

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

+ WRIT PETITION Nos.21910, 22025, 22097, 22101, 22104, 22144, 22149, 22156, 22162, 22260, 22285, 22330, 22374, 22376, 22377, 22389, 22390, 22399, 22401, 22405, 22435, 22437, 22440, 22443, 22447, 22465, 22537, 22658, 22717, 22738, 22862, 22892, 23061, 23079, 23182, 23271, 23346, 23430, 23471, 23490, 23509, 23517, 23533, 23720, 23722, 23723, 23929, 23961, 24005, 24011, 24283, 24307 and 24353 of 2024

% Date: 05.09.2024

Kalluri Naga Narasimha Abhiram and others.
... Petitioners

v.

\$ The State of Telangana,
Rep. by its Principal Secretary, Medical and
Health Department, Secretariat, Hyderabad,
and others.
... Respondents

! Counsel for the petitioners in

W.P.Nos.21910, 22435, 22862 and 23533 of 2024:

Mr. D.V.Sitharam Murthy,
learned Senior Counsel
representing
Mr. Kondaparthi Kiran Kumar;

W.P.No.22144, 22156 and 24005 of 2024:

Mr. B.Mayur Reddy,
learned Senior Counsel

representing
Mr. Alluri Divakar Reddy;

W.P.No.22658 of 2024: Mr. K.Vivek Reddy,
learned Senior Counsel
representing
Mr. Manoj Reddy Keshi Reddy;

W.P.No.23722 of 2024: Mr. A.Venkatesh,
learned Senior Counsel
representing
Mr. Sinde Mohan Devidhas;

W.P.Nos.22025 and 23271 of 2024:
Mr. Umesh Chandra P.V.G;

W.P.No.23346 of 2024: Mr. S.Goutham;

W.P.Nos.22260 and 22389 of 2024:
Mr. E.Sreenivasa Rao;

W.P.No.22101 of 2024: Mr. Lingala Sudheer;

W.P.Nos.22097, 22149 and 24283 of 2024:
Ms. P.Vijaya Lakshmi;

W.P.No.22104 of 2024: Mr. K.Durga Prasad;

W.P.No.22162 of 2024: Mr. Laxmaiah Kanchani;

W.P.No.22285 of 2024: Mr. V.Rohith;

**W.P.Nos.22330, 22374, 22376, 22377, 22390, 22399,
22410, 22405 and 23182 of 2024:**

Mr. Uzair Ahmed Khan;

W.P.No.22437 of 2024: Mr. Azam Khan,
learned counsel representing
Mr. T.Rathnaiah;

W.P.Nos.22440, 22443, 22447, 23720 and 23723 of 2024:
Mr. L.Ram Singh;

W.P.Nos.22465 of 2024: Mr. A.Suhas Chary,
learned counsel representing
Mr. Rapolu Bhaskar;

W.P.No.22537 of 2024: Mr. Ramesh Chilla;

W.P.No.22717 of 2024: Ms. P.Kalpna,
learned counsel representing
Mr. P.Bhaskar;

W.P.No.22738 of 2024: Mr. Kowturu Pavan Kumar;

W.P.No.22892 of 2024: Ms. Chennaboina Shravani;

W.P.No.23079 of 2024: Mr. Vempati Mallikarjun Shastry;

W.P.No.23061 of 2024: Mr. Milan Kumar Jena,
learned counsel representing Mr. H.Munwar;

W.P.No.23471 of 2024: Mr. K.Krishna Kalyan,
learned counsel representing
Mr. K.Venumadhav;

W.P.Nos.23490 and 23509 of 2024: Mr. G.Dinesh Patil

W.P.No.23517 of 2024: Ms. Sagarika Koneru;

W.P.No.23430 of 2024 and 24011 of 2024:
Mr. Gudi Madhusudhan Reddy;

W.P.No.23929 of 2024: Mr. Koushik Kanduri;

W.P.No.23961 of 2024: Mr. Kadiyala Ravindranath;

W.P.No.24307 of 2024: Mr. Rajeshwar Rao Garige
Representing Mr. Shashank Garige;

W.P.No.24353 of 2024: Mr. Nayakawadi Ramesh

^ Counsel for the respondents : Mr. A.Sudarshan Reddy,

Learned Advocate General
for the State of Telangana;

Mr. A. Prabhakar Rao,
learned Standing Counsel for
Kaloji Narayana Rao University of Health Sciences
assisted by Mr. G.Ravi;

Ms. Ande Vishala,
learned counsel representing
Mr. Gadi Praveen Kumar,
learned Deputy Solicitor General of India,
for the Union of India;

< GIST:

➤ HEAD NOTE:

? CASES REFERRED:

1. (1995) 2 SCC 135
2. (2018) 17 SCC 524
3. (2020) 13 SCC 675
4. (1989) 3 SCC 112
5. (2000) 2 SCC 20
6. (1984) 3 SCC 654
7. AIR 1984 P & H 55
8. AIR 1981 P&H 213

9. AIR 1955 SC 334
10. (1999) 8 SCC 139
11. 2000 SCC OnLine Bom 359
12. (2014) 2 AIR Kant R 578
13. (1971) 2 SCC 22
14. 1991 Supp (1) SCC 600
15. (1999) 9 SCC 700
16. (2011) 4 SCC 635

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WRIT PETITION Nos.21910, 22025, 22097, 22101, 22104, 22144, 22149, 22156, 22162, 22260, 22285, 22330, 22374, 22376, 22377, 22389, 22390, 22399, 22401, 22405, 22435, 22437, 22440, 22443, 22447, 22465, 22537, 22658, 22717, 22738, 22862, 22892, 23061, 23079, 23182, 23271, 23346, 23430, 23471, 23490, 23509, 23517, 23533, 23720, 23722, 23723, 23929, 23961, 24005, 24011, 24283, 24307 and 24353 of 2024

COMMON ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

In this batch of writ petitions, the issue with regard to validity of Rule 3(a) of the Telangana Medical and Dental Colleges Admission (Admission into MBBS & BDS Courses) Rules, 2017 (hereafter referred to as '2017 Rules') as amended vide G.O.Ms.No.33, dated 19.07.2024, arises for consideration. The petitioners in this bunch of writ petitions claim to be permanent residents of the State of Telangana and seek a direction to treat them as local candidates for admission into MBBS and BDS Courses in the State of Telangana. Briefly stated the facts in different writ petitions are as under:

(I) FACTS**W.P.No.21910 of 2024:**

2. The petitioner Nos.1 to 3 and 6 to 14, as per the averments made in the writ petition, have studied in the State of Telangana all through. The aforesaid petitioners shifted to State of Andhra Pradesh as the institute therein was offering coaching for NEET examination exclusively. The petitioners have passed the Intermediate examination from the State of Andhra Pradesh. The petitioner No.4 has studied grades I to IV in Singapore, whereas grades V to X in the State of Telangana. The petitioner No.4 had to shift to Dubai due to her father's ill health and has taken long term coaching in the State of Telangana for the academic year 2023-24. The petitioner No.5 submits that she studied grades I and II in the State of Andhra Pradesh, whereas grades III to X in the State of Telangana. The petitioner No.5 shifted to the State of Andhra Pradesh temporarily as the educational institution in the State of Andhra Pradesh offers coaching for NEET examination exclusively. The

petitioner No.5 has passed the Intermediate examination from the State of Andhra Pradesh.

W.P.No.22025 of 2024:

3. The writ petition is conspicuously silent with regard to details of educational qualifications of the petitioners No.1 to 46. In the writ petition, it is also not stated whether the said writ petitioners are residents of State of Telangana.

4. The petitioner Nos.47 to 60, who were impleaded vide order dated 14.08.2024 in I.A.No.2 of 2024 in W.P. No.22025 of 2024, have averred that they were born in the State of Telangana and have completed their primary and secondary education at various schools in the State of Telangana and claim to be locals and permanent residents of State of Telangana.

W.P.No.22097 of 2024:

5. The petitioner in this petition claims to be native of State of Telangana. She did her schooling i.e., 1st to 8th

standard in Wanaparthy, Telangana and 9th to 10th standard in the State of Andhra Pradesh and Intermediate Education at Wanaparthy, Telangana.

