Before Daya Chaudhary and Sudhir Mittal, JJ.

ANSHIKA GOYAL AND OTHERS—*Petitioners*

versus

STATE OF PUNJAB AND OTHERS—*Respondents*

CWP No.17248 of 2019

August 08, 2019

A) ***Constitution of India, 1950—Arts. 14, 15(1), 15(4), 19 and 226—MBBS/BDS admission— Private Institution—Horizontal reservation—Sports Persons, Children/Grand Children of terrorist affected persons.***

Held that, Article 15(4) covers reservation for Scheduled Castes/Scheduled Tribes and socially and educationally Backward Classes only. Reservations for sports persons, wards of Defence Personnel, Political sufferers etc. is sourced in Article 15(1). So long as the classification made by such reservations does not fall foul of Article 14, the same is valid. The offshoot of this legal position is that the State can provide for horizontal reservations for sports persons and TA/RA etc. in exercise of the Constitutional mandate of Article 15 (1).

(Para 23)

(A) Question (a):- Whether, the State can regulate the activities of private institutions?

Further held that, it would be futile to argue that private institutions are not subject to State regulation. Education is a very powerful tool in nation building and it cannot be left unregulated because if left unregulated, it may result in deprivation of higher education to meritorious students, profiteering and neglect of persons deserving of State protection. It is the need of an egalitarian society that high quality education is available to all at an affordable rate.

(Para 24)

(B) Question (b):- If, the answer of the above question is yes, whether in exercise of its power of regulation, the reservation policy of the State can be extended to private institutions?

Further held that, Reservation under Article 15 (4) is a facet of the reservation implicit in Article 15 (1). The State cannot profess helplessness once it has imposed the reservation under Article 15(4) to

management quota seats also. The reservation under Articles 15 (1) is also to be imposed in a similar manner as the reservation under Article 15 (4). Doing otherwise would attract the criticism of arbitrariness.

(Para 24)

B) ***In Sikh riot affected category—preference to candidates whose parents/guardian killed— Upheld.***

Held that, the additional grievance of the petitioners in these cases is that in the category of Sikh Riots affected persons, preference is being given to a candidate whose parent or guardian was killed in the riots. The submission is that all persons in the category of Sikh Riots affected persons are identically placed and inter se merit has to be determined on the basis of marks obtained in the qualifying examination.

(Para 36)

Further h*eld that*, we do not find any merit in the submission of learned counsel. Within the category of TA/RA persons, those whose parents/guardians have been killed are at a greater disadvantage. They deserve a higher level of protection then those whose parents have been displaced.

(Para 37)

Further held that, a parallel can be with to the case of children/wards of Defence Personal/ Para Military personnel, who are provided reservation in admission. There too, a hierarchy has been laid down and a person at the top will be preferred to the exclusion of others. The hierarchy has been laid down in accordance with whether the parent/guardian had been killed in action, killed while in service, injured in action, injured while in service, invalided out of service. Such sub classification has to be held to be valid and thus, there is no reason to adopt a different yardstick in case of TA/RA.

(Para 38)

D.S. Patwalia, Sr. Advocate with
Kannan Malik, Advocate,
for the petitioners
in CWP Nos.17248, 18298, 17909 and 19518 of 2019.

B.S. Sidhu, Advocate,
for the petitioner
in CWP-17960-2019.

Atul Nanda, Advocate General, Punjab with

Sahil Sharma, DAG, Punjab and
Amanat Chahal, A.A.G, Punjab.
Anupam Gupta, Sr. Advocate with
Ashok Kumar, Advocate,

for respondent No.3 and for respondent No.5
in CWP Nos.18989 and 17890-2019.
Naresh Kumar, Advocate and
Neha Jain, Advocate,
for respondent No.4
in CWP-15387-2019.

B.D Sharma, Advocate,
for respondent No.8 and
B.B.S. Sobti, Advocate,
for respondent No.9
in CWP-18989-2019.

SUDHIR MITTAL, J.

(1) The issues raised in aforementioned bunch of writ petitions are common and thus, all of them are being decided by a single judgment.

(2) Vide Notification dated 6.2.2018, the State of Punjab notified commencement of the admission process for MBBS/BDS courses in Medical/Dental institutions in the State of Punjab. Para 16 of the said notification provided for reservation in Government Medical/Dental colleges. A quota of 1% was prescribed for sports persons and a quota of 1% each was prescribed for children/grand children of terrorist affected persons (for short 'TA') and children/grand children of Sikh riots affected persons (for short 'RA'). Para 17 of the said notification pertained to admission to private institutions and clause (ii) thereof prescribed reservation in Government/management quota seats. Although, 1% quota was provided for migrants from Jammu & Kashmir due to terrorist violence, no quota was provided for sports persons or TA/RA. Certain students challenged the non-inclusion of reservation for sports persons and TA/RA in private institutions by filing CWP-15944-2018 and other connected cases. The lead case was CWP-15944-2018 titled as ***Bani Suri and another*** versus ***State of Punjab and others*****.** All these cases were decided vide common judgment dated 23.8.2018 and direction was issued that reservation applicable to Government institutions would apply to private institutions as well as there was no

rationale for not extending the reservation to the private institutions when entire admission process flowed from a centralized procedure based on Government instructions. We are informed that the said judgment was given effect to and a fresh notification was issued for the academic session 2018 providing for reservation for sports persons and TA/RA in private institutions in the Government quota seats as well as in management quota seats on lines of reservation provided in Government Medical/Dental institutions. Thereafter, for the academic session 2019, the State of Punjab commenced the admission process to Medical/Dental institutions through Notification dated 6.6.2019. This notification was identical to Notification dated 6.2.2018, inasmuch as, in para 16 relating to admission to private institutions, no reservation was provided for sports persons and TA/RA. Thus, the present writ petitions were filed, primarily on the basis of ***Bani Suri*** (supra). During the pendency of these writ petitions, the State of Punjab issued a Corrigendum dated 11.7.2019, replacing the earlier para 16. 1% quota was prescribed for sports persons and 1% quota each was prescribed for TA/RA, but the same was confined to the Government quota seats only. However, for the management quota seats, apart from reservation for Scheduled Castes, Backward Classes, Physically Handicapped/Orthopedically Handicapped, 1% quota was prescribed for migrants from Jammu & Kashmir due to terrorist violence.

