

Judgment Sheet
**IN THE LAHORE HIGH COURT,
MULTAN BENCH, MULTAN.
JUDICIAL DEPARTMENT**

Writ Petition No.14261 Of 2012.
(Ramessa Khalid v. Govt. of Punjab Etc.)

JUDGMENT

Date of hearing: 22.11.2012

Petitioner by : Mr. Tahir Mehmood, Advocate.

Respondents by: Mr. Zafar Iqbal Khan Khakwani, AAG, and Mr. M.A. Hayat Raj, Advocate for respondent No.3.

Shujaat Ali Khan, J: - Through this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has challenged the *vires* of condition of education from class-I to Intermediate from a district falling under tribal areas of District D.G. Khan to qualify for admission in MBBS against reserved quota for under-developed areas. She has further prayed that a direction be issued to the respondents to entertain her application on open merit as well as against the reserved quota for tribal areas of D.G. Khan and she be given admission in MBBS Session 2012-2013.

2. Succinctly, the facts, forming factual canvass of the instant petition, are that the petitioner having passed her Secondary School Certificate examination as well as F.Sc. (pre-medical) from the Board of Intermediate and Secondary Education, Multan, applied for admission in MBBS for the session 2011-2012 on open merit as well as against the

seats reserved for tribal areas of the D.G. Khan on the strength of her domicile being resident of Kachhi Dohachi, Tehsil Taunsa, district D.G. Khan. As her name was not considered against the reserved quota for tribal areas of District D.G. Khan, the petitioner has preferred the instant petition.

3. The resume of the arguments advanced by learned counsel for the petitioner is that since the petitioner is resident of a tribal area of district D.G.Khan she is entitled to be considered against the reserved quota for admission in MBBS; that since there was no facility of primary or high school education in the home town of the petitioner, as is evident from the report of Political Tehsildar tribal area D.G.Khan dated 12.11.2012 the petitioner could not get education from class-I to Intermediate in her native District; that as the petitioner's father was seriously ill she had to look-after him in the hospital at Multan, therefore, she got her education from Multan; that when the seats have been meant for the residents of under-developed areas of District D.G. Khan, the petitioner is entitled for admission against the reserved quota; that in case the petitioner is not allowed to compete for admission against reserved quota for tribal areas of D.G. Khan she shall suffer an irreparable loss and incalculable injury; that if the petitioner is not allowed to contest for admission against reserved quota, she shall be discriminated as the other inhabitants of the said area have been held eligible to apply against reserved quota and that the condition of education from class-I to Intermediate has been imposed first time in the prospectus for the session 2011-2012, therefore, the same is not tenable. In addition to his oral submissions, learned counsel has also referred to

the case reported as Miss Amina Rafique versus Joint Admission Committee, Khyber Medical University and others (2009 SCMR 697).

4. Conversely, the learned Assistant Advocate General as well as the learned counsel appearing on behalf of respondent No.3, while opening their arguments submit that the condition, impugned in this petition, is prevalent for the last many years; that though the education facility was not available in the native village of the petitioner but she could get education in any school situated in any adjoining town in the District; that the petitioner is not entitled to the sought for relief; that the proposition, involved in this petition, has already been dealt with by this Court in judgments rendered in Writ Petitions No.14261/2012, 24648/2009, 427/2010, 23626/2010 and ICA No. 284/2010.

5. We have heard learned counsel for the parties and have also gone through the documents appended with this petition in addition to the case-law cited at the bar.

6. A perusal of the file shows that applications for admission in the Government Medical and Dental Institutions of the Punjab for the Session 2011-2012 were invited. According to the prospectus for the said session, certain seats were reserved for the inhabitants of tribal areas falling in District D.G. Khan. To qualify for admission against reserved quota following conditions have been laid:-

“1. *The candidate must have a domicile of the same district area.*

2. *The candidate must have studied, from class one to twelve, from the same district. He/she has studied from original certificates from Head Masters/Principals of the concerned institutions where he/she has studied from class one to*

twelve. These certificates should be duly verified by the concerned EDO (Education) and DEO (Colleges), and countersigned by the District Coordination Officer (DCO) of the same district”.