W.P.No.22101 of 2024:

6. The petitioner claims to be the native of Mahabubnagar District, Telangana and claims to be permanent resident of State of Telangana. The petitioner submits that he has studied in the State of Telangana all through, except that he had to study from grades VII to X in Dubai, UAE due to professional exigencies of his father.

W.P.No.22104 of 2024:

7. The petitioner claims to be permanent resident of State of Telangana. The petitioner submits that she has studied in the State of Telangana all through, but had to pursue Intermediate from the State of Andhra Pradesh as the institute therein is the only institute offering BiPC and NEET coaching.

W.P.No.22144 of 2024:

8. The petitioner claims to be native of Secunderabad and a permanent resident of State of Telangana. The petitioner submits that she studied in the State of Telangana all through except grade X, which she studied in the State of Maharashtra. She further submits she has undergone long term coaching for NEET phase 2 from 2023-24 in the State of Telangana.

W.P.No.22149 of 2024:

9. The petitioner claims to be permanent resident of State of Telangana, being native from Wanaparthi District. The petitioner submits that she has studied in the State of Telangana all through except grades IX and X which she studied in the State of Andhra Pradesh to avail better educational facilities.

W.P.No.22156 of 2024:

10. The petitioner claims to be born in the State of Telangana, being native of Nirmal District and permanent resident of State of Telangana. The petitioner submits that

he studied in the State of Telangana all through, except grade X, which he studied in an institute in the State of Maharashtra through distance education due to gap after IX grade.

W.P.No.22162 of 2024:

11. The petitioner claims to be born in the State of Telangana, being native of Nalgonda District and permanent resident of State of Telangana. The petitioner submits that he has studied in the State of Telangana all through, except 2 years of Intermediate which he pursued from the State of Andhra Pradesh as the institutes therein offer NEET coaching exclusively.

W.P.No.22260 of 2024:

12. The petitioners in this petition claim to be the natives of State of Telangana. All the petitioners, except petitioner Nos.1 and 2, have completed their schooling in the State of Telangana and Intermediate education in the State of Andhra Pradesh. Petitioner No.5 studied Intermediate in the State of Karnataka. The petitioner Nos.1 and 2 have

completed their 1st to 8th grades in the State of Telangana, 9th and 10th grades in the State of Andhra Pradesh and Intermediate Education in the State of Telangana. All the petitioners claim that their parents are permanent residents of State of Telangana.

W.P.No.22285 of 2024:

13. The petitioner claims to be born in the State of Telangana, being native of Nizamabad District and permanent resident of State of Telangana. The petitioner submits that he studied in the State of Telangana all through, except 2 years of higher education i.e., grades XI and XII in the State of Maharashtra.

W.P.Nos.22330, 22374, 22376, 22377, 22390, 22399, 22401, 22405 and 23182 of 2024:

14. The petitioners in these petitions claim to be natives of State of Telangana and pursued their education outside the State of Telangana. However, they claim that their parents are permanent residents of State of Telangana.

W.P. No.22389 of 2024:

15. The petitioner claims to be native of the State of Telangana. She completed her schooling in Husnabad, Siddipet District, Telangana and Intermediate Education in Krishna District, State of Andhra Pradesh.

W.P.No.22435 of 2024:

16. The petitioners claim to be natives of State of Telangana. The petitioners completed their schooling from various schools in the State of Telangana and Intermediate in Vijayawada, State of Andhra Pradesh.

W.P.No.22437 of 2024:

17. The petitioner claims to be native of the State of Telangana. She completed her schooling from St. Peter's Central Public School, Warangal, State of Telangana and Intermediate Education at Aditya Junior College, Punadipadu, Krishna Dist, State of Andhra Pradesh.

W.P.No.22440 of 2024:

18. The petitioner claims to be native of the State of Telangana. He completed 1st to 5th standard at Dream Valley, Karwan, Telangana and 6th to 10th standard from Central Board of Secondary Education, Doha, Qatar and Intermediate Education in the State of Telangana.

W.P.No.22443 of 2024:

19. The petitioners claim to be natives of the State of Telangana. Petitioner Nos.1 and 4 have completed their entire studies from Saudi Arabia and petitioner Nos.2 and 3 have completed their schooling from Saudi Arabia and Intermediate Education from the State of Telangana.

W.P.No.22447 of 2024:

20. The petitioner claims to be native of State of Telangana. The petitioner completed primary schooling i.e., 1st to 3rd standard from Bangalore, 4th to 10th standard from Chennai and Intermediate Education in the State of Telangana.

W.P.No.22465 of 2024:

21. The petitioner claims to be native of the State of Telangana. She completed 1st to 9th standard in various schools in the State of Telangana, 10th standard from Andhra Pradesh and Intermediate Education in the State of Telangana.

W.P.No.22537 of 2024:

22. The petitioner claims to be a native of the State of Telangana. She completed 1st to 9th standard in the State of Telangana and 10th standard and Intermediate Education from the State of Andhra Pradesh.

W.P.No.22658 of 2024:

23. The petitioner claims to be a native of the State of Telangana. The petitioner completed her schooling from Delhi Public School, Hyderabad, Telangana and Intermediate Education from the State of Andhra Pradesh.

W.P.No.22717 of 2024:

24. The petitioners have neither mentioned their educational details nor mentioned that they are native of the State of Telangana.

W.P.No.22738 of 2024:

25. The petitioner claims to be the native of the State of Telangana and her parents are permanent residents of Telangana. The petitioner completed her schooling in the State of Telangana and 10th standard and Intermediate in the State of Andhra Pradesh.

W.P.No.22862 of 2024:

26. The petitioners claim to be permanent residents of State of Telangana. The petitioner Nos.1 and 2 submits that they have studied in the State of Telangana all through, except 2 years of Intermediate in the State of Andhra Pradesh. The petitioner No.3 submits that she has studied till grade VI in the State of Telangana and grades VII to XII in the State of Andhra Pradesh.

W.P.No.22892 of 2024:

27. The petitioner claims to be resident of State of Telangana. The petitioner submits that she has studied in Telangana all through. The petitioner on account of father's treatment in Vijayawada studied upto grades VIII to X in the State of Andhra Pradesh.

W.P.No.23061 of 2024:

28. The petitioners did not state their educational details and neither there is any mention of their residential status. The petitioners have only mentioned their residential address.

W.P.No.23079 of 2024:

29. The petitioner has neither mentioned his educational details nor residential status in the affidavit. The petitioner filed educational certificates along with the affidavit from which it can be gathered that the petitioner completed his schooling in the State of Telangana and Intermediate Education from Thane, Maharashtra.

W.P.No.23271 of 2024:

30. The facts, as can be inferred from the averments in this writ petition, are that the petitioners who were born in State of Telangana claim themselves to be permanent residents of State of Telangana. The petitioners, except the petitioner No.2, have completed their primary and secondary education at various schools in the State of Telangana. They claim that they are locals and sons/daughters of the soil of the State of Telangana. The petitioner No.2 claims that though his address is in the State of Andhra Pradesh, he had studied in the State of Telangana all through, except that due to his father's professional exigencies he had studied in the State of Andhra Pradesh for two years.

W.P.No.23346 of 2024:

31. The petitioner claims to be born in the State of Telangana, being a native of Warangal District and permanent resident of State of Telangana. The petitioner submits that he has studied grade I in Bangalore, grades II

to VI in the State of Madhya Pradesh, grades IX and X in the State of Rajasthan and Intermediate in the State of Telangana. The petitioner claims that he and his family hails from State of Telangana but due to his father's employment, he completed his education in various schools in different States.

W.P.No.23430 of 2024:

32. The petitioner completed her school education from classes 1 to 12 in Saudi Arabia. She claims that her parents are permanent residents of the State of Telangana and her father is working in Riyadh K.S.A. (Saudi Arabia) and that her permanent residence along with her parents is located at Asif Nagar, Hyderabad, Telangana.

W.P.No.23471 of 2024:

33. The petitioner claims that he did his schooling at TS Model School, Kathaklapur, Telangana, and completed Intermediate from Sri Satya Sai Loka Seva Gurukulam, State of Karnataka. The petitioner claims that he is a permanent resident of the State of Telangana and has

studied outside the State only for a limited period for better education facilities and his parents are permanent residents of State of Telangana.