(3) Learned counsel representing the petitioners have argued that in the judgment of ***Bani Suri*** (supra) directions had been issued to provide for sports quota and quota for TA/RA in both the Government quota seats and management quota seats of private Medical/Dental institutions. The judgment was implemented for academic session 2018, but while issuing Notification dated 6.6.2019, for academic session 2019, the State has again not provided reservation for sports persons and TA/RA in private Medical/Dental institutions. This action is termed as completely arbitrary. It is argued that the Notification dated 6.6.2019, provides for reservation for migrants from Jammu & Kashmir due to terrorist violence, but for some unexplained reasons omits to include any reservation for sports persons and TA/RA. This is termed as unreasonable and reflective of non-application of mind. That apart, the State has enacted The Punjab Private Health Sciences Educational Institutions (Regulation of Admission, Fixation of Fee and Making of Reservation) Act, 2006 (hereinafter referred to as 'the 2006 Act'), which gives power to the State to enforce its policy of reservation in private institutions also, but the State has arbitrarily not exercised such powers. The provisions of the 2006 Act have been

upheld by a Full Bench of this Court in ***Navdeep Kaur Gill and others*** versus ***State of Punjab and others***[1]and yet, the State has not enforced its powers thereunder reflecting a bias in favour of the private institutions. A similar Act of the State of Madhya Pradesh has been upheld by the Supreme Court of India in the case of ***Modern Dental College & Research Centre and others*** versus ***State of Madhya Pradesh and others***[2], which implied that regulation of admission to private Medical institutions has been upheld by the Supreme Court as well. Thus, the action of the State in not including an appropriate quota for sports persons and TA/RA in private institutions while issuing Notification dated 6.6.2019, is illegal and arbitrary. Regarding the Corrigendum dated 11.7.2019, it is argued that reservation aforementioned has been confined to Government quota seats only without appreciating the ratio of ***Bani Suri*** (supra). Further, when a 1% quota can be provided to migrants from Jammu & Kashmir in the management quota seats, there is no reason why reservations for sports persons, RA/TA cannot be provided in the said quota seats. Moreover, confining of quota for migrants from Jammu & Kashmir to private institutions alone reflects non-application of mind.

(4) The learned Advocate General has appeared for the State of Punjab and has argued that on issuance of Corrigendum dated 11.7.2019, the ratio of law laid down in ***Bani Suri*** (supra) has been complied with. The quota has been confined to the Government quota seats only because that is the direction given in ***Bani Suri*** (supra). In case ***Bani Suri*** (supra), is read to mean that reservation is to be extended to management quota seats also, the judgment would be rendered per incuriam as it would fall foul of the ratio of ***P.A Inamdar and others*** versus ***State of Maharashtra and others***[3]**.** The Act of 2006 does not empower the State to impose its reservation policy on the management quota seats in private institutions. To expound on the doctrine of per incuriam, reliance has been placed upon **Union of India and others** versus ***R.P Singh***[4], ***Sundeep Kumar Bafna*** versus ***State of Maharashtra and another***[5], ***Jai Singh and others*** versus ***Municipal Corporation of Delhi and another***[6], ***A. R. Antulay*** versus

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[1] 2014 (3) SCT 110
[2] (2016) 7 SCC 353
[3] (2005) 6 SCC 537
[4] (2014) 7 SCC 340
[5] (2014) 16 SCC 623
[6] (2010) 9 SCC 385

R.S. Nayak and another[7]and ***State of U.P. and another*** versus ***Synthetics and Chemicals Limited and another***[8].

(5) Mr. Anupam Gupta, Sr. Advocate, has represented Baba Farid University of Health Sciences, Faridkot, in all these cases. The said University is the nodal agency for conducting centralized admissions to all the Medical/Dental institutions in the State of Punjab. He has argued in a non-partisan manner and has supported learned counsel for the petitioners so far as, the power of the State to impose its reservation policy in private Medical institutions, is concerned. His submissions are that regulation of such private institutions is permissible in law not only for the purposes of ensuring excellence in the field of academics, but also in national interest. Reservations for sports persons and TA/RA are not reservations per se, but are only sources of admitting students which is termed as horizontal reservation. Such reservation does not eat into the open general category seats as the same is to be spread across all categories eligible to seek admission. He argues that the observations in ***PA Inamdar*** (supra) do not govern the present case as State Legislation in terms of the 2006 Act has intervened. Thus, the State is empowered to enforce its reservation policy in private institutions as well so far as socially and educationally Backward Classes and Scheduled Castes or Scheduled Tribes, are concerned. Reservations for sports persons are TA/RA have been provided in the national interest as sports need the highest level of encouragement in our country and rehabilitation and assimilation of TA/RA in the social main stream is a national priority. Right to equality encompasses the right of certain classes of citizens to protection so that they are effectively abled to contribute to the effort of nation building. This right flows from Article 14 and Article 15 (1) of the Constitution of India and thus, the State cannot say that it is powerless to impose its reservation policy in private institutions as their autonomy is guaranteed under Article 19(1)(g) of the Constitution. Freedom to practice an occupation is not absolute and is subject to reasonable restrictions and restrictions imposed in national interest have been upheld by the Supreme Court of India in a large number of cases. Thus, the State policy of reservation can be extended to private institutions also.

(6) At this stage, it is necessary to set out that the discussion in this judgment relates to private unaided non-minority Medical/Dental

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[7] (1988) 2 SCC 602

[8] (1991) 4 SCC 139

institutions and reference to a private institution is in that context.

(7) From the pleadings of the parties and arguments raised by them, the following questions arise for determination in this case:-

(a) Whether, the State can regulate the activities of private institutions ?

(b) If, the answer to the above question is yes, whether in exercise of its power of regulation, the reservation policy of the State can be extended to private institutions ?

(8) Before we venture to discuss, the questions formulated we deem it necessary to reproduce certain relevant provisions of the 2006 Act. These are sections 2(i), 3(1) and section 6, which are reproduced below:-

'Section 2(i):- "private health sciences educational institutions" means an institution, not established and administered by the Central or State Government or a local body and it includes an aided or unaided or minority institution also;'

'Section 3(1):- The State Government shall regulate admission, fix fee and make reservation for different categories in admissions to private health sciences educational institutions.'

(2) xxxxxx

'Section 6:- All private health sciences educational institutions shall reserve seats for admission in open merit category and management category, for advancement of socially and educationally backward classes of citizens or for the Scheduled Castes or Scheduled Tribes to such extent, as may be notified by the State Government in the Official Gazette from time to time: Provided that such reservation shall not apply to the minority category seats in minority private health sciences educational institutions.

