

**2023 LiveLaw (SC) 364**

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

***DINESH MAHESHWARI; J., SUDHANSHU DHULIA; J.***

April 28, 2023.

CIVIL APPEAL NO. 3177 OF 2023 (ARISING OUT OF SPECIAL LEAVE PETITION (C) No.12656 OF 2022)

**VEENA VADINI TEACHERS TRAINING INSTITUTE (RUN BY VEENA VADINI SAMAJ KALYAN VIKASH SAMITI)  
*versus*  
STATE OF MADHYA PRADESH & ORS.**

**Domicile Reservation - Domicile reservation can't be wholesale reservation - Supreme Court asks MP Govt to review its 75% domicile quota in B.Ed seats - though reservation in favour of residents is permissible, yet reservation to the extent of 75% of the total seats makes it a wholesale reservation, which has been held in *Pradeep Jain* to be unconstitutional and violative of Article 14 of the Constitution of India.**

(Arising out of impugned final judgment and order dated 13-07-2022 in WP No. 11828/2022 passed by the High Court of M.P. at Gwalior)

*For Petitioner(s) Mr. Puneet Jain, Adv. Ms. Christi Jain, AOR Mr. Harsh Jain, Adv. Mr. Umang Mehta, Adv. Ms. Shruti Singh, Adv. Mr. Yogit Kamat, Adv. Mr. Mann Arora, Adv. Ms. Akriti Sharma, Adv.*

*For Respondent(s) Mrs. Ankita Choudhary, D.A.G. Mr. Pashupathi Nath Razdan, AOR Mr. Shreeyash U. Lalit, Adv. Ms. Maitreyee Jagat Joshi, Adv. Ms. Ayushi Mittal, Adv. Mr. Astik Gupta, Adv. Mr. Kuldeep Kumar Shukla, Adv. Mr. Vipul Abhishek, Adv.*

**J U D G M E N T**

**SUDHANSHU DHULIA, J.**

Leave granted.

**2.** The appellant before this Court is a training institute, run by a registered society by the name of “Veena Vadini Samaj Kalyan Vikash Samiti”. *Inter-alia* the institute trains teachers for B.Ed and M.Ed courses. One of the courses, which is run by the appellant-institute in Gwalior, State of Madhya Pradesh, is called B.Ed (Part time), which is designed to impart B.Ed training to in service teachers. We have also been told at the Bar that the appellant-institute is only one of the three institutes in the State of Madhya Pradesh which has been given permission to run this course, i.e. B.Ed (Part time). We are presently concerned with the alleged difficulties the appellant-institute is facing in making admissions to this course, for which the appellant blames the “admission policy” or the “guidelines” of the State of MP, and has challenged its constitutional validity before us.

**3.** Earlier the writ petition filed by the appellant challenging the Government policy dated 12.05.2022 was dismissed by the Division Bench of the Madhya Pradesh High Court, by order dated 13.07.2022. The appellant as it appears, was seeking an interference from the High Court in the abovementioned Government policy, on the ground that it was violative of Articles 14, 15 and 19(1)(g) of the Constitution, as the government had made 75% of the seats reserved for the residents of Madhya Pradesh which is not permissible in law. The High Court, however, held against the appellant and had dismissed the petition. While doing so, it did not go into the details and disposed of the matter, in terms of the earlier Division Bench decision of the Madhya Pradesh High Court in ***Preston College and Another v. State of M.P. & Ors. 2007 SCC Online MP 103***, which, *inter alia*, had held that residential requirement in admission was not violative of the Constitution. We may add here that the challenge to the above 2007 decision of the Madhya Pradesh

High Court was made in an SLP (Civil) No. 5069 of 2007, before the court, which was dismissed as infructuous on 14.09.2018.