W.P.No.23490 of 2024:

34. The petitioner claims that he is a native of Hyderabad and his parents are permanent residents of Telangana. He did his schooling from classes I to X in Hyderabad and studied Intermediate at Bangalore, Karnataka. Thereafter, he took one year long term NEET coaching in Bangalore.

W.P.No.23509 of 2024:

35. The petitioner claims that he is a native of Hyderabad and his parents are permanent residents of the State of Telangana. He did his schooling from 1st to 10th classes in Hyderabad and studied Intermediate at Bidar, State of Karnataka.

W.P.No.23517 of 2024:

36. The petitioner No.1 was born in the State of Maharashtra. Thereafter, she pursued her secondary and

higher education from the State of Maharashtra. She claims that her father is a permanent resident of the State of Telangana but had shifted to the State of Maharashtra in the year 1998 due to professional commitments. The petitioner No.2 was born in Karimnagar District, Telangana. She pursued her secondary and higher education from the State of Maharashtra. She claims that her father is a permanent resident of the State of Telangana but had shifted to the State of Maharashtra in the year 2011 due to professional commitments.

W.P.No.23533 of 2024:

37. The petitioner No.1 claims that his parents are permanent residents of the State of Telangana. He completed his schooling from 1st to 10th class in the State of Telangana and studied Intermediate at Sri Chaitanya Junior College, Kankipadu, Krishna District, Andhra Pradesh. The petitioner No.2 completed her schooling from 1st to 10th class in the State of Telangana and studied

Intermediate at Sasi English Medium High School, Velivenu, West Godavari District, Andhra Pradesh.

W.P.No.23720 of 2024:

38. The petitioner claims that her parents are permanent residents of the State of Telangana. But, since her parents got opportunity to work in Saudi Arabia, she had to go to Saudi Arabia along with them and she had studied from classes I to X in Saudi Arabia. Later, she completed her Intermediate in the State of Telangana.

W.P.No.23722 of 2024:

39. The petitioner claims that he along with his parents stayed in Nirmal District near Bhainsa Town and were the residents of the said place for the past ten years. For better educational faculty, he joined in the school at Bhokar, Nanded District, State of Maharashtra and completed his schooling by travelling there daily, but used to reside in the State of Telangana only. The petitioner states that he had completed his Intermediate education at Bhainsa, Nirmal District, State of Telangana.

W.P.No.23723 of 2024:

40. The petitioner claims that she along with her parents are permanent residents of the State of Telangana, but had studied outside the State of Telangana for a limited period i.e., for Intermediate at Punadipadu, Kankipadu Mandal in Krishna District of the State of Andhra Pradesh.

W.P.No.23929 of 2024:

41. The petitioner claims that she along with her parents are permanent residents of the State of Telangana. She completed her schooling from LKG to X class in Khammam District, State of Telangana. She pursued Intermediate 1st and 2nd year at Kanuru, Vijayawada, State of Andhra Pradesh.

W.P.No.23961 of 2024:

42. The petitioner claims that she and her parents are permanent residents of the State of Telangana and she had studied VI to X and also XI and XII at Navi Mumbai, the State of Maharashtra.

W.P.No.24005 of 2024:

43. It is the case of the petitioner that she is a native and resident of Kukatpally locality of Medchal-Malkajgiri District, State of Telangana. She studied from classes I to V in Hyderabad, Telangana, and from classes VI to X in Guntur District of the State of Andhra Pradesh. Thereafter, she has studied Intermediate at Sanga Reddy District, State of Telangana.

W.P.No.24011 of 2024:

44. The petitioner claims that her parents are permanent residents of the State of Telangana. She had studied from classes 1 to 9 in Bhadrachalam, Telangana, and studied 10th class in Purushottapatnam Village, Yetapaka, Alluri Sitha Rama Raju District (originally part of Bhadrachalam, Telangana). She studied Intermediate two years in Khammam District, State of Telangana.

W.P.No.24283 of 2024:

45. The petitioners claim that they are permanent residents of the State of Telangana. The petitioners completed their schooling from 1st to 8th classes in the State of Telangana and completed their 9th and 10th classes in the State of Andhra Pradesh. They studied Intermediate in the State of Telangana.

W.P.No.24307 of 2024:

46. The petitioner claims that her parents are permanent residents of the State of Telangana. She completed her school education from IV to X classes in the State of Telangana and pursued 11th and 12th standard in the State of Haryana.

W.P.No.24353 of 2024:

47. The petitioner studied 1st to 10th classes in Kendriya Vidyalaya, Picket, Secunderabad in the State of Telangana. After schooling she studied 11th and 12th classes in Akshara Vidyalaya SPSR Nellore District, State of Andhra Pradesh.

48. The petitioners appeared in the NEET examination on 05.05.2024. The result of the NEET examination was declared on 26.07.2024. The process for examination began on 09.02.2024. Thereafter the examination was conducted on 05.05.2024. The respondent No.1, i.e., the State of Telangana amended Telangana Medical and Dental Colleges Admission (Admission into MBBS & BDS Courses) Rules, 2017 vide G.O.Ms.No.33, Health, Medical and Family Welfare (C1) Department, dated 19.07.2024. The petitioners state that Rule 3(a)(i) and 3(a)(ii) which were introduced to prescribe eligibility for admissions into undergraduate courses under 'Competent Authority Quota' prescribe the very same criteria, which was held to be unconstitutional by this Court earlier. In view of the aforesaid amended rule position, the petitioners became ineligible to be considered against local quota of 85% reserved for permanent residents of State of Telangana. The petitioners have already secured residence certificates but the same are not in the prescribed format i.e.,

Annexure II annexed to the Prospectus issued by the Kaloji Narayana Rao University of Health Sciences (hereinafter referred to as, “the University”). It is the case of the petitioners that in view of the Rule 3(a)(iii) of the 2017 Rules, they would be ineligible to get a residence certificate. The last date for submission of online applications and uploading certificates was on 13.08.2024. The petitioners, therefore, have assailed the validity of Rule 3(a) of the 2017 Rules and have sought a relief that they be declared as local candidates for the purposes of admission into MBBS/BDS courses for the Academic Year 2024-2025.

(II) SUBMISSIONS ON BEHALF OF PETITIONERS:

49. Mr. D.V.Sitaram Murthy, learned Senior Counsel for the petitioners in W.P.Nos.21910, 22435, 22862 and 23533 of 2024, while inviting the attention of this Court, to Rule 3(III)(B) of the 2017 Rules as well as Rule 3(a) which is under challenge in these petitions contended that Rule 3(a) is identically worded as Rule 3(III)(B) of the 2017 Rules and is in contravention of the common order by a Division

Bench of this Court, dated 29.08.2023 passed in W.P.No.21268 of 2023 and batch which has attained finality. It is further contended that the State Government while amending the Rule has not removed the basis of the aforesaid common order and therefore, the impugned Rule is liable to be struck down.

50. Mr. B.Mayur Reddy, learned Senior Counsel for the petitioners in W.P.No.22144, 22156 and 24005 of 2024 submitted that identically worded Rule was struck down by a Division Bench of this Court vide common order dated 29.08.2023 passed in W.P.No.21268 of 2023 and batch.

51. It is contended that the requirement of residence certificate in the proforma appended to the Rules is in contravention of the common order dated 29.08.2023 passed by a Division Bench of this Court in W.P.No.21268 of 2023 and batch. It is further contended that the impugned amended Rule contains a more stringent requirement of not only residence, but having passed the 12th class examination from the State of Telangana. It is

submitted that it was open for the respondents to bring to the notice of this Court the decisions rendered by the Supreme Court in **Anant Madaan v. State of Haryana**¹ and **Rajdeep Ghosh v. State of Assam**² in the previous round of litigation. It is pointed out that the State has neither sought review nor has filed any Special Leave Petition against the common order dated 29.08.2023 passed in W.P.No.21268 of 2023 and batch, which has attained finality and binds the parties. Reference has also been made to the decision of the Supreme Court in **Dr. Tanvi Behl v. Shrey Goel**³ and it has been contended that the issue whether a reservation can be provided on the basis of domicile/residence for admission to Post Graduate Medical Courses has been referred for consideration of a Larger Bench.