(9) The above provisions clearly lay down that the State Government can regulate the admission, fix fee and make reservation for different categories in admissions to private health sciences educational institutions and that a private health sciences educational institute includes an unaided institution as well as a minority institution. Further, the State can apply its reservation policy in respect

of socially and educationally Backward Classes of citizens and Scheduled Castes and Scheduled Tribes even in unaided private institutions, both in Government quota as well as management quota.

(10) The vires of the aforementioned Act was challenged in the case of ***Navdeep Kaur Gill*** (supra). The said case and other connected cases were filed challenging the fee structure prescribed by the State in accordance with the provisions of the 2006 Act both by the students as well as by the private colleges. A Full Bench of this Court held that the doctrine of repugnancy was not attracted. Regulation of private institutions is permissible in law as 'Education' despite being an 'occupation' is a noble activity and profiteering at the expense of students cannot be permitted. Moreover, education is a tool of nation building and national interest demands its regulation. The right of a private institution under Article 19(1)(g) of the Constitution can be subjected to reasonable restriction under Article 19(6) thereof and the restrictions imposed by the 2006 Act, interpreted by keeping in view the directive principles of State policy, are reasonable.

(11) The aforementioned Full Bench judgment of this Court leaves no manner of doubt that private institutions can be subjected to reasonable regulation.

(12) What is the law on the subject of regulation, if the 2006 Act is kept apart ?

(13) The Supreme Court of India has examined this question in a large number of judgments. As far back as in the year 1984, the Karnataka Legislature enacted the Karnataka Educational Institutions (Prohibition of Capitation Fee) Act. Certain provisions of the said Act provided for creation of 'Government seats' and management quota in private institutions. The students admitted against the Government seats were required to pay Rs.2,000/- per annum, whereas students admitted in the management quota were required to pay Rs.25,000/- or Rs.60,000/- depending upon whether the student concerned belonged to Karnataka or to some other State. This was challenged by a non-Karnataka student in the case of ***Mohini Jain*** versus ***State of Karnataka***[9]. By interpreting Article 21 of the Constitution in the light of directive principles of State policy, right to education was declared as a fundamental right and asking a non-Karnataka student to pay Rs.60,000/- per annum was held as amounting to charging of capitation fee and that charging of capitation fee is arbitrary. The Supreme Court

[9] (1992) 5 SLR 1 (SC)

thus, held that charging of fee by private institutions could be regulated by the State. The decision in ***Mohini Jain's*** case (supra) was followed by a Full Bench of the Andhra Pradesh High Court resulting in filing of a number of SLPs. These SLPs were decided by the judgment of the Supreme Court in ***Unni Krishnan J.P.*** versus ***State of Andhra Pradesh***[10]**.** The ratio laid down in ***Mohini Jain's*** case (supra) that right to education is a fundamental right was reiterated. It was further held that the Government was obliged to create necessary infrastructure for imparting higher education through colleges established by itself or by providing affiliation and recognition to private institutions, which may be aided or unaided. The unaided private institutions could charge higher fee than the Government institutions, but the same was subject to a ceiling to be fixed by the Government. Regulation of private institutions was held permissible and a scheme was framed to oversee the functioning of private institutions. Commercialization of education was decried and it was mandated that 50% seats in professional colleges should be filled by nominees of the Government or University, to be referred as 'free seats' and remaining 50% be filled by students, who pay the prescribed fee therefor, referred to as 'payment seats'. A common admission process based on merit was mooted and constitutionally permissible reservation was legally imposable.

(14) The private institutions felt suffocated by the directions issued in ***Unni Krishnan's*** case (supra). Thus, many of them approached the Supreme Court asserting their right to establish and administer educational institutions of their choice without unnecessary regulation as the same was perceived as an attack on their autonomy. These cases were decided by ***TMA Pai Foundation and others*** versus ***State of Karnataka***[11]**.** ***Unni Krishnan*** (supra) was overruled. Although, education was held to be an 'occupation' entitling private players to invoke Article 19(1)(g) of the Constitution, the same was held to be charitable in nature with no profit motive. Some surplus could be generated for maintenance and development of infrastructure, but capitation fee could not be charged. Regulation of private institutions was held permissible, but only for maintenance of proper academic standards, provision of qualified staff, prevention of mal-administration and creation of infrastructure. Stress was laid on autonomy of private institutions. Certain relevant paragraphs from the

[10] (1993) 1 SCC 645
[11] (2002) 8 SCC 481

judgment are be reproduced hereunder:-

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‘54. The right to establish an educational institution can be regulated; but such regulatory measures must, in general, be to ensure the maintenance of proper academic standards, atmosphere and infrastructure (including qualified staff) and the prevention of mal-administration by those in charge of management. The fixing of a rigid fee structure, dictating the formation and composition of a government body, compulsory nomination of teachers and staff for appointment or nominating students for admissions would be unacceptable restrictions.’

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‘57. We, however, wish to emphasize one point, and that is that inasmuch as the occupation of education is, in a sense, regarded as charitable, the government can provide regulations that will ensure excellence in education, while forbidding the charging of capitation fee and profiteering by the institution. Since the object of setting up an educational institution is by definition "charitable", it is clear that an educational institution cannot charge such a fee as is not required for the purpose of fulfilling that object. To put it differently, in the establishment of an educational institution, the object should not be to make a profit, inasmuch as education is essentially charitable in nature. There can, however, be a reasonable revenue surplus, which may be generated by the educational institution for the purpose of development of education and expansion of the institution.’

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‘68. It would be unfair to apply the same rules and regulations regulating admission to both aided and unaided professional institutions. It must be borne in mind that unaided professional institutions are entitled to autonomy in their administration while, at the same time, they do not forgo or discard the principle of merit. It would, therefore, be permissible for the university or the government, at the time of granting recognition, to require a private unaided institution to provide for merit-based selection while, at the

same time, giving the Management sufficient discretion in admitting students. This can be done through various methods. For instance, a certain percentage of the seats can be reserved for admission by the Management out of those students who have passed the common entrance test held by itself or by the State/University and have applied to the college concerned for admission, while the rest of the seats may be filled up on the basis of counseling by the state agency. This will incidentally take care of poorer and backward sections of the society. The prescription of percentage for this purpose has to be done by the government according to the local needs and different percentage can be fixed for minority unaided and non-minority unaided and professional colleges. The same principles may be applied to other non- professional but unaided educational institutions viz., graduation and post-graduation non-professional colleges or institutes.'

