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W.P(C)No. 350 OF 1993

ITEM No.101-108
XVIA & XVI

Court No. 1

SECTION X, IVA,

A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(Civil) No.350 of 1993

ISLAMIC ACADEMY OF EDUCATION & ANR.

Petitioner (s)

VERSUS

STATE OF KARNATAKA & ORS.

Respondent (s)

(With appln. for directions,interim relief and directions)

With

S.L.P.(C) No. 11286 of 2003

(With prayer for interim relief and office report)

S.L.P.(C) No. 11391 of 2003

(With appln. for permission and exem.from filing c/c of the impugned judgment and prayer for interim relief)

S.L.P.(C) Nos. 11189-11195 of 2003

(With appln. for permission to place addl.documents on record, intervention, directions, intervention, intervention/impleadment and prayer for interim relief)

I.A. Nos. 10-13

(For intervention and permission to file additional documents)

I.A. No. 14-15

(For intervention)

I.A. No. 16

(For intervention)

I.A. No. 17

(For intervention)

I.A. No. 18

(For intervention)

I.A. No. 19

(For intervention)

I.A. Nos.50-56

(For intervention)

...2/-

W.P.(C) No. 355 of 1993
(With appln. for directions, stay and interim relief)

W.P.(C) No. 174 of 2003
(With appln. for directions)

T.P.(C) Nos. 286-288 of 2003
(With appln. for stay)

S.L.P.(C) Nos. 3465-3466 of 2003
(With appln. for intervention, prayer for interim relief and office report)

S.L.P.(C) Nos. 3942-3943 of 2003
(With prayer for interim relief and office report)

S.L.P.(C) Nos. 4002-4003 of 2003
(With prayer for interim relief and office report)

S.L.P.(C) Nos. 9253-9254 of 2003
(With prayer for interim relief and office report)

S.L.P.(C) No. 10561 of 2003
(With office report)

I.A. Nos. 5-6
(For intervention)

I.A. Nos. 15, 16-18 in W.P.(C) No. 443 of 1992
(With appln. for directions and c/delay in filing counter affidavit)

W.P.(C) No. 284 of 2003
(With appln. for stay and office report)

W.P.(C) No. 285 of 2003
(With appln. for ex-parte stay)

I.A. No. 19
(For impleadment)

I.A. No. 20
(For intervention)

I.A. No. 21
(Appln. for withdrawl from the All India Scheme)

I.A. No...../2003
(Direction for modification of Court's order dated 23.6.2003)

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W.P.(C) No. 261 of 2003
(With appln. for interim relief, permission to file Vol. II, permission to file addl.documents, permission to file Vol. III, permission to file rejoinder affidavit and office report)

W.P.(C) No. 275 of 2003

W.P.(C) No. 280 of 2003

W.P.(C) No. 289 of 2003
(With office report)

T.P.(C) Nos. 405-408 of 2003

(With appln.for permission to file dim documents as annexure P-1)

T.P.(C) No. 409 of 2003

(With appln. for ex-parte stay)

Date : 22/07/2003 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE S.N. VARIAVA

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE S.B. SINHA

For Petitioner (s)

in WP 350,355 Mr. F.S. Nariman, Sr.Adv.

& 174Dr. Roxna S. Swamy, Adv.

Mr. A. Lobo, Adv.

Mr. Subhash C. Sharma, Adv.

Mr. Ramesh N. Keswani, Adv.

Mr. Bharat Sangal,Adv.

in SLP 11286Mr. Rakesh Dwivedi, Sr.Adv.

Ms. Niranjana Singh, Adv.

Mr. Dayan Krishnan, Adv.

Mr. Nikhil Nayyar, Adv.

Mr. Abhishek Chaudhary, Adv.

'Ms. Vimla Sinha, Adv.

Mr. M.V. Seshachala, Adv.

in SLP 11391Mr. A.K. Ganguli, Sr.Adv.

Mr. Madhu Naik, Adv.

Mr. S. Sukumaran, Adv.