52. Mr. K.Vivek Reddy, learned Senior Counsel for the petitioner in W.P.No.22658 of 2024 has submitted that a Division Bench of this Court in the common order dated

¹ (1995) 2 SCC 135

² (2018) 17 SCC 524

³ (2020) 13 SCC 675

29.08.2023 passed in W.P.No.21268 of 2023 and batch has not dealt with the issue whether reservation on the basis of residence can be provided. It is further submitted that the Division Bench of this Court has only dealt with the issue whether it is constitutionally permissible to deny the benefit of admission to permanent residents of the State. It is also submitted that the ratio of the common order dated 29.08.2023 passed in W.P.No.21268 of 2023 and batch is whether any classification made by which permanent residents of State of Telangana are excluded, is constitutionally permissible. Attention of this Court has also been invited to paragraph 86 of the aforesaid common order. It is contended that the issue decided by the Division Bench of this Court in W.P.No.21268 of 2023 and batch has not been dealt with in **Anant Madaan** (supra) and **Rajdeep Ghosh** (supra) and the aforesaid decisions have no bearing on the controversy involved in the instant writ petitions.

53. Learned Senior Counsel has contended that the petitioner had moved out of State of Telangana due to circumstances beyond her control, as the parents of the petitioner belong to All India Services. In support of his submission, reliance has been placed on **Meenakshi Malik v. University of Delhi**⁴. It is also urged that Section 95 of the Andhra Pradesh Reorganisation Act, 2014, and the Presidential Order have no bearing on the controversy involved in the instant writ petitions and the same issue has been answered by the Division Bench of this Court in paragraph 92 of the common order dated 29.08.2023 passed in W.P.No.21268 of 2023 and batch.

54. Mr. A.Venkatesh, learned Senior Counsel for the petitioner in W.P.No.23722 of 2024 submits that the petitioner is a permanent resident of State of Telangana and he deserves to be accorded the benefit of local candidate. In support of the aforesaid submission, learned

⁴ (1989) 3 SCC 112

Senior Counsel has placed reliance on the decision of the Supreme Court in **Union of India v. Dudh Nath Prasad**⁵.

55. Mr. Uzair Ahmed Khan, learned counsel for the petitioners in W.P.Nos.22330, 22374, 22376, 22377, 22390, 22399, 22410, 22405 and 23182 of 2024 submitted that the decision rendered by the Supreme Court in **Dr.Pradeep Jain v. Union of India**⁶ does not apply to the State of Telangana. It is further submitted that the State Government is bound by the doctrine of estoppel and cannot amend the Rules. It is argued that the petitioners had legitimate expectation that the State Government would not amend the Rules and the aforesaid legitimate expectation of the petitioners has been defeated. It is also urged that in case there is a conflict between two decisions of the Supreme Court, the High Court should follow the law which, according to the High Court, is most just and reasonable. In support of his submissions, learned counsel has placed reliance on the decisions of

⁵ (2000) 2 SCC 20

⁶ (1984) 3 SCC 654

Punjab and Haryana High Court in **Kulbhushan Kumar and Company v. State of Punjab**⁷ and **Indo Swiss Time Limited v. Umrao**⁸.

56. The learned counsel for the petitioners in the other writ petitions have adopted the submissions made by Mr. B. Mayur Reddy, learned Senior Counsel.

(III) SUBMISSIONS ON BEHALF OF RESPONDENTS:

57. On the other hand, learned Advocate General has invited the attention of this Court to G.O.Ms.No.114, dated 05.07.2017, by which the 2017 Rules were notified. It is submitted that the aforesaid Rules were amended by G.O.Ms.No.72, dated 03.07.2023. It is pointed out that the validity of G.O.Ms.No.72 has been examined by a Division Bench of this Court in W.P.No.18047 of 2023 and batch and the said writ petitions were dismissed. It is submitted that the Special Leave Petitions filed against the aforesaid order dated 11.09.2023 passed by the Division Bench of

⁷ AIR 1984 P & H 55

⁸ AIR 1981 P&H 213

this Court have been dismissed vide order dated 05.03.2024 passed in SLP (C).Nos.21397-21407 of 2023. It is contended that the period of ten years has expired and therefore, it had become mandatory on the part of the State Government to define the “local area” and to amend the Rules. It is further contended that the decision of the Supreme Court in **Meenakshi Malik** (supra) deals with a candidate who on account of fortuitous circumstance left the State. It is pointed out that the petitioners, except the petitioner in W.P.No.22658 of 2024, have studied outside on their own volition. It is stated that the respondents shall treat the petitioner in W.P.No.22658 of 2024 as a local candidate.

58. It is urged that it is open for the State to provide for reservation on the basis of domicile/residence in the State. In support of the aforesaid submission, reliance has been placed on the decisions of the Supreme Court in **Anant Madaan** (supra) and **Rajdeep Ghosh** (supra).

(IV) REJOINDER SUBMISSIONS:

59. Mr. D.V.Sitharam Murthy, learned Senior Counsel for the petitioners in W.P.Nos.21910, 22435, 22862 and 23533 of 2024, has submitted that the petitioners in the said writ petitions have passed their Intermediate examination from the State of Andhra Pradesh and they are permanent residents of State of Telangana. Therefore, the benefit of 85% quota reservation for local candidates cannot be denied to them.

60. Mr. Mayur Reddy, learned Senior Counsel, submitted that the petitioners do not dispute the requirement of providing the reservation on the basis of domicile in the State of Telangana. It is contended that the petitioners being permanent residents of the State of Telangana, should be treated as local candidates. Reference has been made to the decision Constitution Bench of the Supreme Court in **D.P.Joshi v. State of Madhya Bharat**⁹ and a decision rendered by three Judge Bench of the Supreme

⁹ AIR 1955 SC 334

Court in **Dr.Pradeep Jain** (supra). It is contended that the decisions in **Anant Madaan** (supra) and **Rajdeep Ghosh** (supra) have been rendered by two Judges of Supreme Court and have no application to the facts and circumstances of the case.

(V) ANALYSIS:

61. We have considered the submissions made on rival sides and have perused the record.

62. Section 95 of the Andhra Pradesh Reorganisation Act, 2014, mandates that in order to ensure equal opportunities for quality higher education to all students in the successor States of Telangana and Andhra Pradesh, the existing admission quotas in all government or private, aided, unaided institutions of higher technical and medical education in so far as it provided under Article 371D of the Constitution, shall continue for a period of ten years during which existing common admission process shall continue.

63. The State Government in exercise of powers under Section 3 read with Section 15(1) of the Telangana Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee), Act, 1983, framed the Rules for preparation of seat matrix and selection procedure for admission to MBBS and BDS courses, namely Telangana Medical and Dental Colleges Admission (Admission into MBBS & BDS Courses) Rules, 2017. Rule 3(III)(A) defines the expression “local area” as to mean the areas comprised in the State of Andhra Pradesh as well. Rule 3(III)(B) defines the expression “local candidate” as candidate who has studied or resided in local area for four consecutive years ending with the academic year in which he appeared or, as the case may be, first appeared in relevant qualifying examination and in case he does not study in local area for a period of four years, he has to reside in the local area for a period of four years immediately preceding the date of commencement of the relevant qualifying examination.