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'107. The aforesaid decision does indicate that the right under Article 30(1) is not so absolute as to prevent the government from making any regulation whatsoever. As already noted hereinabove, in Sidhajbhai Sabhai's case, it was laid down that regulations made in the true interests of efficiency of instruction, discipline, health, sanitation, morality and public order could be imposed. If this is so, it is difficult to appreciate how the government can be prevented from framing regulations that are in the national interest, as it seems to be indicated in the passage quoted hereinabove. Any regulation framed in the national interest must necessarily apply to all educational institutions, whether run by the majority or the minority. Such a limitation must necessarily be read into Article 30. The right under Article 30(1) cannot be such as to override the national interest or to prevent the government from framing regulations in that behalf. It is, of course, true that government regulations cannot destroy the minority character of the institution or make the right to establish and administer a mere illusion; but the right under Article 30 is not so absolute as to be above the law. It will further be seen that in Sidhajbhai Sabhai's case, no reference was

made to Article 29(2) of the Constitution. This decision, therefore, cannot be an authority for the proposition canvassed before us.'

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Thus, although autonomy of private institutions was stressed upon, reasonable regulation of even minority institutions in the interest of academic excellence and national interest was permitted.

(15) The aforementioned judgment was further explained in ***P.A Inamdar's*** case (supra). Autonomy of private institutions was further dilated upon in this judgment and voluntary seat sharing with the Government by such institutions was mooted. Certain relevant paras of the said judgment are as follows:-

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'124. So far as appropriation of quota by the State and enforcement of its reservation policy is concerned, we do not see much of difference between non-minority and minority unaided educational institutions. We find great force in the submission made on behalf of the petitioners that the States have no power to insist on seat sharing in the unaided private professional educational institutions by fixing a quota of seats between the management and the State. The State cannot insist on private educational institutions which receive no aid from the State to implement State's policy on reservation for granting admission on lesser percentage of marks, i.e. on any criterion except merit.'

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'126. The observations in paragraph 68 of the majority opinion in Pai Foundation, on which the learned counsel for the parties have been much at variance in their submissions, according to us, are not to be read disjointly from other parts of the main judgment. A few observations contained in certain paragraphs of the judgment in Pai Foundation, if read in isolation, appear conflicting or inconsistent with each other. But if the observations made and the conclusions derived are read as a whole, the judgment nowhere lays down that unaided private educational institutions of minorities and non-minorities can be forced

to submit to seat sharing and reservation policy of the State. Reading relevant parts of the judgment on which learned counsel have made comments and counter comments and reading the whole judgment (in the light of previous judgments of this Court, which have been approved in Pai Foundation) in our considered opinion, observations in paragraph 68 merely permit unaided private institutions to maintain merit as the criterion of admission by voluntarily agreeing for seat sharing with the State or adopting selection based on common entrance test of the State. There are also observations saying that they may frame their own policy to give free-ships and scholarships to the needy and poor students or adopt a policy in line with the reservation policy of the state to cater to the educational needs of weaker and poorer sections of the society.'

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'147. In our considered view, on the basis of judgment in Pai Foundation and various previous judgments of this Court which have been taken into consideration in that case, the scheme evolved of setting up the two Committees for regulating admissions and determining fee structure by the judgment in Islamic Academy cannot be faulted either on the ground of alleged infringement of Article 19(1)(g) in case of unaided professional educational institutions of both categories and Article 19(1)(g) read with Article 30 in case of unaided professional institutions of minorities.'

'148. A fortiori, we do not see any impediment to the constitution of the Committees as a stopgap or adhoc arrangement made in exercise of the power conferred on this Court by Article 142 of the Constitution until a suitable legislation or regulation framed by the State steps in. Such Committees cannot be equated with Unni Krishnan Committees which were supposed to be permanent in nature.'

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(16) Thus, in less than a decade views regarding rights of private institutions changed radically. The view that education was not an 'occupation' and that the State was entitled to regulate the same gave way to the view that education is an 'occupation' and that private

institutions, subject to the requirement of affiliation and recognition, possessed autonomy in the administration of their institutions. It may, however, be noted that there has never been a view that private institutions can be permitted to function without any regulation. Only the extent of regulation permissible has varied. Perhaps realizing that too much autonomy may not be in public interest, various States enacted Legislations to regulate private institutions. As mentioned earlier, the State of Punjab enacted the 2006 Act, whereas State of Madhya Pradesh enacted a similar piece of Legislation in the year 2007. This Legislation was challenged before the High Court of Madhya Pradesh which upheld the same. SLPs were carried to the Supreme Court which were decided in the case of ***Modern Dental College & Research Centre and others*** versus ***State of Madhya Pradesh and others***[12]. A five member Bench upheld the decision of the High Court of Madhya Pradesh. After examining the judgments in ***TMA Pai Foundation's*** case (supra) and ***P.A Inamdar's*** case (supra), it was held that education is a 'noble occupation' to be professed on 'no profit no loss basis'. Private institutions had no absolute right to make admissions at their own level or to fix fee. Such institutions could be well regulated in larger interest and welfare of student community and to promote merit. Reasonable regulation is in keeping with the current need of society. Certain relevant paragraphs of the judgment are reproduced below:-

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> '68. We are of the view that the larger public interest warrants such a measure. Having regard to the malpractices which are noticed in the CET conducted by such private institutions themselves, for which plethora of material is produced, it is, undoubtedly, in the larger interest and welfare of the students community to promote merit, add excellence and curb malpractices. The extent of restriction has to be viewed keeping in view all these factors and, therefore, we feel that the impugned provisions which may amount to 'restrictions' on the right of the appellants to carry on their 'occupation', are clearly 'reasonable' and satisfied the test of proportionality.'
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> '69....."An enactment is an organism in its environment"[20]. It is rightly said that the law is not an

[12] (2016) 7 SCC 353

Eden of concepts but rather an everyday life of needs, interests and the values that a given society seeks to realise in a given time. The law is a tool which is intended to provide solutions for the problems of human being in a society.'

