holders went up from 12 to 21 only. On October 12, 1970 when the impugned rule now under consideration came into force, there were 48 degree-holders and 26 diploma-holders in the cadre of Assistant Engineers, excluding the last one at item No.78 who was promoted after the promulgation of the rules but who is also a degree-holder. We have advisedly taken no note of two instances in one of which the incumbent was not appointed as a regular Assistant Engineer and the other where, though appointed, the person concerned did not join the Department."

61. For the aforementioned reasons, we are of the opinion that these appeals lack merit and they deserve to be dismissed. We only hope and trust that the process of admission to MBBS/BDS courses for the academic year 2017-18 will not be delayed any further in as much as the last date set for such admissions expires by 31.8.2017. Hence, the State Government shall take all necessary steps expeditiously from now on to accomplish the task of filling up of the seats in MBBS/BDS courses before the deadline approaches.

62. Accordingly, all the writ appeals are dismissed. No costs. Consequently, all connected pending MPs are also dismissed.

63. The factual analysis of this case has brought forth the unequal distribution and non availability of the infrastructural facilities in equal measure across the entire State. Schools are not established particularly up to +2 stage in adequate numbers. Even where they are available, the standards of instructional and infrastructural facilities have not been either monitored or updated. Apparently, there was lack of supervision on the instructors, who were entrusted with the task of teaching 10 + 2 students in the Government schools. Most of the students, it looks like, are made to fend for themselves. No responsibility is shared by the instructors for the rapid fall of standards of the students, in spite of being well paid for. This malady has to be addressed and redressed by the State Government by taking meaningful and substantive measures by creating a check on the failure of performance of duties and fixation of responsibilities on the teachers on the one hand and failure on their part to improve upon the lot of students, on the other, while, at the same time, the best amongst them should be appropriately rewarded. This apart, the State shall also endeavour to ensure that all the students get their knowledge updated by constant revision of the syllabus prescribed by the State. The State has an obligation to ensure that a competent academic body comprising of academicians only shall periodically undertake a review of the syllabus preferably once in 3 to 5 years' span, so that the students of Tamil Nadu do not lag behind on the national scale in studying the 10 + 2 course, as 10 + 2 course is a gateway for all higher education. We only hope that the State Government will endeavour to ensure that the infrastructural facilities provided by them are effectively utilized for securing imparting of the latest knowledge on the subjects and it will not go a waste.

64. We sincerely hope that the glorious past record of this State is quickly brought back. We also hope that we will not be misunderstood for not adverting to all the ancillary contentions/submissions made by various counsel, who appeared on either side. To save the most precious time of all concerned, we have concentrated on the core and central issue and embarked upon finding an answer thereto, in as short a time as of two days.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government of Tamil Nadu,
   Department of Health and
   Family Welfare, Fort St George, Chennai.

2. The Selection Committee, Director of Medical
   Education 162 Periyar E.
   V.R.High Road Kilpauk Chennai-10

3. The President, Medical Council of India Pocket 14
   Phase-I, Sector-8,
   New Delhi

4. The Registrar, the Tamil Nadu Dr.M.G.R.Medical University,
   No.69,
   Anna Salai, Chennai-32.

5. The Chairman, Central Board of Secondary Education,
   Siksha Sadan,
   No.17, Institutional Area Rouse Avenue, Delhi-110002.

6. The Principal Secrer=tary
   Health and Family Welfare
   (MCA I), Department,
   Fort. St. George
   Chenani.

7. The Additional Director of Medical Education
   Secretary, Selection Committee
   O/o Director of Medical Education
   Poonamallee High Road
   Kilpauk, Chennai 10.

8. The Director of Medical Education
   No 162, Poonamallee High Road
   Opp, MJRC Clinic, New Bupathy Nagar
   Chetpet, Chennai.

9. The Secretary, Selection Committee
   The Directorate of Medical Education
   Government of Tamil Nadu
   No 162, EVR Periyar Salai
   Kilpauk Chennai.

+1 CC to Govt. Pleader sr 54268
+1 CC to Ms. Muthumani Doraisamy, Advocate sr 54213
+1 Cc to Mr. T. Meikandan, Advocate sr 54226
+1 CC to Mrs. S. Rajalakshmi, advocate sr 54234.
+1 Cc to Mr.T. Thirugnanasambandan, Advocate sr 54604.

+1 Cc to Mr.E.K. Kumaresan, advocate sr 54516.
+1 Cc to Mr.L. Murali Krishnan, Advocate sr 54682
+1 CC to Mr.V.P. Raman, Advocate sr 54233.

SCD(CO)
sp(05/09/2017)