Mr. Suresh Unnikrishnan, Adv.

Ms. Divya Nair,Adv.

Mr. K. Rajeev, Adv.

...4/-

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in SLP 11189-95Mr. A.K. Ganguli, Sr. Adv.

Mr. S.Ravindra Bhat, Adv.

Mr. Madhusudan R Naik, Adv.

Mr. Naveen R Nath, Adv.

in TP 286-288Mr. K.K. Venugopal, Sr.Adv.

Mr. Vijay Narain, adv.

Mr. C.B.N. Babu, Adv.

Mr. Bimal Roy Jad, Adv.

State of KeralaMr. K.K. Venugopal, Sr.Adv.

Mr. Ratan Singh, Adv. Genl.

Mr. K R Sasiprabhu, Adv.

Mr. John Mathew, Adv.

Mr. Anil Thomas, Adv.

in SLP 4002-4003Mr. G Prakash, Adv.

in SLP 10561Mr. Kapil Sibal, Sr.Adv.

Mr. H.N. Salve, Sr.Adv.

Dr. Rajiv Dhawan, Sr.Adv.

Mr. S. Udaya Kumar Sagar, Adv.

Ms. Bina Madhavan, Adv.

Mr. Prasanth P., Adv.

for M/s. Lawyers' Knit & Co., Advs.

in WP 443Mr. M.C. Dhingra, Adv.

in WP 284Mr. Yogeshwar Prasad, Sr.Adv.
Dr. I.P. Singh, Adv.
Ms. Rachna Gupta, Adv.

in WP 285Mr. Prashant Bhushan, Adv.
Mr. Rao Ranjit, Adv.

in WP 261Mr. H.N. Salve, Sr.Adv.
Mr. P.H. Parekh, Adv.
Mr. Krishna Srinivasan, Adv.
Mr. E.R. Kumar, Adv.
Mr. Rohit Alex, Adv.
for M/s. P.H. Parekh & Co., Advs.

in WP 275Mr. H.N. Salve, Sr.Adv.
Mr. S. Nanda Kumar, Adv.
Mr. V. Vijayan, Adv.
Mr. M. Yogesh Kanna, Adv.
Mr. Jitendra Shankar, Adv.
Mr. Anuj Srivastav, Adv.
Mr. Rakesh K. Sharma, Adv.
...5/-

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in WP 280 & 289Mr. Mohan Parasaran, Sr.Adv.
Mr. Ajit Kumar Sinha, Adv.

in TP 405-408Mr. U.U. Lalit, Adv.
Mr. S.S. Shinde, Adv.
Mr. Mukesh K. Giri, Adv.

in TP 409Mr. H.N. Salve, Sr.Adv.
Mr. S.M.Jadhav, Adv.
Mr. Himanshu Gupta, Adv.

For NCT, DelhiMr. Raju Ramachandran, ASG
and U.T.Mr. S.W.A. Qadri, Adv.
Ms. Rekha Pandey, Adv.
Mr. D.S. Mehra, Adv.

For M/o H.R.D.Mr. Raju Ramachandran, ASG
Ms. Anil Katiyar, Adv.
Mr. S.W.A. Qadri, Adv.

For Respondent (s)Mr. Soli J. Sorabjee, AG
Mr. K.C. Kaushik, Adv.
Mr. Pritish Kapur, Adv.
Mr. Prateek Jalan, Adv.
Mr. P. Parmeswaran, Adv.

State of KarnatakaMr. P.P. Rao, Sr.Adv.
Mr. A.N. Jaya Ram, Adv.Genl.
Mr. Sanjay R. Hegde, Adv.
Mr. Satya Mitra, Adv.
Mr. Anil K. Mishra, Adv.

in SLP 11286 & 11391Mr. Bhavanishankar V. Gadnis, Adv.
Mr. Shiv Kumar Suri, Adv.

in SLP 11286 & 11391Mr. G. Prabhakar, Adv.

in SLP 11286Ms. Sheela Goel, Adv.

in SLP 11189-95Mr. Bimal Roy Jad, Adv.

in SLP 11189-95Mr. Prashant Bhushan, Adv.

in SLP 11189-95Mr. N.L. Ganpathi, Adv.