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'75. To put it in nutshell, though the fee can be fixed by the educational institutions and it may vary from institution to institution depending upon the quality of education provided by each of such institution, commercialisation is not permissible. In order to see that the educational institutions are not indulging in commercialisation and exploitation, the Government is equipped with necessary powers to take regulatory measures and to ensure that these educational institutions keep playing vital and pivotal role to spread education and not to make money. So much so, the Court was categorical in holding that when it comes to the notice of the Government that a particular institution was charging fee or other charges which are excessive, it has a right to issue directions to such an institution to reduce the same.'

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'86. It is, therefore, to be borne in mind is that the occupation of education cannot be treated at par with other economic activities. In this field, State cannot remain a mute spectator and has to necessarily step in in order to prevent exploitation, privatization and commercialisation by the private sector. It would be pertinent to mention that even in respect of those economic activities which are undertaken by the private sector essentially with the objective of profit making (and there is nothing bad about it), while throwing open such kind of business activities in the hands of private sector, the State has introduced regulatory regime as well by providing Regulations under the relevant statutes.'

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'91. Thus, when there can be Regulators which can fix the charges for telecom companies in respect of various services that such companies provide to the consumers;

when Regulators can fix the premium and other charges which the insurance companies are supposed to receive from the persons who are insured, when Regulators can fix the rates at which the producer of electricity is to supply the electricity to the distributors, we fail to understand as to why there cannot be a regulatory mechanism when it comes to education which is not treated as purely economic activity but welfare activity aimed at achieving more egalitarian and prosperous society by empowering the people of this country by educating them. In the field of the education, therefore, this constitutional goal remains pivotal which makes it distinct and special in contradistinction with other economic activities as the purpose of education is to bring about social transformation and thereby a better society as it aims at creating better human resource which would contribute to the socie-economic and political upliftment of the nation. The concept of welfare of the society would apply more vigorously in the field of education. Even otherwise, for economist, education as an economic activity, favourably compared to those of other economic concerns like agriculture and industry, has its own inputs and outputs; and is thus analyzed in terms of the basic economic tools like the laws of return, principle of equimarginal utility and the public finance. Guided by these principles, the State is supposed to invest in education up to a point where the socio-economic returns to education equal to those from other State expenditures, whereas the individual is guided in his decision to pay for a type of education by the possibility of returns accruable to him. All these considerations make out a case for setting up of a stable Regulatory mechanism.'

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'95. In any case, since this Court in P.A. Inamdar has held that there cannot be any fixation of Quota or appropriation of seats by the State, reservation which inheres setting aside Quotas, would not be permissible. It is, thus, argued that the provisions seek to bring back the Unni Krishnan system of setting up State Quotas which has been expressly held by this Court to be impermissible. This argument is to be noted to be rejected. In fact, as can be seen from the impugned

judgment having regard to the provisions of Clause (5) of Article 15 of the Constitution, there was no serious challenge laid to Section 8 read with Rules 4(2), 7 and 15 of the Rules, 2008. In fact, counsel for the appellants conceded that they had not challenged 93rd Constitutional Amendment vide which Article 15(5) was inserted into the Constitution. In any case, there is hardly any ground to challenge the said constitutional amendment, which has already been upheld by a Constitution Bench judgment in the case of Pramati Educational and Cultural Trust. The only other argument raised was that a reading of the reservation provisions in Rule 7 of Rules, 2009 would show that it would be difficult to work out said percentage having regard to the fact that number of seats in the post-graduate dental and medical courses in different specialized disciplines are few. The High Court has successfully dealt with this argument by appropriately demonstrating, by means of charges, that not only it was possible to work out extent of reservation provided for different categories, sufficient number of seats were available for general categories as well. We, thus, do not find any merit in the challenge to the reservation of seats for SC/ST and OBC etc. which is in consonance with Article 15(5) of the Constitution.'

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(17) Obviously, by upholding a similar Legislation as the 2006 Act, the Supreme Court has watered down autonomy given to private institutions. Introduction of Article 19(5) by way of 93rd Constitutional Amendment has given the State the right to impose its reservation policy even in private institutions. There is thus, no room for any doubt that the State can regulate the process of admission and fixation of fee in private institutions. It can also impose its policy of reservation in them.

(18) We next come to the question regarding the nature of reservations meant for sports persons and TA/RA.

(19) One of the earliest cases on the subject is a Division Bench judgment of the Karnataka High Court in ***Subhashini K.*** versus ***State of Mysore***[13]**.** The petitioners therein were applicants for admission to

[13] AIR 1996 Mysore 40

various Medical colleges in the State of Karnataka. Vide an order dated 29.6.1964, the State of Karnataka had inter alia provided for reservation for socially and educationally Backward Classes of citizens and for Cultural Scholars etc. of Indian Origin domiciled abroad, Colombo Plan Scholars, students of Indian Origin migrating from Burma, students of Asian and African Countries, students coming from Goa, children or wards of Defence Personnel and sports persons. This was challenged in the said case and the Division Bench upheld the same by observing that 50% limit prescribed by the Supreme Court in ***M.R Bala Ji and others*** versus ***State of Mysore***[14], is applicable only to reservations made under Article 15(4) of the Constitution and that the other reservations were not violative of Article 14 of the Constitution as the said Article permitted classification based on lawful State policy. Such State policy, if it sub serves national interest, is lawful. Relevant paras from the judgment are reproduced below:-

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> '(12) From these observations, it is clear that the upper limit laid down in that decision has only application to the reservations to be made under Article 15(4). It does not include any reservation otherwise made. Therefore, it cannot be said that the reservation made under the impugned order is contrary to the rule laid down in M.R. Balaji's case, AIR 1963 SC 649.'

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> '(14) Reservations made for students coming from other States, Cultural Scholars of Indian Origin domiciled abroad, Colombo Plan Scholars, students of Indian Origin migrating from Burma, students from Asian and African Countries and Union Territory students were attacked on the ground that the State while bring generous to outsiders is indifferent towards the interests of the students of the State. We see nothing unconstitutional or illegal in those reservations. Whether those reservations were politically wise or not is not a matter for us, though if it had been necessary for us to pronounce on the advisability of making such reservations we have no doubt that the steps taken are in the right direction, if we are to build up an integrated society in this Country and discharge our moral obligations

[14] AIR 1963 SC 649

to those who are in need of our assistance. We were told that most of these arrangements are reciprocal in nature. They are made with a view to exchange students and to the extent possible to break the barrier of caste, religion and region. Classification based on lawful state policy is not violative of Article 14. Reservation made in favour of Goa students was attacked on the ground that it was a political gift made with a view to woo the Goans to join this state. The said allegation was denied on behalf of the State. Assuming that the reservation in question was made as a part of a design to win over the Goans, we fail to see how such a reservation can be legally challenged. The Government representing the people of this State can and ought, to safeguard, what they consider to be the interest of the State. They ought to know, what is best for the State. The interest of the State is in their keeping for the time being. If anyone questions their wisdom, in these matters, they ought to do so in a different forum.'