64. The validity of the aforesaid Rule was challenged in a bunch of petitions, namely W.P.No.21268 of 2023 and batch. A Division Bench of this Court, followed the decision rendered by Supreme Court in **Ahmedabad Municipal Corporation v. Nilaybhai R.Thakore**¹⁰ and agreed with the view expressed by the Division Bench decisions of Bombay and Karnataka High Courts in **Rajiv Purshottam Wadhwa v. State of Maharashtra**¹¹ and **State of Karnataka v. B.Mahadevaiah**¹² and vide common order dated 29.08.2023, *inter alia*, held as follows:

“i) The 2017 Rules have been framed in exercise of powers under Section 3 read with Section 15(1) of the Telangana Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee), Act, 1983;

ii) There is no justification for denying the benefit of admission to a student who is permanent resident of Telangana who may not have studied in local area for four academic years ending with the academic year in which he or she

¹⁰ (1999) 8 SCC 139

¹¹ 2000 SCC OnLine Bom 359

¹² (2014) 2 AIR Kant R 578

appeared or, as the case may be, first appeared for relevant qualifying examination.

iii) Rule 3(III)(B) of the 2017 Rules was read down and it was held that the same shall not apply to permanent residents of State of Telangana. It was further held that reading down the provision shall be in consonance of object of Article 371D(2)(b)(ii) of the Constitution of India.

iv) In case petitioners in the aforesaid batch of petitions produce residence certificate issued by the competent authority of the Government of Telangana, the petitioners in the said bunch of cases shall be treated as local candidates.”

65. Admittedly, the order passed by the Division Bench of this Court in W.P.No.21268 of 2023 has attained finality.

66. The period of ten years expired on 01.06.2024. Therefore, it was incumbent on the State Government to amend the Rules. The State Government in exercise of powers under Section 3 read with Section 15(1) of the Telangana Educational Institutions (Regulation of

Admission and Prohibition of Capitation Fee), Act, 1983, amended Rule 3 of the 2017 Rules.

(VI) RULES:

67. Rule 3(III) of 2017 Rules and Rule 3(a) amended vide G.O.Ms.No.33, dated 19.07.2024, read as under:

Read Down Rule 3(III)(B) of 2017 Rules vide order dated 29.08.2023 in WP 21268 of 2023	Amended/Impugned Rule 3(a) which is under Challenge in this Petition
(B) The Local Candidate: A candidate for admission shall be regarded as a local candidate in relation to a local area. a) If he has studied in educational Institutions in such local area for a period of not less than four consecutive academic years ending with the academic year in which he appeared or as the case may be first appeared in	(a) A candidate for admission into undergraduate courses under Competent Authority Quota in Telangana should be Indian National/ Person of Indian Origin (PIO)/ Overseas Citizens of India (OCI) card holder and shall fulfil the following provisions: i) If the candidate has studied in educational Institutions in such local area for a period of not less than four consecutive academic years ending with

the relevant qualifying examination.	the academic year in which he appeared or as the case may be first appeared in the relevant qualifying examination.
OR	
b) Where during the whole or any part of the four consecutive academic years ending with the academic year in which he appeared or as the case may be first appeared for the relevant qualifying examination, he has not studied in any educational Institutions, if he has resided in that local area for a period of not less than four years immediately preceding the date of commencement of the relevant qualifying examination which he appeared or as the case may be first appeared.	or ii) Where during the whole or any part of the four consecutive academic years ending with the academic year in which he appeared, or as the case may be, first appeared for the relevant qualifying examination, he has not studied in any educational institutions, if he has resided in that local area for a period of not less than four years immediately preceding the date of commencement of the relevant qualifying examination which he appeared or as the case may be first appeared. iii) Local area herein means the State of Telangana.

	Further, in case the candidate has not studied in any educational institution and has resided in the local area as stated at (ii) above, to be eligible for admission into undergraduate courses under 'Competent Authority Quota', the candidate should have appeared for the relevant qualifying examination in the State of Telangana
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68. Rule 3(a) of the Rules notified vide G.O.Ms.No.33, dated 19.07.2024, requires that a candidate seeking admission under the quota meant for local candidates has to study in the State of Telangana for a period of four years or reside in the State of Telangana for a period of four years. In addition, the candidate has to pass the qualifying examination from the State of Telangana. Thus, a more stringent requirement in Rule 3(a) of the Rules has been incorporated, namely that the candidate must have to pass the qualifying examination from the State of Telangana.

69. Now we may advert to the decisions of the Supreme Court in **Dr. Pradeep Jain** (supra), **Anant Madaan** (supra) and **Rajdeep Ghosh** (supra). A three-Judge Bench of Supreme Court in **Dr. Pradeep Jain** (supra) dealt with the issue whether admission to a medical college or any other institution of higher learning situate in a State can be confined to those who have their domicile within the State or who are residents within the State for a specified number of years or can any reservations in admission be made for them so as to give them precedence over those who do not possess domicile or residence qualification within the State irrespective of merit. The aforesaid issue was answered by the Supreme Court in paragraph 19, which reads as under:

“**19.** It will be noticed from the above discussion that though intra-State discrimination between persons resident in different districts or regions of a State has by and large been frowned upon by the Court and struck down as invalid as in *Minor P. Rajendran v. State of Madras* [AIR 1968 SC 1012 : (1968) 2 SCR 786 : (1968) 2 SCJ 801] and *A. Peeriakaruppan v. State of Tamil Nadu* [(1971) 1 SCC 38 : AIR 1971 SC 2303 : (1971) 2

SCR 430] the Court has in *D.N. Chanchala v. State of Mysore* [(1971) 2 SCC 293 : AIR 1971 SC 1762 : 1971 Supp SCR 608] and other similar cases upheld institutional reservation effected through university-wise distribution of seats for admission to medical colleges. The Court has also by its decisions in *D.P. Joshi v. State of Madhya Bharat* [AIR 1955 SC 334 : (1955) 1 SCR 1215 : 1955 SCJ 298] and *N. Vasundara v. State of Mysore* [(1971) 2 SCC 22 : AIR 1971 SC 1439 : 1971 Supp SCR 381] sustained the constitutional validity of reservation based on residence requirement within a State for the purpose of admission to medical colleges. These decisions which all relate to admission to MBBS course are binding upon us and it is therefore not possible for us to hold, in the face of these decisions, that residence requirement in a State for admission to MBBS course is irrational and irrelevant and cannot be introduced as a condition for admission without violating the mandate of equality of opportunity contained in Article 14. We must proceed on the basis that at least so far as admission to MBBS course is concerned, residence requirement in a State can be introduced as a condition for admission to the MBBS course. It is of course true that the Medical Education Review Committee established by the Government of India has in its report recommended after taking into account all relevant considerations, that the “final objective should be to ensure that all admissions to the MBBS course should be open to candidates on an all-India basis without the imposition of existing domiciliary condition”, but having regard to the practical difficulties

of transition to the stage where admissions to MBBS course in all medical colleges would be on all-India basis, the Medical Education Review Committee has suggested “that to begin with not less than 25 per cent seats in each institution may be open to candidates on all-India basis”. We are not at all sure whether at the present stage it would be consistent with the mandate of equality in its broader dynamic sense to provide that admissions to the MBBS course in all medical colleges in the country should be on all-India basis. Theoretically, of course, if admissions are given on the basis of all-India national entrance examination, each individual would have equal opportunity of securing admission, but that would not take into account diverse considerations, such as, differing level of social, economic and educational development of different regions, disparity in the number of seats available for admission to the MBBS course in different States, difficulties which may be experienced by students from one region who might in the competition on all-India basis get admission to the MBBS course in another region far remote from their own and other allied factors. There can be no doubt that the policy of ensuring admissions to the MBBS course on all-India basis is a highly desirable policy, based as it is on the postulate that India is one nation and every citizen of India is entitled to have equal opportunity for education and advancement, but it is an ideal to be aimed at and it may not be realistically possible, in the present circumstances, to adopt it, for it cannot produce real equality of opportunity unless there is complete absence of disparities and inequalities — a situation

which simply does not exist in the country today. There are massive social and economic disparities and inequalities not only between State and State but also between region and region within a State and even between citizens and citizens within the same region. There is a yawning gap between the rich and the poor and there are so many disabilities and injustices from which the poor suffer as a class that they cannot avail themselves of any opportunities which may in law be open to them. They do not have the social and material resources to take advantage of these opportunities which remain merely on paper recognised by law but non-existent in fact. Students from backward States or regions will hardly be able to compete with those from advanced States or regions because, though possessing an intelligent mind, they would have had no adequate opportunities for development so as to be in a position to compete with others. So also students belonging to the weaker sections who have not, by reason of their socially or economically disadvantaged position, been able to secure education in good schools would be at a disadvantage compared to students belonging to the affluent or well-to-do families who have had the best of school education and in open all-India competition, they would be likely to be worsted. There would also be a number of students who, if they do not get admission in a medical college near their residence and are assigned admission in a far off college in another State as a result of open all-India competition, may not be able to go to such other college on account of lack of resources and facilities and in the result, they would be effectively

