

640 SUPREME COURT CASES 1995 Supp (1) SCC

7. List on December 13, 1993 at 2.00 p.m.

1995 Supp (1) Supreme Court Cases 640

(BEFORE B.P. JEEVAN REDDY AND S.P. BHARUCHA, JJ.)

VOICE (CONSUMER CARE) COUNCIL
AND OTHERS

.. Petitioners;

Versus

STATE OF T.N. (VI) AND OTHERS

.. Respondents.

SLP (C) No. 13526 of 1993 with Contempt Petition No. 373 of
1993 in SLP (C) Nos. 13526, 16534-40, 15241-42 and 15959-
61 of 1993, decided on December 14, 1993

Constitution of India — Arts. 32, 21 and 14 — Capitation fee case — Scheme framed by Supreme Court — Implementation of — Filling up vacancies arising in the quota of 50% of the total number of seats in Govt. medical colleges in the State, deducting seats reserved for all-India quota and special category reservations — Eleven such unfilled vacancies directed to be filled up forthwith — Directions issued regarding filling of future vacancies

[Ed. : See the earlier orders the Supreme Court in this matter at (1993) 4 SCC 276 (Order dated October 7, 1993); (1993) 4 SCC 286 (Order dated October 7, 1993) and (1993) 4 SCC 788 (Order dated November 19, 1993).]

R-M/12782/S

ORDER

1. This order is made in continuation of our order of December 6, 1993[†] which itself was in continuation of earlier orders in the matter.

2. This order is confined only to directions contained herein (regarding the admission of certain students who were unlawfully deprived of their admission on account of the orders and proceedings taken by the Government of Tamil Nadu, notwithstanding the orders of this Court dated August 24, 1993[‡]). The orders on SLPs and contempt petitions will be made in due course.

3. Shri Ashok Desai, the learned counsel for the State of Tamil Nadu has filed a further affidavit sworn to by Shri Karuppa Swami (dated December 8, 1993) we have perused the said affidavit. The learned counsel has also filed a copy of the “overall merit list for the year 1993”. This list is stated to be a copy of the original, but confined up to serial number 700 only. The list is said to have been prepared strictly on the basis of the merit. It also indicates whether a particular candidate belongs to Scheduled Tribes, Scheduled Castes, most backward classes/denotified community, backward classes or forward classes. We have perused the said list.

4. Shri Vaidyanathan, the learned counsel for the petitioner has filed a rejoinder affidavit of Shri KM Vijayan (dated December 13, 1993) along with certain statements. We have perused the same.

5. It is stated by Shri Desai that the students in the merit list up to Rank No. 358 have been admitted. Between candidates bearing Rank No. 359 and Rank

[†] 1995 Supp (1) SCC 638

[‡] 1995 Supp (1) SCC 632

a No. 429 (both inclusive) there are eleven candidates who alone have not been admitted so far. All the rest have been admitted under one or the other reserved quota. (It may be recalled that the figure 429 represents 50 per cent of the total number of seats in Government medical colleges in the State, deducting the seats reserved for all-India quota and special category reservations). Our immediate concern is to provide admission to these eleven candidates who, in the language of the aforesaid list, belong to 'forward classes'.

b 6. It is stated by Shri Desai that as on today there are eleven vacancies arising in the following manner. There are eight vacancies in all-India quota but two of them are covered by certain court orders, with the result that only six of them are available immediately. (These seats are in addition to 24 which have already been filled up pursuant to our earlier orders.) Besides the above six, there are five vacancies in the 64 seats which were created pursuant to our orders dated November 5, 1993. It is accordingly directed that the eleven students aforementioned namely students bearing Ranking Nos. 359, 362, 365, *c* 379, 380, 382, 387, 390, 397, 401 and 404 shall be admitted forthwith into the course.

d 7. It may happen that some more vacancies may arise for one or the other reason in one or the other category. Having regard to the manner in which the 55 consequential vacancies have been filled up (reference may be made to our order of November 30, 1993[‡] which explains the position in this behalf) it is directed that any vacancies arising hereinafter, in whichever category it may be, up to ten vacancies shall be filled only from among the candidates belonging to "forward classes" — out of the overall merit list, in the order of merit — to use again the expression employed in the overall merit list. If more than ten vacancies arise, they shall be filled up strictly according to merit observing the rule of reservation, so, however, that the total extent of reservation under Article 15(4) does not exceed 50 per cent.

e 8. So far as private medical colleges are concerned it is complained by Shri Vaidyanathan that the overall merit list is not being followed in allotting the students either for the free seats or for the payment seats. This is denied by Shri Desai, on instructions. Be that as it may it is directed that the 'free seats' as well as 'payment seats' shall be filled strictly in accordance with the relevant orders of this Court (orders made by the Constitution Bench from time to time), *f* faithfully following the overall merit list.

9. It is directed that all admissions shall be finalised as early as possible in view of the fact that inordinate delay has already occurred.

g 10. We may also record the assertion made by Shri Desai, on instructions, that out of the all-India quota, neither the Government of Tamil Nadu nor its authorities have filled up any seats except the 24 seats mentioned above (which have been filled up pursuant to the orders of this Court). It is stated that all the rest except the vacancies mentioned above have been filled by the Director General of Health Services alone. It is made clear that any vacancies arising in this quota also shall be subject to the orders made hereinabove.

h ‡ 1995 Supp (1) SCC 637