6. A perusal of the afore-quoted conditions shows that besides being domiciled of a district falling under the tribal area of D.G. Khan the candidates must have studied from class-I to Intermediate from an institution of the same district. To substantiate the said fact, the candidates were required to submit original certificate from Headmaster/Principal of the concerned Institution where he/she studied from class-I to Intermediate. The logic for reservation of seats for the persons dwelling in tribal area of District D.G. Khan was non-availability of educational facilities as compared to the other developed areas of the province. If the intention of the Policy Makers was to consider a person only on the basis of domicile, the condition appearing at Serial No.2 above should not have been there. Further, if the students, who otherwise are residents of tribal areas of District D.G. Khan, are allowed to compete against the reserved quota, the basic purpose to draw a line of distinction among the students, who have got their qualification from developed areas of the Province and those who studied in educational institutions of tribal areas of D.G. Khan would evaporate.

7. Even otherwise the competent authority has the power to draw reasonable classification amongst different groups and the same cannot be upset until and unless the same is proved to have been launched against the fundamental rights of the citizens. If any case law is required the reference can safely be made to the case of Dr. Shahnaz Wajid v. Federation Of Pakistan Through Secretary Establishment

Division, Government Of Pakistan, Islamabad (2012 P L C (C.S.) 1052)

wherein the apex court of the country has *inter-alia* held as under: -

“In so far as the provisions as enumerated in Article 25 of the Constitution is concerned that cannot be made application as no restriction whatsoever has been laid down by Article 25 of the Constitution qua reasonable classification. It is well settled by now that "equality clause does not prohibit different laws for those differently circumstanced provided a rational standard is laid down to guide the discretion of the relevant Authority to choose the appropriate law. A State may classify persons and objects for the purpose of legislation and make laws applicable only to persons or objects within a class. In fact almost all legislation involves some kind of classification whereby some people acquire rights or suffer disabilities which others do not. Expression "equal protection of laws" does not place embargo on power of State" to classify either in adoption of police laws, or tax laws, or eminent domain laws" rather gives to state exercise of wide scope of discretion, of course, nullifying "what is without any reasonable basis". The State has the power of what is known as "classification" on the basis of rational distinctions relevant to the particular subject dealt with. Classification may be due to geographical situation or it may be based on territorial, economic, communal and other similar considerations. The Constitution itself contemplates passing of different laws for different provinces by their respective legislatures. The doctrine of reasonable classification is founded on the assumption that the State has to perform multifarious activities and deal with a vast number of problems. It, therefore, should have the power to make a reasonable classification of persons and things, to whom different treatment may be accorded, provided there is legitimate basis for such difference the State can make laws to attain special objects, and the

administrative authorities may make classification, in pursuance of such laws.”

If we adjudge the case of the petitioner on the touchstone of the above-quoted judgment, the conclusion in definite is that the condition of education from class-I to Intermediate cannot be upset merely on the ground that the petitioner's case is not covered under the said condition as the said exercise would amount to discrimination with those, who have studied in the institutions of tribal areas of D.G. Khan where the facilities of education are limited as compared to the other developed areas. Thus the Constitutional jurisdiction of this Court cannot be exercised in aid of any person which otherwise would result into discrimination with others.

8. Insofar as the case law cited by learned counsel for the petitioner is concerned, suffice it to observe that the same is not applicable to the facts and circumstances of the instant case inasmuch as the matter involved in the said case was relating to the education of the students within the District which is not the position in the case in hand.

9. Now coming to the petitioner's contention that as her father was seriously ill and she had to look-after him at Multan, she could not get the required education from the local school falling under the tribal area of D.G. Khan, we are of the view that when the petitioner got a secondary school certificate as well as F.Sc. degree from Multan she has to compete with the persons, who completed their required qualification from Multan and other institutions of developed areas.

10. It is well entrenched by now that the courts should refrain to interfere with the policies launched by the public authorities for smooth working of the public institutions until and unless they are proved to be repugnant to the fundamental rights of the citizens of the country. Reliance in this regard is placed on the case of Muhammad Ilyas v. Bahauddin Zakariya University, Multan And Another (2005 S C M R 961) wherein the august Supreme Court of Pakistan has laid law to the following effect: -

“We have heard the learned counsel and have also gone through the relevant regulation. At the outset it may be noted that as far as the rules/regulations framed by the University Authorities for the purpose of conductive/regularizing examination etc. of University are concerned these are required to be interpreted by the University Authorities itself and Courts should avoid to interpret the same unless a case of grave injustice is made out otherwise it would become difficult for University administration to run its internal affairs relating to examination, etc.....”

11. For what has been discussed above, we see no force in this petition which is hereby **dismissed** with no order as to costs.

(IJAZ AHMAD)
JUDGE

(SHUJAAT ALI KHAN)
JUDGE

Approved for Reporting.

JUDGE

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