deprived of a real opportunity for pursuing the medical course even though on paper they would have got admission in a medical college. It would be tantamount to telling these students that they are given an opportunity of taking up the medical course, but if they cannot afford it by reason of the medical college to which they are admitted being far away in another State, it is their bad luck: the State cannot help it, because the State has done all that it could, namely, provide equal opportunity to all for medical education. But the question is whether the opportunity provided is real or illusory? We are therefore of the view that a certain percentage of reservation on the basis of residence requirement may legitimately be made in order to equalise opportunities for medical admission on a broader basis and to bring about real and not formal, actual and not merely legal, equality. The percentage of reservation made on this count may also include institutional reservation for students passing the PUC or pre-medical examination of the same university or clearing the qualifying examination from the school system of the educational hinterland of the medical colleges in the State and for this purpose, there should be no distinction between schools affiliated to State Board and schools affiliated to the Central Board of Secondary Education. It would be constitutionally permissible to provide, as an interim measure until we reach the stage when we can consistently with the broad mandate of the rule of equality in the larger sense, ensure admissions to the MBBS course on the basis of national entrance examination — an ideal which we

must increasingly strive to reach — for reservation of a certain percentage of seats in the medical colleges for students satisfying a prescribed residence requirement as also for students who have passed PUC or pre-medical examination or any other qualifying examination held by the university or the State and for this purpose it should make no difference whether the qualifying examination is conducted by the State Board or by the Central Board of Secondary Education, because no discrimination can be made between schools affiliated to the State Board and schools affiliated to the Central Board of Secondary Education. We may point out that at the close of the arguments we asked the learned Attorney General to inform the Court as to what was the stand of the Government of India in the matter of such reservation and the learned Attorney General in response to the inquiry made by the Court filed a policy statement which contained the following formulation of the policy of the Government of India:

“Central Government is generally opposed to the principle of reservation based on domicile or residence for admission to institution of higher education, whether professional or otherwise. In view of the territorially articulated nature of the system of institutions of higher learning including institutions of professional education, there is no objection, however, to stipulating reservation or preference for a reasonable quantum in undergraduate courses for students hailing from the school system of educational hinterland of the institutions. For this purpose, there should be no

distinction between schools affiliated to State Board and schools affiliated to CBSE.”

We are glad to find that the policy of the Government of India in the matter of reservation based on residence requirement and institutional preference accords with the view taken by us in that behalf. We may point out that even if at some stage it is decided to regulate admissions to the MBBS course on the basis of all-India entrance examination, some provision would have to be made for allocation of seats amongst the selected candidates on the basis of residence or institutional affiliation so as to take into account the aforementioned factors.”

70. After taking note of the decisions of the Supreme Court in **D.P.Joshi** (supra) **and N.Vasundara v. State of Mysore**¹³, it was held that residence requirement in a State for admission to MBBS course cannot be termed as irrational and irrelevant and can be introduced as a condition for admission without violating the mandate of equality of opportunity contained in Article 14 of the Constitution of India. Thus, it was concluded that certain percentage of reservation on the basis of residence requirement may legitimately be made to equalise the

¹³ (1971) 2 SCC 22

opportunities for medical admission on a broader basis and to bring about real and not formal, actual and not mere legal, equality.

71. A two-Judge Bench of Supreme Court in **Anant Madaan** (supra) held that eligibility criteria prescribed for admission to medical colleges in the State of Haryana that the candidates must have studied for preceding three years in the recognized schools/colleges in State of Haryana in respect of 85% of seats cannot be considered as unreasonable or violative of Article 14 of the Constitution of India. Paragraph 10 is extracted below for the facility of reference:

“**10.** In the present case, the reservation which has been made on the basis of candidates having studied for the preceding three years in recognised schools/colleges in Haryana is in respect of these 85% of seats. It excludes 15% seats which have to be filled in on an all-India basis. This eligibility criterion, therefore, is in conformity with the decisions of this Court referred to above. It cannot, therefore, be considered as arbitrary or unreasonable or violative of Article 14 of the Constitution.”

72. Thereafter, another two-Judge Bench of Supreme Court in **Rajdeep Ghosh** (supra) dealt with the validity of the criteria for reservation based on domicile for admission to MBBS course in the State of Assam as contained in Rule 3(1)(c) of Medical Colleges and Dental Colleges of Assam (Regulations of Admission into 1st Year MBBS/BDS Courses) Rules, 2017. It was held as under in paragraphs 15, 31 and 32:

“15. The main question for consideration is whether the classification that has been made in Rule 3(1)(c) of the 2017 Rules is unreasonable and violative of the provisions contained in Article 14 of the Constitution of India and students passing out or obtaining education in other States in the aforesaid exigencies have been illegally ousted from the eligibility criteria prescribed for seats of the State quota.

31. As held in the aforesaid decisions, it is permissible to lay down the essential educational requirements, residential/domicile in a particular State in respect of basic courses of MBBS/BDS/Ayurvedic. The object sought to be achieved is that the incumbent must serve the State concerned and for the emancipation of the educational standards of the people who are residing in a particular State, such reservation has been upheld by this Court for the inhabitants of the State and

prescription of the condition of obtaining an education in a State. The only distinction has been made with respect to postgraduate and postdoctoral superspeciality course.

32. Rule 3(1)(c) of the 2017 Rules lays down the requirement of obtaining education in the State and relaxation has been given to the wards of the State Government employees or Central Government employees or to an employee of corporation/agency/instrumentality under the Government of Assam or the Central Government, whether on deputation or transfer on regular posting from obtaining education from Classes VII to XII for the period his/her father or mother is working outside the State. As urged on behalf of the petitioners the employees of other State Government but residents of Assam, similar relaxation ought to have been made cannot be accepted. Thus, their exclusion cannot be said to be irrational and arbitrary. The wards of the employees in the service of other States like government employees of Arunachal Pradesh, in our opinion, form a totally different class. When the wards are obtaining education outside and the parents are working in Arunachal Pradesh as government employee or elsewhere, they are not likely to come back to the State of Assam. As such Government of Assam holds that they should provide preference to State residents/institutional preference cannot be said to unintelligible criteria suffering from vice of arbitrariness in any manner whatsoever, thus, Rule 3(1)(c) framed by the Government of Assam is based on an intelligible

differentia and cannot be said to be discriminatory and in violation of Article 14.”

73. After referring to earlier decisions rendered in **D.P.Joshi** (supra) and **Dr. Pradeep Jain** (supra), it was held that it is permissible to lay down the essential educational requirements, residential/domicile in a particular State in respect of admission to basic courses, namely MBBS, BDS and Ayurvedic. It was further held that object of providing reservation is that incumbent must serve the concerned State for the emancipation of the educational standards of the people who are residing in a particular State.

74. Thus, on perusal of decisions of the Supreme Court in **Dr. Pradeep Jain** (supra), **Anant Madaan** (supra) and **Rajdeep Ghosh** (supra), it is axiomatic that the ratio of the aforesaid decisions is that it is permissible to lay down the requirement of residence or the domicile in a particular State for admission to MBBS/BDS course. However, it is not open to the State to make wholesale reservations on

the basis of domicile, residence and institutional preferences. Such a reservation, however, cannot exceed the outer limit of 70% of total seats by taking into account other reservations validly made.

(VI) ISSUE:

75. The issue which arises for consideration in this batch of writ petitions is whether the benefit of being a local candidate can be denied to a candidate who otherwise fulfils the requirement of residence or domicile within the State.

(VIII) OBJECT OF RULE:

76. One of the objects of Rule 3(a) in the Rules of admission is to protect the claim by the students residing within the State or domicile for admission to medical courses within the State. Another object of the Rule is to ensure that medical facilities are made available to the residents of the State as permanent residents of the State will remain in the State upon obtaining medical education.