4. The appellant's challenge to the above mentioned Policy dated 12.05.2022 (called "Admission Process and Guiding Principles 2022-2023") is mainly on clause 1.5(a) of the policy, which allocates the B.Ed seats in the institute in the following manner:

*"1.5 Division of seat numbers available in institutions*

*(a) The division of seats for admission in courses like the courses regulated by the National Council for Teacher Education to be conducted in Madhya Pradesh, B.Ed. M.Ed., B.Ed., M.P.Ed. (Two Years, B.Ed.-M.Ed. (Integrated Three Years) B.A.B.Ed., B.Sc.B.Ed and B.L.Ed. (Integrated Four Years) and B.Ed. (Part Time), shall be as follows –*

1. *Original Resident of Madhya Pradesh State*
2. *Candidates from other outside states*

*The category and category-wise allotment of seats available in the institution will be as per the 'Reservation related clause' mentioned in these guidelines and its subparagraphs. Out of the total available seats in the institution, 75 percent seats will be reserved for the residents of Madhya Pradesh state and maximum 25 percent seats will be available for the residents outside the state of Madhya Pradesh. 25 For the original residents of Madhya Pradesh state, as per the instructions of the General Administration Department's letter number C-37-203-3-A, dated 25.09.20.4, self-attested testimonial for the local resident will have to be submitted as per attached format 5."*

As per the above provision, out of the total seats, 75% are reserved for "the residents of Madhya Pradesh" and the remaining 25% of the seats will only be available to the candidates who are from outside the State of Madhya Pradesh.

5. The appellant-institute, has given before this Court the figures of last two years, where although the entire 25 percent seats allocated to the "outside" candidates have been filled, but almost all of the 75 percent of seats, reserved for the residents of Madhya Pradesh, have remained unfilled. These figures have not been denied by the State.

The figures are as follows:

		Seats Available	Seats Filled	Seats Vacant
AY 2021-2022	M.P. Quota	75	4	71
	All India Quota	25	25	0
	Total	100	29	71
AY 2022-2023	M.P. Quota	75	2	73
	All India Quota	25	24	1
	Total	100	26	74

6. The Case of the appellant, therefore, is that 75% of the seats which have been reserved for permanent residents of Madhya Pradesh, remain vacant due to the non-availability of residential candidates and as such the appellant may be permitted to fill these seats from outside candidates. This permission is, however, not given to the appellant.

7. There are two questions here; first is whether the State Government can reserve seats for "residents" of Madhya Pradesh and, then, in case if it is permissible; the second question would be whether as large as 75% of the total seats, can be reserved for the residents.

8. As far as the first question is concerned, the same is no more *res integra*, as this Court in the case of **Dr. Pradeep Jain and Others v. Union of India and Others (1984) 3 SCC 654**, had upheld such reservation. Even prior to **Pradeep Jain**, residence based reservation was justified by this Court in the case of **D.P. Joshi v. State of Madhya Pradesh (1955) 1 SCR 1215**, but it is only in **Pradeep Jain** where an elaborate discussion on this aspect was done and such reservation were held to be valid. This departure from the Rule of selection based on merit was justified on two grounds. Firstly, what one may call as the State interest, which would mean the expenditure incurred by the State in creating the educational infrastructure and the cost of its maintenance and the second was the State's claims to backwardness (**Pradeep Jain Para 14**). We must add that institutional and residential requirements were further held to be permissible in the case of **Saurabh Chaudhari and Others. v. Union of India and Others** reported in **(2003) 11 SCC 146** which followed the ratio laid down in **Pradeep Jain** (supra). Further, this Court in **Magan Mehrotra and Others v. Union of India and Others** reported in **(2003) 11 SCC 186** had upheld institutional preference given to those who completed their undergraduate studies in the same institution and again in **Rajdeep Ghosh v. The State of Assam** reported in **(2018) 17 SCC 524** followed the ratio of law laid down in **Pradeep Jain** (supra). All these cases though were in the field of medical education.

9. As far as "State interest" was concerned it was an admitted fact that it was the State which contributed in the establishment and upkeep of the medical institutions, which required a considerable amount of financial support and if the State has to spend money on these institutions, it is not unreasonable that the State should ensure at least some of its benefits to flow exclusively for its residents. It was for this reason that the different fee structure, one from the residents of Madhya Bharat, and other from the students who belong to other States was justified as a reasonable classification in **D.P. Joshi**<sup>1</sup>. In **Pradeep Jain** again this was reiterated.

