

A STATE OF MAHARASHTRA AND OTHERS
v.
DR. SHARVIL THATTE AND OTHERS
(Civil Appeal No. 3612 of 2018)

B APRIL 05, 2018
[ARUN MISHRA AND UDAY UMESH LALIT, JJ.]

C *Education/Educational Institutions – Medical Admissions – Eligibility criteria – Domicile status – Notification issued by State of Maharashtra for admission to Postgraduate Medical/Dental Courses in unaided Private Educational Institutions in State of Maharashtra – Condition No.(ii) in the eligibility criteria prescribed in the notification stated that the candidate shall be a domicile of State of Maharashtra – Writ petition filed by Respondent Nos. 1 to 9 challenging the same, allowed – On appeal, held: In the Judgment of Supreme Court dtd. 04.04.2018 in **Dr. Kriti Lakhina vs. The State***
D ***Of Karnataka**, the challenge to similar condition incorporated in Information Bulletin issued by State of Karnataka, for admission to Postgraduate Medical/Dental Courses in Government Colleges and in respect of Government quota seats in Private Medical/Dental Colleges, has been accepted – View taken by High Court is affirmed and there is no reason to interfere.*

E **Dismissing the appeal, the Court**

F **HELD: 1. By this Court’s Judgment and Order dated 04.04.2018 in Dr. Kriti Lakhina vs. The State of Karnataka (Writ Petition (Civil) No.204/2018), the challenge to similar condition incorporated in Information Bulletin issued by State of Karnataka for admission to Postgraduate Medical/Dental Courses in Government Colleges and in respect of Government quota seats in Private Medical/Dental Colleges, was accepted. [Para 6][1010-C]**

G *Dr. Kriti Lakhina v. The State of Karnataka [Decision dated 04.04.2018 by Supreme Court in Writ Petition (Civil) No.204/2018]; Dr. Pradeep Jain and Others v. Union of India and Others (1984) 3 SCC 654 : [1984] 3 SCR 942; Vishal Goyal and Others v. State of Karnataka and Others (2014) 11 SCC 456– relied on.*

H 1008

Case Law Reference**[1984] 3 SCR 942 relied on Para 5****(2014) 11 SCC 456 relied on Para 5**

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3612 of 2018.

From the Judgment and Order dated 22.02.2018 of the High Court of Judicature at Bombay in Writ Petition No. 1814 of 2018.

Tushar Mehta, Sr. Adv., Nishant Ramakantrao Katneshwarkar, Ms. Deepa M. Kulkarni, Advs. for the Appellants.

Shyam Divan, Sr. Adv., Ms. Pooja Thorat, Satyajit A. Desai, Ms. Anagha S. Desai, Sudhanshu S. Choudhari, Ms. Surabhi Guleria, Shakul R. Ghatole, Advs. for the Respondents.

The Judgment of the Court was delivered by

UDAY UMESH LALIT, J. 1. Leave granted.

2. This appeal by special leave seeks to challenge the Judgment and Order dated 22.02.2018 passed by the High Court of Judicature at Bombay in Writ Petition No.1814 of 2018.

3. Respondent Nos.1 to 9 herein had filed aforesaid writ petition challenging condition No.(ii) in the eligibility criteria prescribed in the Notification dated 30.01.2018 issued by State of Maharashtra for admission to Postgraduate Medical/Dental Courses in unaided Private Educational Institutions in State of Maharashtra. Said condition read as under:-

“(ii) The candidate shall be a domicile of State of Maharashtra.”

4. Similar such condition which was imposed by the State Government for the academic year 2017-18 was stayed by the Division Bench of the High Court vide Order dated 30.04.2017 in Writ Petition No.5283 of 2017, which order was challenged by filing Special Leave Petition (Civil) No.14447 of 2017 in this Court. Said petition was however not pressed by the State and was accordingly disposed of by this Court on 05.05.2017.

5. The challenge to the aforesaid condition was accepted by the High Court in its judgment under appeal relying principally on the decisions

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A of this Court rendered in *Dr. Pradeep Jain and Others v. Union of India and Others*¹ and in *Vishal Goyal and Others v. State of Karnataka and Others*². While allowing the petition and setting aside the condition, the High Court observed:-

B “8] It could thus be seen that, it is a settled position in law that, though it will be permissible to provide reservation on the ground of institutional preference, the condition which requires a candidate who has possessed a graduate degree also to be domiciled in that State, would not be permissible.”

C 6. By our Judgment and Order dated 04.04.2018 in Writ Petition (Civil) No.204/2018, we have accepted the challenge to similar condition incorporated in Information Bulletin issued by State of Karnataka for admission to Postgraduate Medical/Dental Courses in Government Colleges and in respect of Government quota seats in Private Medical/Dental Colleges. We have principally relied on the Judgments of this Court in *Dr. Pradeep Jain* (supra) and *Vishal Goyal* (supra).

D 7. In the circumstances, we affirm the view taken by the High Court in the present matter and see no reason to interfere. The appeal is thus dismissed with no order as to costs.

Divya Pandey

Appeal dismissed.

¹(1984) 3 SCC 654

²(2014) 11 SCC 456