Therefore while interpreting the rule, its object has to be upheld. In case a person who otherwise is a permanent resident of domicile of State of Telangana is excluded from the process of admission merely on the ground that he has not passed the qualifying examination from the State of Telangana, the object of the Rule would be defeated. The permanent resident/domicile of State of Telangana may have cleared the relevant qualifying examination for an institution outside the State and may otherwise be eligible cannot be denied the benefit of admission merely on the basis of study or residence outside the State.

(IX) WHETHER RULE 3(a) HAS TO BE STRUCK DOWN/READ DOWN:

77. Now we may advert to the issue whether the Rule 3(a) of the Telangana Medical and Dental Colleges Admission (Admission into MBBS & BDS Courses) Rules, 2017, as amended vide G.O.Ms.No.33, dated 19.07.2024, deserves to be struck down or read down. A Division Bench of this Court vide common order dated 29.08.2024 passed in

W.P.No.21268 of 2023 and batch has held as under (paragraphs 88 and 89):

“88. At this stage, we may advert to the well settled legal principles with regard to reading down a provision. A Constitution Bench of Hon’ble Supreme Court in **Delhi Transport Corporation v. D.T.C. Mazdoor Congress**¹⁴, in paragraph 218 held as under:

218. On a proper consideration of the cases cited hereinbefore as well as the observations of Seervai in his book *Constitutional Law of India* and also the meaning that has been given in the *Australian Federal Constitutional Law* by Colin Howard, it is clear and apparent that where any term has been used in the Act which per se seems to be without jurisdiction but can be read down in order to make it constitutionally valid by separating and excluding the part which is invalid or by interpreting the word in such a fashion in order to make it constitutionally valid and within jurisdiction of the legislature which passed the said enactment by reading down the provisions of the Act (*sic*). This, however, does not under any circumstances mean that where the plain and literal meaning that follows from a bare reading of the provisions of the Act, Rule or Regulation that it

¹⁴ 1991 Supp (1) SCC 600

confers arbitrary, uncanalised, unbridled, unrestricted power to terminate the services of a permanent employee without recording any reasons for the same and without adhering to the principles of natural justice and equality before the law as envisaged in Article 14 of the Constitution, cannot (*sic*) be read down to save the said provision from constitutional invalidity by bringing or adding words in the said legislation such as saying that it implies that reasons for the order of termination have to be recorded. In interpreting the provisions of an Act, it is not permissible where the plain language of the provision gives a clear and unambiguous meaning can be interpreted by reading down and presuming certain expressions in order to save it from constitutional invalidity. Therefore, on a consideration of the above decisions, it is impossible to hold by reading down the impugned provisions of Regulation 9(*b*) framed under Section 53 of the Delhi Road Transport Act, 1950 read with Delhi Road Transport (Amendment) Act, 1971 that the said provision does not confer arbitrary, unguided, unrestricted and uncanalised power without any guidelines on the authority to terminate the services of an employee without conforming to the principles of natural justice and equality as envisaged in Article 14 of the Constitution of India. I am, therefore,

constrained to uphold the judgment of the Delhi High Court in C.W.P. No. 1422 of 1985 and dismiss Civil Appeal No. 2876 of 1985. I allow Civil Appeal No. 1115 of 1976 and agree with the order proposed to be passed thereon by the learned Chief Justice. The other appeals as referred to in detail in the judgment of the learned Chief Justice be placed before the Division Bench of this Court to be disposed of in accordance with the observations made herein. I agree with conclusion arrived at by my learned brother K. Ramaswamy, J.

89. The aforesaid decision was referred to with approval in **B.R.Enterprises v. State of Uttar Pradesh**¹⁵. The decision in **B.R.Enterprises** (supra) was referred to with approval in **Union of India v. Ind-Swift Laboratories**¹⁶. The Hon'ble Supreme Court in **Ahmedabad Municipal Corporation** (supra) reversed the decision of Gujarat High Court which struck down Rule 7 of the Rules and instead read it down."

78. The golden rule of interpretation is of respecting the wisdom of the legislature on the ground that they are aware of the law and would never have intended for an invalid legislation. In somewhat similar fact situation, the

¹⁵ (1999) 9 SCC 700

¹⁶ (2011) 4 SCC 635

Supreme Court in **Ahmedabad Municipal Corporation** (supra) with a view to iron out the creases in the impugned rule i.e., Rule 7 of the Rules therein interpreted the Rule in the manner indicated in paragraph 14 of the Judgment referred to supra. Similar view was taken by the Division Bench of Bombay High Court in **Rajiv Purshottam Wadhwa** (supra) and Rule 4.4 of Maharashtra Rules were read down to include permanent residents of the State of Maharashtra.

79. At this stage, we may take note of the decision of the Supreme Court in **Ahmedabad Municipal Corporation** (supra). In the aforesaid case, the Supreme Court considered the validity of Rule 6(i) and Rule 7 of the Rules for admission to Smt N.H.L.Municipal Medical College. Rule 7 of the Rules confined admission to 85% of the students who had studied in educational institutions within the Ahmedabad Municipal Corporation. The validity of the said Rule was challenged before the Gujarat High Court. The High Court vide the judgment dated 12.05.1999

struck down Rule 7 of the Rules on the ground that classification made by Rule 7 providing admission to local students to the extent of 85% only from the educational institutions situated within the Ahmedabad Municipal limits was violative of Article 14 of the Constitution of India. Accordingly, the aforesaid Rule 7 was struck down.

The Supreme Court in paragraph 10 has held as under:

“10. But the question in this case is slightly different from the law laid down in the above-cited cases. Under Rule 7 of the impugned rules, “a local student” is defined as a student who has passed SSC/New SSC Examination and the qualifying examination from any of the high schools or colleges situated within the Ahmedabad municipal limits. As per this rule, it is only those students who qualify from educational institutions situated within the municipal limits who will be eligible to be treated as local students. While the permanent resident students of Ahmedabad city who for fortuitous reasons, as stated above, happen to acquire qualification from educational institutions situated just outside the municipal limits, namely, AUDA, will not be eligible for being treated as local students. The object of the rule is to provide medical education to the students of Ahmedabad who have acquired the necessary qualification, their selection being based on merit. If that be the object, can it be said that a classification

based only on the location of the educational institution within or outside the municipal area is a reasonable classification? In our opinion, the answer should be in the negative. In the counter-affidavit filed on behalf of the Ahmedabad Municipality in the writ petition, it is stated that the Medical College in question was established to cater to the needs of the students of Ahmedabad city. If that be the object, in our opinion, the same would be defeated by restricting the definition of “local student” to those students who have acquired their qualification from institutions situated within the Ahmedabad municipal area, because as has happened in this case, the actual resident students of the Municipality whose parents would have contributed towards the revenue of the Ahmedabad Municipality who for reasons beyond their control or otherwise, had acquired their qualification from institutions situated just outside the Ahmedabad municipal area i.e. within AUDA, would be denied the benefit of admission to the College which is run by the Ahmedabad Municipality. In our opinion, confining the definition of “local student” to only those students who acquired the qualification from educational institutions situated within the local area creates an artificial distinction from amongst the students who are residents of Ahmedabad city and those who may not be the residents of Ahmedabad city but who have studied in educational institutions situated in the Ahmedabad Municipal Corporation limits. We do not find any nexus in this type of classification with the object to

be achieved. Let us test the logic of this rule with reference to a permanent resident of Ahmedabad who resides within the Ahmedabad municipal limits but is employed within AUDA. Can the Municipality refuse the benefit of its services to such a resident of the city only on the ground that he is employed in AUDA? The answer again can only be NO. Similarly, if the object of the rule is to provide medical education to the students of Ahmedabad because of its municipal obligations then a differentia within the class of students of Ahmedabad on the basis of their acquiring qualifications from schools within the Ahmedabad municipal limits or within the limits of AUDA would be arbitrary and violative of Article 14.”

