

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

**HON'BLE SHRI JUSTICE SUSHRUT ARVIND
DHARMADHIKARI**

&

**HON'BLE SMT. JUSTICE ANURADHA SHUKLA
ON THE 07th OF JANUARY, 2025**

WRIT PETITION No. 37985 of 2024

DR. OJUS YADAV

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

*Shri Alok Vagrecha – Advocate with Shri Ishan Jatavedus Tignath – Advocate
for the petitioner.*

Shri Janhvi Pandit – Addl. Advocate General for the respondents/State.

*Shri Shashank Verma – Senior Advocate with Shri Akhilesh Rai – Advocate for
the respondent no.3.*

“Reserved on : 18.12.2024”

“Pronounced on : 07.01.2025”.

*This petition having been heard and reserved for order, coming on
for pronouncement this day, **Justice Sushrut Arvind Dharmadhikari**
passed the following:*

ORDER

1. This petition under Article 226 of the Constitution of India has been filed assailing the seat matrix for private medical colleges in the State of M.P. published by the respondent no.2 on 22.11.2024 whereby directly procedure for choice filling and locking of seats was commenced from 23.11.2024 till 25.11.2024.
2. Brief facts of the case are that the petitioner has passed his MBBS exam and wanted to pursue a postgraduate course. The petitioner

appeared for the All India NEET PG 2024 and cleared the examination. However, when the portal of filling up the seats in the PG Courses was opened by the respondents and the seat matrix for private medical colleges was published on 22.11.2024, instead of affording the petitioner an opportunity to raise objections as per Rule 5 of the Madhya Pradesh Chikitsa Shiksha Pravesh Rules 2018, directly the procedure for choice filling and locking of seats was commenced from November 23-25, 2024. Thus, the petitioner claimed that the practice adopted by the respondents is illegal and arbitrary. It was alleged that the respondents have manipulated the 15% quota meant for NRI students and consequently, there is a reduction in the number of seats which was supposed to be allotted to meritorious students belonging to reserved as well as unreserved categories.

3. Learned Counsel for the Petitioner contended that the respondents have acted in gross violation of the reservation policy and published the NRI Quota seats for private medical colleges only for 8 branches instead of 22 branches, thereby restricting the 15% NRI Quota to 8 branches only. This practice has resulted in shortage of seats meant for other categories because application of 15% NRI quota rule selectively to 8 branches has increased the number of seats for students opting for NRI seats and thus, reducing the number of seats in these 8 branches for the students belonging to reserved as well as unreserved categories. Therefore, it was alleged that the practice of differentiating between clinical and non-clinical branches and the arbitrary distribution of seats in 8 selective PG courses has led to shortage of seats which otherwise would have been available if the respondents would have followed the policy of reservation in letter and spirit.

4. The petitioner asserted that the observations made by the Hon'ble Supreme Court in the case of **P.A Inamdar & Ors. Vs. State of Maharashtra & Ors, reported in (2005) 6 SCC 537** were ignored by the respondents in the present case as merit was given a complete go by.
5. Per contra, learned counsel for the State has supported the seat matrix vis à vis the NRI Reservation Policy which is followed by the respondents. The respondents have vehemently opposed the prayer of the petitioner while submitting that the Central and State Governments are empowered to frame Rules regarding the NRI Quota. The objective behind the NRI quota is to enable the private educational institutions to have a reasonable surplus for its development activities and expend on institutional needs and accepting the prayer of the petitioner would defeat the said objective. The allocation of NRI seats is in conformity with the reservation policy set forth in Rule 4 and Rule 14 of the Madhya Pradesh Chikitsa Shiksha Pravesh Rules, 2018. Reliance has been placed on the decisions of the Supreme Court in **P.A. Inamdar (Supra), Islamic Academy of Education v. State of Karnataka, Modern Dental College (2003) 6 SCC 697**. Hence, the petition deserves to be dismissed.
6. Shri Verma, learned senior counsel appearing for the respondent no.3 submitted that the respondent no.3 is a private, self-financed, unaided premier medical institution known for its excellence in education and healthcare. Respondent no.3 has always adhered to all statutory norms, including those governing the allocation of NRI quota seats and maintains its commitment to highest standards of medical education and infrastructure development. Learned counsel further contended that only 15% of the total seats are allocated for NRI quota, leaving