State of A.P.Mr. V.R. Reddy, Sr.Adv.
Mr. T.V. Ratnam, Adv.
Mr. K. Subba Rao, Adv.

Ms. A Subhashini, Adv.
...6/-

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State of H.P.Mr. J.S. Attri, Adv.
Mr. Mayur Shah, Adv.

in WP 355Ms. Minakshi Vij, Adv.

in SLP 3465-66, Mr. Kapil Sibal, Sr.Adv.
3942-43, 4002-03,Mr. H.N. Salve, Sr.Adv.
9253-54Dr. Rajiv Dhawan, Sr.Adv.
Mr. S.U.K. Sagar, Adv.
Ms. Bina Madhavan, Adv.
Mr. Prasanth P.,Adv.
for M/s. Lawyers' Knit & Co., Adv.

in SLP 3465-66Mr. Dipankar P. Gupta, Sr.Adv.
Mr. P.H. Parekh, Adv.
Mr. T.N. Subramaniam, Adv.
Mr. E.R. Kumar, Adv.
Mr. Rohit Alex, Adv.

State of GoaMr. Bhavanishankar V. Gadnis, Adv.
Mr. Shiv Kumar Suri, Adv.

in SLP 3465-66 &
9253-54Mr. G. Prabhakar, Adv.

in SLP 10561Ms. A Subhashini, Adv.

in SLP 10561Mr. A.K. Srivastava, Adv.
(State of U.P.)Mr. S.S. Shamsbery, Adv.

in SLP 10561Ms. Krishna Sarma, Adv.
Ms. Asha G. Nair, Adv.
Mr. V.K. Sidharthan, Adv.
for M/s. Corporate Law Group, Adv.

State of M.P.Mr. Sakesh Kumar,Adv.
Mr. S.K. Agnihotri, Adv.

State of West BengalMr. T.C. Sharma, Adv.
Ms. Neelam Sharma, Adv.
Mr. Ajay Sharma, Adv.

State of ManipurMr. K.H. Nobin Singh, Adv.

State of Gujarat & Mr. S.K. Dholakia, Sr. Adv.
Mizoram Ms. H. Wahi, Adv.
...7/-

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State of Maharashtra Mr. T.R. Andhyarujina, Sr. Adv.
Mr. H.N. Salve, Sr. Adv.
Mr. H.W. Dhabe, Sr. Adv.
Mr. U.U. Lalit, Adv.
Mr. S.S. Shinde, Adv.
Mr. Ravindra K. Adsure, Adv.
Mr. Mukesh K. Giri, Adv.
Mr. Ashutosh Kumbhakoni, Adv.

State of Nagaland Mr. Kailash Vasdev, Sr. Adv.
Mr. S.K. Shandilya, Adv.
Ms. V.D. Khanna, Adv.

State of Rajasthan Mr. Ranji Thomas, Adv.
Ms. Bharati Upadhyay, Adv.
Mr. Arun Pednekar, Adv.
Mr. V.N. Raghupathy, Adv.

State of Arunachal Pradesh Mr. Anil Shrivastav, Adv.
Ms. Jyoti Dutt, Adv.

State of Tripura Mr. Gopal Singh, Adv.
Ms. Vani Singh, Adv.

State of Orissa Ms. Kirti Mishra, Adv.

State of J&K Mr. Anis Suhrawardy, Adv.

State of Haryana Mr. R.N. Trivedi, ASG
Mr. Neeraj Jain, Adv.
Ms. Kavita Wadia, Adv.

State of Pondicherry Mr. R. Mohan, Sr. Adv.
Mr. V.G. Pragasam, Adv.