80. However, in paragraphs 13 and 14, it was held as under:

“3. Though the High Court was right in coming to the conclusion that the rule in question does suffer from an element of arbitrariness, we are of the opinion that the remedy does not lie in striking down the impugned rules the existence of which is necessary in the larger interest of the institution as well as the populace of the Ahmedabad Municipal Corporation. The striking down of the rule would mean opening the doors of the institution for admission to all the eligible candidates in the country which would definitely be opposed to the very object of the establishment of the institution by a local body. It is very rarely that a local body considers it as its duty to provide higher and

professional education. In this case, the Municipality of Ahmedabad should be complimented for providing medical education to its resident students for the last 30 years or more. It has complied with its constitutional obligation by providing 15% of the seats available to all-India merit students. Its desire to provide as many seats as possible to its students is a natural and genuine desire emanating from its municipal obligations which deserves to be upheld to the extent possible. Therefore, with a view to protect the laudable object of the Municipality, we deem it necessary to give the impugned rule a reasonable and practical interpretation and uphold its validity.

14. Before proceeding to interpret Rule 7 in the manner which we think is the correct interpretation, we have to bear in mind that it is not the jurisdiction of the court to enter into the arena of the legislative prerogative of enacting laws. However, keeping in mind the fact that the rule in question is only a subordinate legislation and by declaring the rule ultra vires, as has been done by the High Court, we would be only causing considerable damage to the cause for which the Municipality had enacted this rule. We, therefore, think it appropriate to rely upon the famous and oft-quoted principle relied on by Lord Denning in the case of *Seaford Court Estates Ltd. v. Asher* [(1949) 2 All ER 155 (CA)] wherein he held:

“[W]hen a defect appears a Judge cannot simply fold his hands and blame the draftsman. He must set to work on the

constructive task of finding the intention of Parliament ... and then he must supplement the written word so as to give 'force and life' to the intention of the legislature. ... A Judge should ask himself the question how, if the makers of the Act had themselves come across this ruck in the texture of it, they would have straightened it out? He must then do as they would have done. A Judge must not alter the material of which the Act is woven, but he can and should iron out the creases."

This statement of law made by Lord Denning has been consistently followed by this Court starting in the case of *M. Pentiah v. Muddala Veeramallappa* [AIR 1961 SC 1107] and followed as recently as in the case of *S. Gopal Reddy v. State of A.P.* [(1996) 4 SCC 596, 608 : 1996 SCC (Cri) 792 : AIR 1996 SC 2184, 2188] (SCC at 608 : AIR at p. 2188). Thus, following the above rule of interpretation and with a view to iron out the creases in the impugned rule which offends Article 14, we interpret Rule 7 as follows:

"Local student means a student who has passed HSC (*sic* SSC)/New SSC Examination and the qualifying examination from any of the high schools or colleges situated within the Ahmedabad Municipal Corporation limits and includes a

permanent resident student of the Ahmedabad Municipality who acquires the above qualifications from any of the high schools or colleges situated within the Ahmedabad Urban Development Area.””

81. Accordingly, the Special Leave Petition was allowed and Rule 7, which was interpreted in the manner indicated in paragraph 14 of the judgment of the Supreme Court, was upheld.

82. The Supreme Court in **Meenakshi Malik** (supra) dealt with a case of a candidate who had prosecuted her studies from classes 1st to 10th in Delhi and completed her classes 11th and 12th examinations from a foreign country as her father was posted on deputation by the Government to a foreign country. The claim of the aforesaid petitioner for treating her as a local candidate was rejected on the ground that she failed to fulfil the requirement of study of last two years of her education i.e., classes 11 and 12 in Delhi. The Supreme Court in paragraphs 4 and 5 has held as under:

“4. It seems to us that the qualifying condition that a candidate appearing for the Entrance Examination for admission to a Medical College in Delhi should have received the last two years of education in a school in Delhi is unreasonable when applied in the case of those candidates who were compelled to leave India for a foreign country by reason of the posting of the parent by the Government to such foreign country. There is no real choice in the matter for such a student, and in many cases the circumstances of the student do not permit her to continue schooling in India. It is, of course, theoretically possible for a student to be put into a hostel to continue her schooling in Delhi. But in many cases this may not be feasible and the student must accompany a parent to the foreign country. It appears to us that the rigour of the condition prescribing that the last two years of education should be received in a school in Delhi should be relaxed, and there should be no insistence on the fulfilment of that condition, in the case of students of parents who are transferred to a foreign country by the Government and who are therefore required to leave India along with them. Rules are intended to be reasonable, and should take into account the variety of circumstances in which those whom the rules seek to govern find themselves. We are

of opinion that the condition in the prescription of qualifications for admission to a medical college in Delhi providing that the last two years of education should be in a school in Delhi should be construed as not applicable to students who have to leave India with their parents on the parent being posted to a foreign country by the Government.

5. Accordingly, the denial of admission to the petitioner to a seat in one of the Medical Colleges in Delhi must be held to be unreasonable. It is not disputed that if the condition of schooling for the last two years in a school in Delhi is removed from the way, the petitioner would be entitled to admission in a Medical College in Delhi. In the circumstances, the petitioner is entitled to an order directing the respondents to admit her to one of the Medical Colleges in Delhi.”

83. Thus, the Supreme Court has held that petitioner had no real choice and could not continue her schooling in Delhi as her father was posted to a foreign country on deputation. It was further held that rigour of condition prescribing that last two years education should be received in a school in Delhi should be relaxed and it was

further held that the rules are intended to be reasonable and the prescription of classification for admission to medical colleges in Delhi deserves to be relaxed in case of candidates who had to leave the country with their parents being posted to a foreign country by the government.

84. An interpretation which advances the object and purpose of the Act has to be preferred. The object of Rule 3(a) of the 2017 Rules, as amended vide G.O.Ms.No.33, dated 19.07.2024, is to provide reservation for local candidates. In case the rule is struck down, then students from all over the country shall be entitled to admission in medical colleges situate in the State of Telangana and the domicile/permanent residents of State of Telangana would be deprived of the benefit of admission. Therefore, we read down the Rule 3(a) and 3(iii) of the Telangana Medical and Dental Colleges Admission (Admission into MBBS & BDS Courses) Rules, 2017, as amended vide G.O.Ms.No.33, dated 19.07.2024. It is held that the aforesaid Rule shall not apply to permanent residents of the State of Telangana.

Thus, by reading down the Rule in the manner indicated above shall also be in consonance of object of Article 371D(2)(b)(ii) of the Constitution of India i.e., of making special provision to the people of different parts of State for admission to educational institutions.

(X) DIRECTIONS:

85. At this stage, we take note of the statement made by the learned Advocate General that the petitioner in W.P.No.22658 of 2024 shall be treated as local candidate. In view of the law laid down by the Supreme Court in **Meenakshi Malik** (supra), it is directed that the petitioner in W.P.No.22658 of 2024 shall be treated as local candidate and if she is otherwise eligible, shall be admitted to MBBS/BDS course as per the eligibility.

86. It is also pertinent to note that the Division Bench of this Court in the common order dated 29.08.2023 passed in W.P.No.21268 of 2023 and batch had relied on the decisions of the Bombay High Court in **Rajiv Purshottam Wadhwa** (supra) and the Karnataka High Court in

B.Mahadevaiah (supra). The said decisions have attained finality. It is also not in dispute that the common order 29.08.2023 passed in W.P.No.21268 of 2023 and batch by the Division Bench of this High Court has also attained finality.

87. For the aforementioned reasons, we direct that Rule 3(a) of the 2017 Rules, as amended vide G.O.Ms.No.33, dated 19.07.2024, will be interpreted to mean that the petitioners shall be eligible to admission in the medical colleges in the State of Telangana, if their domicile is of State of Telangana or if they are permanent residents of the State of Telangana. It is stated at the bar that there are no guidelines/rules framed by the State Government to ascertain whether a student is a domicile/permanent resident of the State of Telangana. We, therefore, grant the liberty to the Government to frame the guidelines/rules to determine as to when a student can be considered as a permanent resident of the State of Telangana. The cases of the petitioners/students who claim to be eligible under the

aforesaid guidelines/rules, which may be framed by the State Government, shall be considered by the University by application of those guidelines/rules in the facts and circumstances of each case.

88. The writ petitions are accordingly disposed of.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

ALOK ARADHE, CJ

J.SREENIVAS RAO, J

05.09.2024

Note: LR copy be marked.
(By order)
vs/pln

Issue C.C today.
B/o.
vs