

NEIL AURELIO NUNES AND ORS. VERSUS UNION OF INDIA AND ORS (2021)

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FACTS OF THE CASE

- A. The writ petitions challenged the reservation for Other Backward Classes (OBC) and Economically Weaker Section (EWS) in the All-India Quota (AIQ) seats for undergraduate and postgraduate medical courses.
- B. The issue originated when the Directorate General of Health Services in the Union Ministry of Health and Family Welfare issued a notice on 29 July 2021, proposing to introduce 27 percent reservation for Other Backward Classes (Non-Creamy Layer) and 10 percent reservation for Economically Weaker Section in the 15 percent undergraduate and 50 percent postgraduate seats in the All-India Quota from the academic year 2021-2022.
- C. Before that, the All-India Quota scheme filled 15 percent of undergraduate seats and 50 per cent of postgraduate seats in state-run institutions based on merit through open competition. The remaining 85 per cent of undergraduate seats and 50 per cent of postgraduate seats are reserved for candidates domiciled in their respective states. Reservation for Scheduled Caste and Scheduled Tribe candidates in the All-India Quota seats had been deemed permissible as established in the case of *AbhayNath v. University of Delhi*.
- D. In 2006, the Central Educational Institutions (Reservation in Admissions) Act was enacted, which provides reservations for up to 1 per cent for Scheduled Castes, Scheduled Tribes, and Other Backward Classes in Central educational institutions. However, OBC reservation was not extended to state-contributed seats for the All-India Quota in state-run institutions.
- E. Meanwhile, the state of Tamil Nadu implemented 5 per cent reservation for OBCs in its state-run medical institutions. The present controversy arose due to the introduction of reservations for OBCs in the All-India Quota seats. Consequently, a writ petition was filed, seeking a mandate to provide OBC reservation in the All-India Quota. F. In summary, the current writ petition challenged the implementation of reservations for Other Backward Classes and Economically Weaker Section in the All-India Quota

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seats of the National Eligibility cum Entrance Test examination (NEET)

F. the current writ petition challenged the implementation of reservations for Other Backward Classes and Economically Weaker Sections in the All-India Quota seats of the National Eligibility cum Entrance Test examination (NET).

ISSUES

- A. Does the inclusion of reservations for the OBC community in the All-India Quota for Postgraduate NEET compromise merit and pose a threat to national interest?
- B. Is the provision of reservations for OBC candidates in State-run medical and dental colleges under the All-India Quota in accordance with the constitutional principles?(NEET).

PETITIONER'S ARGUMENT

- A. The petitioners argued that in *Pradeep Jain v. Union of India*¹, serious concerns were raised about reservation in PG seats, arguing that once a person becomes a doctor, they should not be considered backward anymore, and PG admissions must be based solely on merit.
- B. Reservation at the PG and superspeciality levels is detrimental to national interest since specialized skills cannot be acquired by everyone.
- C. The AIQ scheme was created by this Court in *Pradeep Jain*, and only this Court can alter the reservation scheme in AIQ seats. The judgment in *Abhay Nath v. University of Delhi*² allowing reservations for SC and ST in AIQ seats is argued to be per incuriam
- D. Reservation in PG courses should be minimal as held in *Dr Preeti Srivastava v. State of Madhya Pradesh*³ and other cases.
- E. The introduction of OBC reservation for the academic year 2021-22, after the registration window was closed, goes against the principle that rules should not be changed after the game has begun

RESPONDENT'S CONTENTION (UNION OF INDIA)

- A. The reservation notice issued on 29th July 2021 was introduced before exams and

¹ 1984 3 SCC 654

² 2009 17 SCC 705

³ 1999 7 SCC 120

- counseling began, so it did not change the rules of the game after the process had started.
- B. The AIQ scheme, introduced in 1986, initially had reservations, but *Abhay Nath v. University of Delhi* allowed reservations for SC and ST categories in 2007.
 - C. The Act of 2006, providing 2 per cent OBC reservation, was implemented in all Central educational institutions, including medical colleges run by the Central Government.
 - D. Reservation for AIQ seats in medical/dental courses is a matter of policy.
 - E. While observations have been made on the desirability of reservation in PG courses, it has never been held to be unconstitutional.
 - F. In *Pradeep Jain's case*⁴, it was held that there would be no domicile-based reservation in AIQ seats, but it did not bar other forms of reservation.