'(15) Reservations made in favour of children or wards of the men in armed services, and ex-servicemen including those who were in the armed services during the second world war were challenged as being discriminative in character. The classification made is a valid one. The said reservation is clearly in national interest. The criticism about that reservation shows how shortsighted one could be when blinded by selfishness. The petitioners were not well advised in taking up such extreme positions.'

'(16) Reservation made in favour of candidates who have shown exceptional skill and aptitude in sports and games was also assailed. The learned Government Pleader informed us that only 4 seats were given for exceptionally good sportsmen. Out of them one has secured in the aggregate 251 marks, the second 211 marks, the third 194 marks and the last 193 marks. The candidate who had secured 251 marks was even otherwise entitled to a seat. Our country, though big in size, its inhabitants very large in number, is yet to make its marks in international games and sports. It is the duty of the Government to encourage by all appropriate means, sportsmanship of high order. It is well known that a good sportsman cannot afford to be a book-

worm. For that reasons this claim to become a good Doctor or a good Engineer cannot be ignored. He is likely to be a better Doctor or Engineer than his competitor who knows only books but not men and matters.'

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(20) In ***Kumari Chitra Ghosh and another*** versus ***Union of India and others***[15], the Supreme Court examined the question of reservation for residents of Delhi, sons/daughters of Central Government servants, sons/daughters of residents of specified Union Territories, sons/daughters of Central Government employees posted in Indian mission abroad, Cultural Scholars, Colombo Plan Scholars, Thailand Scholars and Jammu and Kashmir State Scholars. The reservations were upheld by finding that Article 14 of the Constitution was not violated by such classification. Relevant paras of the judgment are as follows:-

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'7. We are unable to see how Art. 15(1) can be invoked in the present case. The rules do not discriminate between any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. Nor is Art 29(2) of any assistance to the appellants. They are not being denied admission into the Medical College on grounds only of religion, race, caste, language or any of them. This brings us to Art. 14. It is claimed that merit should be the sole criterion and as soon as other factors like those mentioned in clauses (c) to (h) of Rule 4 are introduced, discrimination becomes apparent.'

'8. As laid down in ***Shri Ram Krishna Dalmia*** versus ***Shri Justice S. R. Tendolkar & Others***(1), Art. 14 forbids class legislation it does not forbid reasonable classification. In order to pass the test of permissible classification two conditions must be fulfilled, (i) that the classification is founded on intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and, (ii) that that differentia must have a rational relation to the object sought to be achieved. The .first group of persons for whom seats have been reserved

[15] 1969 (2) SCC 228

are the sons and daughters of residents of Union territories other than Delhi. These areas are well known to be comparatively backward and with the exception of Himachal Pradesh they do not have any Medical College of their own. It was necessary that persons desirous of receiving medical education from these areas should be provided some facility for doing so. As regards the sons and daughters of Central Government servants posted in Indian Missions abroad it is equally well known that due to exigencies of their service these persons are faced with lot of difficulties in the matter of education. Apart from the problems of language, it is not easy or always possible to get admission into institutions imparting medical education in foreign countries. The cultural, Colombo Plan and Thailand scholars are given admission in medical institutions in this country by reason of reciprocal arrangements of educational and cultural nature. Regarding Jammu & Kashmir scholars it must be remembered that the problems relating to them are of a peculiar nature and there do not exist adequate arrangements for medical education in the State itself for its residents. The classification in all these cases is based on intelligible differentia which distinguishes them from the group to which the appellants belong.'

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10. The next question that has to be determined is whether the differentia on which classification has been made has rational relation with the object to be achieved. The main purpose of admission to a medical college is to impart education in' the theory and practice of medicine. As noticed before the sources from which students have to be drawn are primarily determined by the authorities who maintain and run the institution, e.g, the Central Government in the present case. In ***Minor P. Rajendran*** versus ***State of Madras*** (1) it has been stated that the object of selection for admission is to secure the best possible material. This can surely be achieved by making proper rules in the matter of selection but there can be no doubt that such selection has to be confined to, the sources that are intended to supply the material. If the sources have been

> classified in the manner done in the present case it is difficult to see how that classification has no rational nexus with the object of imparting medical education and also of selection, for the purpose.'
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(21) In ***D.N. Chanchala*** versus ***State of Mysore and others***[16], again challenge was laid to 60 seats reserved for various categories of persons such as students from Union Territories and States, where there are no Medical colleges, students from relatively less developed countries, children of Defence Personnel and Ex-Defence Personnel, children of political sufferers etc. The Supreme Court held that strictly speaking, it was not a case of reservation. Sources had been provided from which selection for admission could be made and that the rule of 50% laid in M.R. Bala Ji's case (supra), is not applicable to such sources of admission. Relevant paras of this judgment are as follows:-

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> '23. The last challenge to the validity of these rules was based on the allegation that they lay down excessive reservation for certain categories of candidates. As already stated, under clauses (a) to (i) of Rule 4, sixty, out of the present aggregate of 765 seats at the disposal of the Government, are set apart for the various categories of persons therein mentioned. As aforesaid, the Government is entitled to lay down sources from which selection for admission would be made. A provision laying down such sources is strictly speaking not a reservation. It is not a reservation as understood by Art. 15 against which objection can be taken on the ground that it is excessive. The reservation, as contemplated by Art. 15, is the one which is made under Rule 5. Under that rule, 15 % reservation is for persons belonging to the Scheduled Castes, 3 % for Scheduled Tribes and 30 % for socially and educationally backward classes, that is to say, 48 % in all against 690 available seats after deducting 60 seats set apart under Rule 4. But, setting apart 15 seats under Rule 4(g) for candidates who take up family planning programme does not constitute a reservation as any one of the lady candidates can take up that programme. Therefore, the seats

[16] 1971(2) SCC 293

available for distribution would be 720, 48 % of which are reserved under Rule 5. The question is whether such a reservation is unreasonably excessive.'

