



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No. 3518 of 2020
(Arising out of SLP (C) No.9286 of 2020)

The State of Tamil Nadu **.... Appellant(s)**
Versus

Union of India & Ors. **....Respondent (s)**

W I T H

Civil Appeal No. 3519 of 2020
(Arising out of SLP (C) No.9592 of 2020)

O R D E R

Leave granted.

1. The grievance of the Appellant is the non-implementation of reservation for the Other Backward Classes (OBC) candidates in medical seats contributed by the State of Tamil Nadu to the All India Quota. The Appellant and several others filed writ petitions in the High Court of Judicature at Madras for a direction to the Respondents to implement reservation for OBC candidates in the medical seats surrendered to the All India Quota by the State of Tamil Nadu. The writ petitions were disposed

of by the High Court by a judgment dated 27.07.2020. The High Court observed that there is no legal or constitutional impediment for extending the benefit of reservation to the Other Backward Class candidates in the State surrendered All India Quota seats of the under-graduate and post-graduate medical courses in the State-run medical colleges within the State of Tamil Nadu. However, the High Court was of the opinion that implementation of the reservation should be after a joint deliberation between the Central Government, Medical Council of India and the State Government. The High Court was of the opinion that the implementation of reservation as prayed by the writ petitioners cannot be done for the present academic year as that would disturb the selection process that has been set into motion. The High Court directed the Union of India to convene a meeting and finalise the manner in which the facilities of OBC reservation should be provided against the All India Quota from the next academic year.

2. The State of Tamil Nadu has filed the above SLPs being aggrieved by that part of the judgment which denied the implementation of reservation for OBCs in admissions to Government run medical colleges in All

India Quota for the current academic year *i.e.* 2020-2021. At present, we are concerned with the extension of the benefit of reservation to OBC candidates in the All India Quota for admission in Government-run medical colleges in the State of Tamil Nadu for the academic year 2020-2021.

3. We have heard Mr. V. Giri, learned Senior Counsel, Mr. Balaji Srinivasan, learned Additional Advocate General along with Mr. M. Yogesh Kanna appearing for the State of Tamil Nadu, Mr. P. Wilson, learned Senior Counsel along with Mr. R. Nedumaran appearing for the intervenor, Mr. Balbir Singh, learned Additional Solicitor General appearing for the Union of India and Mr. Gaurav Sharma appearing for the National Medical Commission (formerly known as Medical Council of India).

4. Mr. V. Giri, learned Senior Counsel submitted that the policy of reservation of seats in Educational Institutions in the State of Tamil Nadu is governed by the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the services

under the State) Act, 1993 (hereafter referred to as the 1993 Act) and so far as under-graduate medical seats are concerned, 85% of the seats of the under-graduate medical seats in all medical colleges in the State of Tamil Nadu are filled up in accordance with the provisions of the 1993 Act. The State Government made a representation to the Union of India to permit implementation of reservation for OBC candidates in the 15% seats which have been surrendered by the State to the All India Quota. As there was no response from the Union of India, the State of Tamil Nadu filed a writ petition before the High Court seeking a direction for implementation of the 1993 Act to ensure reservation for OBC candidates in the All India Quota seats in medical courses. The High Court accepted the contention of the petitioner and held that reservation for OBC's has to be implemented in the All India Quota from the next year. According to Mr. V. Giri, though the admissions to the post-graduate courses have been completed, the admissions to the under-graduate courses are still at an early stage and the OBC candidates should not be deprived of the benefit of implementation of reservation

for admissions to the Government-run medical institutions in the State of Tamil Nadu. Mr. Giri relied upon the stand taken by the Union of India before the High Court to argue that the Respondents cannot resort to technical pleas for non-implementation of reservation for OBC candidates for this academic year.

5. Mr. Balbir Singh, learned Additional Solicitor General contended that under-graduate seats in MBBS and BDS courses are being allotted to all eligible and qualified candidates under the 15% All India Quota on the basis of on-line counseling conducted by the Medical Counselling Committee of the Director General of Health Services (DGHS), Ministry of Health and Family Welfare, Government of India. The said allotment is based on the National Eligibility cum Entrance Test (NEET) Under-graduate examination conducted by the National Testing Agency. A letter was issued by the Medical Counseling Committee of the DGHS to the participating colleges on 28.08.2020 requesting for contribution of seats. The learned Additional Solicitor General contended that a roster is prepared having Unreserved, Scheduled Castes,

Scheduled Tribes and Physically Disabled candidates. The roster also includes OBC category, but only with regards to the Central Educational Institutions. On the basis of the roster, a provisional seat matrix is prepared by the Medical Counseling Committee of DGHS. The final seat matrix is posted on the website of the Intra-Medical Counseling Committee. Candidates who have qualified for the All India Quota under-graduate seats (MBBS and BDS) will be eligible for on-line allotment process for All India Quota seats. The learned Additional Solicitor General contended that admissions to the post-graduate medical courses for the year 2020-2021 have been completed and the counselling for the under-graduate admissions is scheduled to commence from 26.10.2020. He argued that a Committee has been constituted in compliance with the judgment of the High Court. A meeting was held by the Committee on 22.09.2020 in which Dr. P. Umanath, Managing Director, Tamil Nadu Medical Services Corporation also participated. It is the case of the Union of India that any direction given by this Court for implementation of OBC reservation in under-graduate admissions, the process

for which has already commenced, would lead to complications as the seat contribution and matrix preparation cannot be changed at this stage. The learned Additional Solicitor General made it clear that the domicile clause shall not be applicable to All India Quota seats.