JUDGEMENT OF THE COURT

- A. The Supreme Court held that the reservation for OBC candidates in the AIQ seats for UG and PG medical and dental courses is constitutionally valid for the following reasons:
 - B. Articles 15(4) and 15(5) are not exceptions to Article 15(1), but rather a restatement of the principle of substantive equality, which recognizes existing inequalities and allows for group identification to achieve equality.
 - C. Merit cannot be solely based on narrow definitions of performance in competitive exams, as they do not reflect an individual's full potential, capabilities, and life experiences.
 - D. High scores in exams are not always a true indicator of merit. Merit should be socially contextualized and seen as a means to advance social goods like equality.
 - E. Group identification through reservation is a method to achieve substantive equality, even though some individuals within a group may not be backward or certain characteristics may overlap with non-identified groups.
 - F. The court discussed in length the judgement of *Kerala v. NM Thomas*⁵ where it was held that:
 - 1. The Constitution aims at equality of status and opportunity for all citizens, including socially, economically, and educationally backward classes.

⁴ *Dr Pradeep Jain v. Union of India*, (1984) 3 SCC 654

⁵ 1976 2 SCC 310

Special provisions like reservations are made to ensure adequate representation and enforce equality. The concept of equality is based on providing equal opportunities for all citizens, and preferential treatment for backward classes, with consideration for administrative efficiency, falls within the concept of equal

2. Article 16(4) allows for reservations in promotions as well, and reservation is necessary to ensure equal opportunities for Scheduled Castes and tribes. Equality of opportunity should be gauged by the equality attained in the results, not just formal equality. Differential treatment in standards of selection is permissible to achieve substantive equality.
 3. Reservations as a means to achieve equality and social justice. They emphasized the need to address structural barriers faced by backward classes and use affirmative action to promote real equality. The directive principles in the Constitution provide a mandate for achieving equality and social justice.
 4. Despite differing opinions on whether Article 16(1) is individual-centric or group-centric, the judges agreed that Article 16(4) is crucial to achieving substantive equality. Articles 16(4), 15(4), and 15(5) employ group identification to address inequalities and achieve real equality.
 5. Reservations and preferential treatment for backward classes are considered constitutional and rational classifications recognized by the Constitution to address historical disadvantages and promote social justice. Differential treatment based on backwardness and administrative efficiency is viewed as an application of the principle of equality within a class.
 6. The objective of the Constitution is to uplift backward classes through concessions, facilities, and reservations, enabling them to compete with the advanced sections and eliminate backwardness over time.
 7. Harmonizing directive principles and fundamental rights to achieve socialistic ideals and equalize society through affirmative action. They highlighted the importance of considering de facto inequalities and promoting real equality, rather than mere formal equality.
- G. The AIQ scheme was designed to allow students from across the country to compete for state-run medical and dental institutions. The observations in Pradeep Jain only applied to residence-based reservations and reservations in AIQ seats as a whole.

- H. The Union of India's decision to provide reservation in AIQ seats was a policy decision and subject to judicial review, similar to other reservation policies.
- I. Clarifications in Dinesh Kumar (II) were misinterpreted in Buddhi Prakash Sharma, leading to confusion about reservation in AIQ seats. The order in Abhay Nath was only clarificatory and did not make reservations in AIQ seats impermissible.
- J. The challenge to the constitutional validity of OBC reservation introduced through the notice dated 29th July 2021 was rejected, considering the above points

CONCLUSION

In the case of Neil Aurelio Nunes and Ors. v. Union of India and Ors., the Supreme Court of India upheld the constitutional validity of reservations for Other Backward Classes (OBC) and Economically Weaker Sections (EWS) in the All-India Quota (AIQ) seats for medical courses. The Court emphasized the principle of substantive equality, recognizing the need to address structural barriers faced by backward classes to ensure equal access to educational resources and opportunities. Reservations were deemed as a means to achieve substantive equality by providing preferential treatment to disadvantaged groups, enabling them to compete on a more level playing field. The Court also highlighted the importance of considering de facto inequalities and promoting real equality, rather than mere formal equality, through affirmative action and social justice measures.