

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

PRESENT THE HON'BLE MR. JUSTICE H.G.RAMESH R

AND

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

WRIT PETITION NO.29236/2018 (EDN-CET) DATED:12-07-2018

ALAN RYAN LOBO VS. KARNATAKA EXAMINATIONS AUTHORITY , BENGALURU – 560 012 REPRESENTED BY ITS EXECUTIVE DIRECTOR AND OTHERS

ORDER

H.G.RAMESH, J. (Oral):

1. In this writ petition, petitioner who has registered with the Karnataka Examinations Authority for admission to MBBS/BDS Courses has challenged the validity of Clause 2.1 of Chapter 4 of Karnataka State Information Bulletin (' the Bulletin ' for short) issued jointly by Directorate of Medical Education, Government of Karnataka and Karnataka WP No.29236/2018 Examinations Authority, Government of Karnataka for Centralized Counseling for UG NEET 2018 qualified candidates for admission to MBBS and BDS courses for the academic year 2018-19.The ground urged is that Clause 2.1 is violative of Articles 14, 29 and 30 of the Constitution of India. Clause 2.1 lays down the criteria to determine as to whether a candidate belongs to a religious minority in Karnataka; it reads as follows:

" 2.1 Eligibility for Religious Minority:

Religious Minority (Christian) of Karnataka Candidates & Non-Karnataka.

Religious Minority (Muslim) of Karnataka Candidates & Non-Karnataka

Although, all religious minority candidates of all the states are considered, priority* will be given to Karnataka domiciled religious minority candidates who have studied in Karnataka for a period of Ten Years from 1st Standard to qualifying exam and passed SSLC/10th or 2nd PUC/12th from Karnataka state.

(* After exhausting the list of eligible Karnataka Religious Minority candidates, seats if any will be offered to other non-Karnataka eligible Religious Minority candidates) "

Production of original of the Bulletin is dispensed with; I.A.No.1/2018 is accordingly disposed of.

2. We have heard the learned counsel for the petitioner and the learned Advocate General for respondent nos.3 & 4 and perused the record.

3. Learned counsel for the petitioner submitted that the petitioner is a Citizen of India, belongs to Christian religion and was born in Karnataka. His parents are residents of Karnataka. However, the petitioner did not study 1st to 12th standard in Karnataka. He studied 1st to 12th standard in Dubai in the United Arab Emirates.

He further submitted that as the petitioner does not fulfill the criteria laid down in Clause 2.1 of the Bulletin, he is not being considered as a candidate belonging to Christian Religious Minority of Karnataka. He contended that the criteria of ten years of study in Karnataka including passing of 10th or 12th standard in Karnataka to claim the status of Christian Religious Minority of Karnataka is arbitrary and unreasonable and is violative of Articles 14, 29 and 30 of the Constitution. He contended that the State cannot trace its power to any provision of law to impose the criteria laid down in Clause 2.1 of the Bulletin, and hence, it is without the authority of law. In support of the writ petition, he referred to a decision of the Supreme Court in *Kriti Lakhina v. State of Karnataka* [AIR 2018 SC 1657] and also an interim order of the Supreme Court dated May 9, 2017 in *Dar-Us-Slam WP No.29236/2018 Educational Trust v. Medical Council of India* (Laws (SC) 2017 5 67). He also referred to a decision dated 17.08.2017 rendered by a Division Bench of this Court in *M. Monisha v. Karnataka Examinations Authority* in W.P.No.36913/2017. At any rate, he submitted that the petitioner is entitled to be considered as belonging to Christian Religious Minority of Non-Karnataka as admittedly he is a Citizen of India and belongs to Christian Religion.

4. The learned Advocate General submitted that, for a person to claim the status of belonging to a religious minority in a State, he shall ordinarily be a resident of that State. Hence, the State is within its power to lay down a reasonable criteria to determine as to whether a person can be considered to be ordinarily a resident of the State to claim the status of belonging to a religious minority in the State. He submitted that to complete 12th standard or 2nd PUC, a student must be of seventeen years of age, and therefore, the criteria that the student should have studied in Karnataka for a period of ten years stated in Clause 2.1 of the Bulletin can't be said to be arbitrary or unreasonable to warrant interference by this Court.

5. The question that requires to be considered in this petition is as to whether the criteria of ten years of study in Karnataka to claim the status of a religious minority in Karnataka for the purpose of admission to undergraduate medical and dental courses in the State is arbitrary and is violative of Articles 14, 29 and 30 of the Constitution of India?

6. Merely that a person was born in a State and merely that his parents are residents of that State, by itself, does not confer on him the status of belonging to a religious minority of that State. In law, for a person to claim the status of belonging to a religious minority in a State, he shall ordinarily be a resident of that State. Residence does not mean a temporary residence. Hence, a reasonable criteria needs to be laid down by the State to determine as to whether a person can be considered to be a resident of the State for granting the status of belonging to a religious minority in the State for the purpose of admission to undergraduate medical and dental courses in the State. The State will be within its power to lay down a reasonable criteria in this behalf. In our opinion, the criteria of ten years of study in Karnataka laid down by the State in Clause 2.1 of the Bulletin to consider a candidate as belonging to a religious minority in Karnataka for the purpose of admission to undergraduate medical and dental courses in the State can't be said to be arbitrary or

unreasonable to offend Articles 14, 29 and 30 of the Constitution. The contention to the contrary is devoid of merit and, therefore, is rejected.

1. The two decisions of the Supreme Court referred to by the petitioner's counsel do not lay down any criteria to determine a religious minority in a State. Hence, they have no bearing on the question raised in this petition. In Monisha's case referred to above, Clause 2.1 of the Bulletin whose validity is challenged in this petition did not even fall for consideration and further no criteria is laid down therein for determination of a religious minority in a State. Therefore, the said decision is not of any help to the petitioner.

8. As the petitioner is a Citizen of India and belongs to Christian Religion, he is entitled to be considered as belonging to Christian Religious Minority of Non-Karnataka though he can't be considered as belonging to Christian Religious Minority of Karnataka as he does not fulfill the criteria laid down in Clause 2.1 of the Bulletin. This order shall not prejudice the petitioner to claim admission for MBBS/BDS courses under any other category of seat for which he is entitled to except under Christian Religious Minority of Karnataka. The writ petition is accordingly disposed of.

Petition disposed of.