'24. It was not disputed that under Art. 15(4) the State was entitled to make special provisions for the advancement of socially and educationally backward classes. It has to be remembered that the object of Art. 15(4) is to advance the interests of the society as a whole by looking after the interests of its weaker sections. But as stated in Balaji v. Mysore, while making such a provision the rights and interests of the rest of the society are not to be absolutely ignored. Consideration for the rest of the society and those who are its weaker elements have both to be kept in mind and taking the prevailing circumstances as a whole have to be adjusted. The impugned provision in Balaji's case (supra) made reservation of 68% of the seats for the socially and educationally backward classes in medical and engineering colleges. Such a high percentage was held to amount almost to an exclusion of the deserving and qualified candidates from other communities, which also was not in the interests of the society as a whole. The Court there observed that in adjusting the claim of both the weaker and the stronger elements the reservation for the former should ordinarily be less than 50%, although no inflexible percentage could be fixed and the actual reservation must depend upon the relevant prevailing circumstances in each case. In Periakaruppan's case (supra) 41 % reservation for the socially and educationally backward classes was held not to be excessive. No materials have been placed before us which would show that in the circumstances prevailing in Mysore State reservation made under Rule 5 is unreasonably excessive. Setting apart 60 seats under Rule 4 is as already stated, not a reservation but laying down sources for selection necessitated by certain overriding considerations, such as obligations towards those who serve the interests of the country's security, certain reciprocal obligations and the like. The reservation, under Rule 5, though apparently appearing on the high side, not having been shown as unreasonably excessive, the contention in regard to it must fail.'

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(22) Next we come to the Nine Judges Constitution Bench decision in ***Indra Sawhney and others*** versus ***Union of India and others***[17]**.** Therein, it was held that Article 16(1) of the Constitution is a facet of Article 14. Like Article 14, Article 16(1) also permits reasonable classification. It upheld the 50% cap in reservation under Article 16(4) and further clarified that the limit of 50% is applicable only to reservations under Article 16(4). Horizontal reservations are to be distributed amongst the various appropriate categories. The issue of horizontal reservations was as discussed as follows:-

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> '812. We are also of the opinion that this rule of 50% applies only to reservations in favour of backward classes made under Article 16(4). A little clarification is in order at this juncture: all reservations are not of the same nature. There are two types of reservations, which may, for the sake of convenience, be referred to as 'vertical reservations' and 'horizontal reservations'. The reservations in favour of Scheduled Castes, Scheduled Tribes and other backward classes [under Article 16(4)] may be called vertical reservations whereas reservations in favour of physically handicapped [under Clause (1) of Article 16] can be referred to as horizontal reservations. Horizontal reservations cut across the vertical reservations that is called inter-locking reservations. To be more precise, suppose 3% of the vacancies are reserved in favour of physically handicapped persons; this would be a reservation relatable to Clause (1) of Article 16. The persons selected against this quota will be placed in the appropriate category; if he belongs to S.C. category he will be placed in that quota by making necessary adjustments; similarly, if he belongs to open competition (O.C.) category, he will be placed in that category by making necessary adjustments. Even after providing for these horizontal reservations, the percentage of reservations in favour of backward class of citizens remains - and should remain - the same. This is how these reservations are worked out in several States and there is no reason not to continue that procedure.'

[17] 1992 Supplementary 3 SCC 217

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(23) The common thread through all the abovementioned judgments is that Article 15(4) covers reservation for Scheduled Castes/Scheduled Tribes and socially and educationally Backward Classes only. Reservations for sports persons, wards of Defence Personnel, political sufferers etc. is sourced in Article 15(1). So long as the classification made by such reservations does not fall foul of Article 14, the same is valid. The offshoot of this legal position is that the State can provide for horizontal reservations for sports persons and TA/RA etc. in exercise of the Constitutional mandate of Article 15(1).

(24) Having examined the legal position, we now revert to the questions framed earlier.

(A) Question (a):- Whether, the State can regulate the activities of private institutions ?

The law has always been in favour of regulation of activities of private institutions. The pendulum has swung in favour of autonomy so far as fee fixation and reservation is concerned in ***TMA Pai Fundation's*** case (supra) and ***P.A Inamdar's*** case (supra), but even in the said judgments regulation for the purposes of academic excellence has been upheld. With the decision in ***Modern Dental College & Research Centre's*** case (supra) (read in the context of the Madhya Pradesh State legislation of 2007) the pendulum has swung back to the era when regulation of all aspects of professional education was held to be legal.

With the enactment of the 2006 Act, a greater regulation has been brought in place and the Constitutional validity thereof has been upheld by a Full Bench of this Court in ***Navdeep Kaur Gill's*** case (supra). Thus, it would be futile to argue that private institutions are not subject to State regulation. Education is a very powerful tool in nation building and it cannot be left unregulated because if left unregulated, it may result in deprivation of higher education to meritorious students, profiteering and neglect of persons deserving of State protection. It is the need of an egalitarian society that high quality education is available to all at an affordable rate.

Question (b):- If, the answer to the above question is yes,

whether in exercise of its power of regulation, the reservation policy of the State can be extended to private institutions ?

In this case, the issue is regarding reservation for sports persons and TA/RA in private institutions. Such reservation is known as horizontal reservation and is sourced in Article 15(1) of the Constitution. In exercise of its powers, the State has framed a reservation policy inter alia providing for reservation for sports persons and TA/RA also. By issuance of Notification dated 11.7.2019, quota has been provided for sports persons and TA/RA, but the same has been restricted to Government quota seats only. The question thus, is whether limiting the reservation to Government quota seats is arbitrary? Section 6 of the 2006 Act, prescribes for reservation for categories covered by Article 15(4) of the Constitution in all the seats available in the private institutions irrespective of whether they are Government quota seats or management quota seats. Thus, it is evident that the State has imposed its reservation policy across the board. Can the State, then turn around and say that because of the observations in ***P.A Inamdar's*** case (supra), it cannot extend the reservation to the management quota seats ? To our mind, the answer is an emphatic 'No'. Reservation under Article 15(4) is a facet of the reservation implicit in Article 15(1). The State cannot profess helplessness once it has imposed the reservation under Article 15(4) to management quota seats also. The reservation under Article 15(1) is also to be imposed in a similar manner as the reservation under Article 15(4). Doing otherwise would attract the criticism of arbitrariness. It is worth highlighting that in the academic session 2018 pursuant to the judgment in ***Bani Suri's*** case (supra), such reservation was imposed across the board. Limiting the same to Government quota seats in private institutions in the academic session, 2019, is thus, totally arbitrary and unreasonable. No logical much less legal explanation, has been put-forth to explain this action of the State except that the case of ***PA Inamdar*** (supra), grants complete autonomy to private institutions. This

> argument is fallacious on the face of it after Legislation in the form of 2006 Act has intervened. The stand of the State in this regard, is contradictory also because reservation for migrants from Jammu & Kashmir has been imposed in the management quota as well. Reservation for migrants from Jammu & Kashmir is also in the nature of horizontal reservation and if the same can be imposed on the management quota seats, we fail to understand how reservations for sports persons and TA/RA cannot be imposed on the same.