*"The claim of State interest in providing adequate medical service to the people of the State by imparting medical education to students who by reason of their residence in the State would be likely to settle down and serve the people of the State as doctors has thus been regarded by the Court as a legitimate ground for laying down residence requirement for admission to medical colleges in the State."*<sup>2</sup>

The claim of backwardness of the State was another justifiable reason given in **Pradeep Jain** and as it was held:

*".....There may be a case where a region is educationally backward or woefully deficient in medical services and in such a case there would be serious educational and health service disparity for that backward region which must be redressed by an equality and service minded welfare State. The purpose of such a policy would be to remove the existing inequality and to promote welfare based equality for the residents of the backward region. If the State in such a case seeks to remove the absence of opportunity for medical education and to provide competent and adequate medical services in such backward region by starting a medical college in the heart of such backward region and reserves a high percentage of seats there to students from that region, it may not be possible to castigate such reservation or preferential treatment as discriminatory."*<sup>3</sup>

While extensively relying upon **D.P. Joshi**, this Court in **Pradeep Jain** held as under:

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<sup>1</sup> Para 15 of **D.P. Joshi** (supra).

<sup>2</sup> Para 16, Page 681 of **Pradeep Jain** (supra).

<sup>3</sup> Para 18, Page 684 of **Pradeep Jain** (supra).

*“.....These decisions which all relate to admission to MBBS course are binding upon us and it is therefore not possible for us to hold, in the face of these decisions, that residence requirement in a State for admission to MBBS course is irrational and irrelevant and cannot be introduced as a condition for admission without violating the mandate of equality of opportunity contained in Article 14. We must proceed on the basis that at least so far as admission to MBBS course is concerned, residence requirement in a State can be introduced as a condition for admission to the MBBS course.”<sup>4</sup>*

**10.** But then we must also remember that in **Pradeep Jain** as well as in the subsequent such cases referred above this Court were dealing with medical education in India, and the legality of ‘residence requirement’ or reservations based on residence, in MBBS as well as Post Graduate Courses in medical education! The validity of residence requirement was upheld in **Pradeep Jain**, followed by a catena of decisions of Supreme Court, which also took into account economic factors as well as backwardness of the region while allowing reservation for permanent residents of the State, in medical education. We should not lose sight of this vital fact when we are dealing with the reservations based on residence in other fields of education, as we are doing presently. Whether the justifiable factors of ‘State interest’ and the claim for backwardness of the State or any other factors which were relevant factors for residence reservations in medical education, would be equally relevant in other fields of education or other professional courses is still to be determined.

**11.** The determination made in **Pradeep Jain** by this Court also goes 40 years back in history. This determination was made in 1984, when the social and economic conditions of the country and of the specific regions in question, weighed heavily in the minds of the learned Judges, which is reflected in passages after passages in **Pradeep Jain**. So is also the state of medical education in the country as it existed at that time. Yet, over the last 40 years, there has been a change in our medical education, which has seen a growth, at least in the number of such medical colleges which have come up, both in private and government sector. Similarly, there is a change in our social and economic condition as well. In any case, the conditions as it exists today is not the same, as was there 40 years earlier, when a decision in **Pradeep Jain** was taken.

**12.** In the case at hand, we are not dealing with medical education, but with the validity of reservation based on residence requirement in a professional education course i.e. B.Ed. In our considered opinion, the ratio as laid down by this Court in **Pradeep Jain** would be applicable in this case as well but only to an extent, not fully. The reasons as we have already indicated are two: firstly **Pradeep Jain** and all the cases which follow **Pradeep Jain** deal only with medical education, and secondly the ratio as laid down in **Pradeep Jain** has also to be seen in the context of the time when it was delivered. In short, therefore, though we have to follow the principles as laid down in **Pradeep Jain** but at the same time we also have to keep in mind the ground realities of the present day. We also have to keep in mind that we are presently not dealing with medical education but admission in a professional education course called B.Ed.

**13.** This Court while upholding such reservations in medical education had considered factors such as huge investments the State had made in creating the infrastructure, the backwardness of the area, the presumption that the local residents after gaining the education will serve the people of that State, etc. All these factors may or may not be

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<sup>4</sup> Para 19, Page 686 of Pradeep Jain (Supra).

equally relevant while we are considering admission to other courses such as B.Ed in the present case.