6. Mr. Gaurav Sharma, learned Senior Counsel representing the National Medical Commission (formerly known as Medical Council of India) submitted that 15% of the total number of seats in under-graduate courses and 50% of the seats in post-graduate medical courses in all Government medical colleges or colleges run by the Government, Societies and Corporations are earmarked as All India Quota seats. Mr. Sharma submitted that the All India Quota seats are filled up from the All India NEET merit list and the examination is conducted by the DGHS. He stated that there is no domicile or residence reservation or preference for filling up the All India Quota seats. Mr. Sharma further submitted that reservation for Scheduled Castes, Scheduled Tribes and Physically Disabled candidates is

being implemented in the All India Quota seats. However, he made it clear that there is no reservation for OBC candidates for the All India Quota seats except in Central Educational Institutions which have a separate admission process. Mr. Sharma contended that it is not possible to implement the OBC reservation in the All India Quota for the present academic year since the admission process has started long back. The process could not be completed in view of the COVID-19 pandemic. Applications were made by the students in December, 2019. The results of the NEET examination were declared on 16.10.2020 and the counseling is scheduled to commence from 26.10.2020. The students who have taken the NEET examination are aware that there is no reservation for OBC candidates in the All India Quota. At this advanced stage of the process of admission to the under-graduate medical courses, it will be very difficult to implement the reservation for OBC candidates.

7. Mr. P. Wilson, learned Senior Counsel appearing for the intervenor brought to our notice the stand taken by

the Union of India that the State specific reservation for OBCs has to be implemented in the All India Quota seats. Mr. Wilson supported the learned counsel for the State and requested that a direction should be issued to the Respondents to implement the OBC reservation for admission to the All India Quota seats in under-graduate medical courses for this academic year.

8. The only point that arises for consideration of this Court is whether a direction can be issued for implementation of the reservation to OBC candidates for admissions to under-graduate medical courses for this year. It is no doubt true that the High Court accepted the submissions of the Appellants that the 1993 Act can be made applicable to the All India Quota seats. However, a direction was given to the Union of India to constitute a committee to work out the modalities of implementation of the reservation for OBC candidates to the All India Quota seats in the State of Tamil Nadu. At present, there is no challenge to the judgment of the High Court except this writ petition wherein the grievance is limited to the direction that the

implementation of the reservation will be from next year. The grievance of the Appellant is that the High Court committed an error in holding that reservation for OBC candidates cannot be implemented for the present academic year as it would disturb the entire admission process that has already been set in motion. The process for admissions to under-graduate medical courses commenced in December, 2019 and application forms were issued and filled up by the candidates. The process could not be completed on schedule in view of the unprecedented circumstances owing to the pandemic. The NEET under-graduate examination was conducted on 13.09.2020, the results were announced on 16.10.2020 and the counseling is scheduled to commence on 26.10.2020. At present, reservation in the All India Quota seats has been provided only in favour of the Scheduled Castes, Scheduled Tribes and Physically Disabled candidates. On the strength of the judgment of the High Court, the Appellant is seeking implementation of reservation in the All India Quota seats in State-run medical colleges which are situated in the State of Tamil Nadu. The admission to All India Quota seats is done on

the basis of marks obtained in the NEET Examination. The Appellant agreed that there is no domicile or residence reservation or preference for the All India Quota seats. All candidates belonging to the OBC category shall be eligible for admission to OBC seats in the All India Quota in the State of Tamil Nadu if reservation is implemented. Candidates belonging to the OBC category from States other than the State of Tamil Nadu would not have even indicated that they belonged to OBC category in the application form as they were not aware of any reservation in the All India Quota for OBC candidates. If all the OBC candidates are now informed about the implementation of reservation for OBC candidates, the entire process has to be re-done which would disturb the counselling which is about to commence from 26.10.2020.

9. The Committee appointed by the Union of India is examining the modalities for implementation of reservation for OBC candidates in the All India Quota. After holding discussions with the State of Tamil Nadu and other States, a final decision will be taken by the

Committee which can be implemented from the next academic year i.e. 2021-2022. The admission to post-graduate courses have been completed and cannot be interdicted at this stage. As admissions to the under-graduate medical courses have already been delayed due to the public health crisis, we do not want to delay the admissions to the under-graduate courses further by giving any direction to implement the reservation for OBCs for this academic year. The High Court was right in observing that the selection process which has commenced for the current academic year cannot be disturbed. For the aforementioned reasons, we reject the request for interim relief as prayed for.

.....J.
[L. NAGESWARA RAO]

.....J.
[HEMANT GUPTA]

.....J.
[AJAY RASTOGI]

**New Delhi,
October 26, 2020.**