(25) The action of the State Government in providing for partial reservation in private institutions, is accordingly held to be illegal.

(26) The learned Advocate General, Punjab, was at pains to argue that the judgment in ***Bani Suri's*** case (supra) is per incuriam. In view of the preceding discussion regarding regulation of education and permissibility of the horizontal reservation, this argument is unacceptable. Thus, the judgments referred to by the learned Advocate General, do not need to be dealt with.

CWP-18989-2019 (O&M) tilted as Rimnaaz versus State of Punjab and others

(27) The petitioner in this case has sought quashing of Clauses 15 and 16 of the Notification dated 6.6.2019, issued by the State of Punjab notifying the process of admission to MBBS/BDS courses in the State of Punjab. The grievance of the petitioner is that no reservation for sports persons has been provided in the private institutions and only 1% quota has been provided in the Government Medical/Dental colleges.

(28) The Sports Policy, issued on 8.3.2018, has been annexed as Annexure P2 with this writ petition. Clause 8.11 thereof relates to Human Resource Development Programmes. Sub clause (v) is regarding reservation in admissions which stipulates a 3% reservation in admissions for graded sports persons, who are residents of Punjab, in all Government and private higher educational institutions and universities including institutions of Medical education and Technical education. Clause 10 thereof stipulates that the said policy is to prevail on all the departments and organizations of the Government of Punjab.

(29) Based upon the aforementioned provisions in the Sports Policy 2018, it is contended that the reservation for sports persons should have been 3 % instead of 1% because the department of Medical

Education does not have any policy restricting the quota for sports persons to 1%.

(30) The State of Punjab has failed to controvert the submission made on behalf of the petitioner.

(31) Thus, it has to be held that the Notification dated 6.6.2019, providing for 1% reservation for sports persons, is contrary to the Sports Policy 2018, wherein quota for sports persons has been kept at 3%. While issuing notifications, the State of Punjab is bound by its policies, and if a notification does not conform to the policy of the State, the same has to be held illegal in so far as it is contrary to the policy of the State.

(32) Accordingly, Clause 15(v) of the Notification dated 6.6.2019, as well as Clause 16(ii) (v) is quashed. The State is directed to replace the said clauses with quota of 3% for sports persons across the board in Government quota seats as well as management quota seats.

(33) An allied grievance of the petitioner is that while deciding the inter se merit of the students with the same sports gradation, merit is being ignored and the number of medals obtained is being relied upon.

(34) According to the notification issued by the State of Punjab, inter se merit of sports persons has to be determined on the basis of their gradation i.e. category A/B/C. There is no indication has to how the inter se merit of candidates in the same sports gradation is to be determined. In the absence of any guidance in this regard in the notification of the State Government, it has to be held that inter se merit of candidates within same sports gradation category has to be determined on the basis of merit.

(35) It is ordered accordingly.

CWP-17909-2019 (O&M) titled as Divneet Kaur versus State of Punjab and others and **CWP-19518-2019 titled as Manpreet Singh Ahuja versus State of Punjab and others**

(36) The additional grievance of the petitioners in these cases is that in the category of Sikh Riots affected persons, preference is being given to a candidate whose parent or guardian was killed in the riots. The submission is that all persons in the category of Sikh Riots affected persons are identically placed and inter se merit has to be determined on the basis of marks obtained in the qualifying

examination.

(37) We do not find any merit in the submission of learned counsel. Within the category of TA/RA persons, those whose parents/guardians have been killed are at a greater disadvantage. They deserve a higher level of protection then those whose parents have been displaced.

(38) A parallel can be with to the case of children/wards of Defence Personnel/ Para Military personnel, who are provided reservation in admission. Theretoo, a hierarchy has been laid down and a person at the top will be preferred to the exclusion of others. The hierarchy has been laid down in accordance with whether the parent/guardian had been killed in action, killed while in service, injured in action, injured while in service, invalided out of service. Such sub classification has to be held to be valid and thus, there is no reason to adopt a different yardstick in case of TA/RA.

(39) The claim is thus, rejected.

CWP-15387-2019 (O&M) titled as Aiena Bhatnagar versus State of Punjab and others

(40) In this case, the petitioner is aggrieved by the manner of implementation of 10% quota for Economic Weaker Sections (for short 'EWS') in the Medical Institutions in the State of Punjab.

(41) According to the petitioner, the Government of India issued an Office Memorandum dated 17.1.2019, providing for reservation for EWS in civil posts and services in the Government of India and admission in the educational institutions. Certain eligibility criteria were laid down therein. Thereafter, a communication dated 18.4.2019, was issued by the Medical Council of India inter alia providing for the manner of implementation of quota. All States were directed to send their proposal for increasing the number of seats in the Government Medical institutions in their State for accommodating the 10% EWS quota. The relevant line in this communication is 'In this proposal, the increase of 10% EWS quota should be on the seats that stand recognized on the day of submission of proposal.'

(42) Learned counsel for the petitioner submits that 10% quota for EWS has to be calculated on the increased number of seats, whereas, stand of the State is that the same is to be calculated on the number of seats existing before the increase is effected.

(43) It is not in dispute that communication dated 18.4.2019,

issued by the Medical Council of India, governs the issue of calculation of the 10% EWS quota.

(44) The relevant line has been reproduced hereinabove. According to the same, the quota has to be calculated on the number of seats that stood recognized on the day of submission of proposal. It is evident that on the date of submission of proposal for increasing the number of seats, the seats which stood recognized were the ones prior to the increase. Thus, no illegality can be said to have been committed by the State while implementing the 10% EWS quota.

Conclusion:-

(45) All the writ petitions are disposed of in the aforementioned terms. The implementation shall be done in accordance with our short order dated 26.7.2019.

(46) A photocopy of this judgment be placed in the files of the other petitions of the bunch.

Shubreet Kaur