**14.** What is equally important is that it was in **Pradeep Jain** again that this Court had cautioned against largescale reservation under this head i.e. residents of the State. It cautioned against such largescale reservation calling it as “wholesale” reservations. Para 20 of this Judgment would be relevant:

“20. ...We agree wholly with these observations made by the learned Judge and we unreservedly condemn wholesale reservation made by some of the State Governments on the basis of “domicile” or residence requirement within the State or on the basis of institutional preference for students who have passed the qualifying examination held by the university or the State excluding all students not satisfying this requirement, regardless of merit. We declare such wholesale reservation to be unconstitutional and void as being in violation of Article 14 of the Constitution.”

**15.** At this juncture, before we advert to the merits of the extent of reservation in the present case, it would be prudent to examine some observations made by this Court. In the case of **Pradeep Jain** (supra.), this Court had expressed its opinion on the permissible extent of reservations based on residence. It was held that residence based reservation should not exceed 70 percent. The observations relevant for our consideration are as follows:

“21. ...So many variables depending on social and economic facts in the context of educational opportunities would enter into the determination of the question as to what in the case of any particular State, should be the limit of reservation based on residence requirement within the State or on institutional preference. But in our opinion, such reservation should in no event exceed the outer limit of 70 per cent of the total number of open seats after taking into account other kinds of reservations validly made. The Medical Education Review Committee has suggested that the outer limit should not exceed 75 percent but we are of the view that it would be fair and just to fix the outer limit at 70 per cent. We are laying down this outer limit of reservation in an attempt to reconcile the apparently conflicting claims of equality and excellence. We may make it clear that this outer limit fixed by us will be subject to any reduction or attenuation which may be made by the Indian Medical Council which is the statutory body of medical practitioners whose functional obligations include setting standards for medical education and providing for its regulation and coordination...”

Although, the State Government is within its right to reserve seats in educational institutions for its permanent residents, yet the only question remains as to the extent of this reservation.

**16.** In order to appreciate the facts of this case, we have been shown the data of the last 2 preceding years i.e., 2021-2022 and 2022-2023, and the appellant has tried to impress upon this court that almost all the seats which were reserved for the residents of Madhya Pradesh have remained vacant in the last two years. For instance, in the year 2021-2022, only 4 seats out of 75 reserved seats for the resident of Madhya Pradesh had been filled and in the year 2022-2023, only 2 seats out of 75 reserved seats had been filled, and thus 71 and 73 seats, respectively remained vacant for the last two years.

**17.** Thus, it is apparent that the large percentage of seats reserved for the residents of Madhya Pradesh which remains unfilled is not serving any purpose. Moreover, a wholesale reservation for residents of Madhya Pradesh would also be violative of the law laid down in the case of **Pradeep Jain**, as we have referred above in this order.

**18.** Since the academic session for the year 2022-23 has already commenced, we would refrain from interfering in the matter but we direct the State of Madhya Pradesh to reappraise this entire aspect, in the light of what we have said above. Though the State

is within its right to reserve seats for its own residents, but while doing so, it must keep the ground realities in mind. Keeping 75% of the seats reserved for the residents of Madhya Pradesh is too high a percentage, and as the figures for the last two years indicate, it is also not serving any purpose. The number of seats from the next academic year shall, therefore be fixed again for residents and non-residents, keeping the observations made by us in this order. We make it clear that though reservation in favour of residents is permissible, yet reservation to the extent of 75% of the total seats makes it a wholesale reservation, which has been held in **Pradeep Jain** to be unconstitutional and violative of Article 14 of the Constitution of India<sup>5</sup>.

**19.** The State Government may examine the data of last few years, in order to come to a realistic finding as to what should be the extent of these reservations. A wholesale reservation as we have seen is not serving any purpose rather it frustrates the very purpose of the reservation. This shall be kept in mind by the authorities while taking a decision in this matter, which shall be done within two months from today.

**20.** The appeal is disposed of with the aforesaid directions.

**21.** All applications including IA Nos. 66056 and 66057 of 2023 also stand disposed of.

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<sup>5</sup> See Para 20 of Pradeep Jain (supra).