85% of the seats for regular allocation and hence it is not correct to assure that this quota seriously and adversely affects the opportunities of non-NRI candidates. It is further submitted that the State Government is duty-bound to ensure the filling of all NRI quota seats, as the fees fixed by the Admission and Fee Regulatory Committee (AFRC) and Madhya Pradesh Private University Regulatory Commission (MPPURC) take into account the assumption of 100% occupancy of these seats. Any vacancy in NRI seats would directly impact the financial viability of the institutions, creating challenges for their operational and infrastructural sustainability. Ensuring that all NRI seats are filled is crucial for maintaining the economic health of private institutions, which rely on the fees collected from this quota to meet their expenditure and enhance facilities. It is further submitted that every institution has its own strengths and areas of expertise. Certain streams or subjects offered by specific colleges are in greater demand, while others may not attract the same level of interest. The allocation of seats, including NRI quota seats, is done keeping these strengths and weaknesses in mind to maximize the utilization of seats and match demand patterns effectively. It is further submitted by counsel for respondent no.3 that the preparation of the seat matrix involves multiple, complex considerations, including demand trends, feasibility, and institutional capacity. These factors are analyzed carefully to ensure an equitable and efficient allocation of seats that balances the interests of all stakeholders. Loose or speculative allegations, such as those made by the petitioner, cannot justify judicial interference in this intricate process, especially when no violation of rules or legal provisions has been demonstrated.

7. Heard the learned counsel for the parties and perused the records.

8. The main bone of contention of the petitioner is that the State Govt. has allotted 15% NRI quota seats to the private medical colleges which are distributed amongst only 8 branches whereas it should have been distributed amongst all the 22 branches. Because of selective application of NRI quota only to 8 branches the petitioner has been deprived of admission because due to increase in seats of NRI quota under selective 8 branches only, the seats under other categories have been proportionately decreased.
9. M.P. Niji Vyavsayik (Pravesh Ka Viniyaman Evam Shulk Ka Nirdharan) Adhiniyam, 2007, was enacted by the State Govt. for the regulation of admission process and fees structure of private medical colleges in the State of M.P. Section 12 of the Act provides for power of the State Govt. to frame rules under the Act. Under section 12 of the Act, 'M.P. Chikitsa Shiksha Pravesh Niyam, 2018 have been framed in order to regulate admission process in private medical and dental colleges in M.P. Rule 4(2)(ga) of the said Rules provides for category-wise reservation as provided in Schedule 2 Khand 'B' which provides as under :-

(नियम-4 देखिए)

खण्ड-ब प्रवर्गवार आरक्षण

प्रवर्ग	पाठ्यक्रम जिसमें लागू है	महाविद्यालय जिनमें लागू है	कुल सीटों का प्रतिशत
अनिवासी भारतीय अभ्यर्थी	समस्त	केवल निजी महाविद्यालयों में	15
महिला अभ्यर्थी	समस्त	समस्त महाविद्यालयों में	30
दिव्यांग अभ्यर्थी	समस्त		5
स्वतंत्रता सेनानी अभ्यर्थी	एम.बी.बी.एस. एवं बी.डी.एस.	केवल शासकीय महाविद्यालयों में	3
सैनिक अभ्यर्थी	एम.बी.बी.एस. एवं बी.डी.एस.		3

Thus, Khand B of Schedule 2 provides that 15% quota in the NRI category shall apply to all the available courses in private medical colleges. The rules are silent in regard to allotment of 15% NRI quota branch-wise. Petitioner is unable to show any rule or provision which provides branch-wise allotment of seats under 15% NRI quota. If the petitioner is aggrieved by non-mention of branch-wise allotment of 15% NRI quota, then he ought to have challenged the rules in that regard. In the absence of such challenge, this Court cannot interfere in the allotment of seats under 15% NRI quota made by the private medical colleges.

10. So far as the contention of the petitioner that the observations made in the case of P.A. Inamdar (Supra) have not been followed by the respondents is concerned, it is trite to refer to the relevant extracts of the aforesaid judgment:

“131. Here itself we are inclined to deal with the question as to seats allocated for Non-Resident Indians ('NRI', for short) or NRI seats. It is common knowledge that some of the institutions grant admissions to certain number of students under such quota by charging a higher amount of fee. In fact, the term 'NRI' in relation to admissions is a misnomer. By and large, we have noticed in cases after cases coming to this Court, neither the students who get admissions under this category nor their parents are NRIs. In effect and reality, under this category, less meritorious students, but who can afford to bring more money, get admission. During the course of hearing, it was pointed out that a limited number of such seats should be made available as the money brought by such students admitted against NRI quota enables the educational institutions to strengthen its level of education and also to enlarge its educational activities. It was also pointed out that people of Indian origin, who have migrated to other countries, have a desire to bring back their children to their own country as they not only get education but also get reunited with Indian cultural ethos by virtue of being here. They also wish money which they would be spending elsewhere on education of their

children should rather reach their own motherland. A limited reservation of such seats, not exceeding 15%, in our opinion, may be made available to NRIs depending on the discretion of the management subject to two conditions. First, such seats should be utilized bona fide by the NRIs only and for their children or wards. Secondly, within this quota, the merit should not be given a complete go-by. The amount of money, in whatever form collected from such NRIs, should be utilized for benefiting students such as from economically weaker sections of the society, whom, on well defined criteria, the educational institution may admit on subsidized payment of their fee. To prevent misutilisation of such quota or any malpractice referable to NRI quota seats, suitable legislation or regulation needs to be framed. So long as the State does not do it, it will be for the Committees constituted pursuant to Islamic Academy's direction to regulate.

(Emphasis supplied)

11. Thus, the Constitution Bench of the Apex Court in the case of P.A. Inamdar (Supra) has held in crystal clear terms that a limited reservation not exceeding 15% of the total seats can be allocated to the NRI Category which shall be subject to the discretion of the management. The said discretion was made subject to two riders, namely:
- (i) The NRI Quota shall be utilized only and only for the NRIs and/or their wards.
 - (ii) And, within the NRI Quota, merit cannot be completely discarded.
12. In the present case, the discretion was exercised by the respondents after satisfying the aforesaid twin conditions. Moreover, the criteria formulated for allotment of seats by the State Govt. appears to be fair, reasonable and in compliance with statutory requirements. It also reflects a balance approach to meet institutional financial needs and ensure fairness in admissions. The petitioner is unable to prove any violation of rules or regulations.

13. Since, the rules are silent with respect of branch-wise allotment of NRI Quota seats in private medical colleges and since the petitioner has not challenged the vires of the rules, therefore, this Court cannot interfere with the legality of the said rules in exercise of power under Article 226 of the Constitution of India.
14. Accordingly, this petition stands **dismissed** for the reasons set out above.
15. The interim order granted by this Court dated 18.12.2024 stands vacated.
16. Taking into consideration the peculiar facts and circumstances and further that the precious medical seats should not go in waste, when the country is facing acute shortage of doctors, the respondents are directed to conduct the counselling forthwith in respect of NRI quota seats, as has been held by the Apex court in the case of **Era Lucknow Medical College and Hospital Vs. The State of Uttar Pradesh and others, decided on 20.12.2024 in W.P.(C).No.833/2024**. The Authorities are directed to hold fresh stray/special counselling for the vacant seats, if any, and complete the admission process forthwith.

(SUSHRUT ARVIND DHARMADHIKARI)
JUDGE

(ANURADHA SHUKLA)
JUDGE