State of Uttaranchal Mr. A.S. Rawat, Addl. Adv. Genl.
Mr. J.K. Bhatia, Adv.

in WP 443 Mr. C.V.S. Rao, Adv.

in WP 443 Mr. Rajiv Sharma, Adv.

in WP 443 Ms. Kamini Jaiswal, Adv.

in WP 443 Mr. G Prabhakar, Adv.

in WP 443 Mr. Ashok Mathur, Adv.

in WP 443 Mr. Sushil Kumar Jain, Adv.

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in WP 443 Mr. Radha Shyam Jena, Adv.

in WP 443 Mr. V.G. Pragasam, Adv.

in WP 443 Mr. Ranjan Mukherjee, Adv.

in WP 443 Mr. B.B. Singh, Adv.

in WP 443 Mr. R.C. Verma, Adv.

Mr. Mukhesh Verma, Adv.

in WP 443Ms. Krishna Sarma, Adv.
Ms. Asha G. Nair, Adv.
Mr. V.K. Sidharthan, Adv.
for M/s. Corporate Law Group, Adv.

in WP 443Mr. R.K. Adsure, Adv.

in WP 261 & 275Mr. C.S. Vaidyanathan, Adv.
(State of Tamil Nadu)Mr. P.N. Ramalingam, Adv.
Mr. V. Balaji, Adv.

in WP 261, 275, 280Mr. T. Raja, Adv.
& 289

in WP 280Mr. R.N. Trivedi, ASG
(U.O.I.)Mr. Maninder Singh, Adv.
Ms. Pratibha M. Singh, Adv.
Mr. Angad Mirdha, Adv.
Mr. Kirtiman Singh, Adv.
Mr. Ankur Talwar, Adv.

in WP 280Mr. Maninder Singh, Adv,
(M.C.I.)Ms. Pratibha M. Singh, Adv.
Mr. Kirtiman Singh, Adv.
Mr. Angad Mirdha, Adv.
Mr. Ankur Talwar, Adv.

in TP 405-408 Mr. Chinmoy Khaldkar, Adv.
Mr. S.K. Nandy, Adv.

in TP 405-408Mr. Kapil Sibal, Sr.Adv.
Mr. Bhim Rao Naik, Sr.Adv.
Mr. Vineet Naik, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agarwal, Adv.
Mr. Manu Krishnan, Adv.
Mr. E.C. Agrawala, Adv.
...9/-

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in TP 405-408Mr. T.N. Subramaniam, Adv.
Mr. P.H. Parekh, Adv.

in TP 406Mr. Kapil Sibal, Sr.Adv.
Mr. Bhimrao Naik, Sr.Adv.
Mr. V.A. Bobde, Sr.Adv.
Mr. Vineet Naik, Adv.
Mr. S.V. Deshpande, Adv.
Ms. Anuradha Rastogi, Adv.

in TP 407Mr. Kailash Vasdev, Sr.Adv.
Mr. Satyajit Saha, Adv.
Ms. V.D. Khanna, Adv.

in TP 405-408Mr. H.N. Salve, Sr.Adv.
Mr. S.M. Jadhav, Adv.

For Intervenor (s)
in I.A.36-34 inMr. K.K. Venugopal, Sr.Adv.
SLP 11189-95Mr. Bimal Roy Jad, Adv.

in I.A.50-56 in
SLP 11189-95Ms. Sumita Hazarika, Adv.

For Intervenor (s)Mr. K. Rajendra Chowdhary, Sr.Adv.
Mr. Rakesh K. Sharma, Adv.

For Applicant (s)

in WP 350

I.As 10-13 Dr. Rajeev Dhawan, Sr. Adv.

Mr. H.N. Salve, Sr. Adv.

Mr. R. Santhana Krishnan, Adv.

Mr. D. Mahesh Babu, Adv.

I.As 14-15 and Mr. A. Mariarputham, Adv.

State of Assam Ms. Aruna Mathur, Adv.

for M/s. Arputham, Aruna & Co.

I.A. 16 Mr D.P. Gupta, Sr. Adv.

Mr. P.H. Parekh, Adv.

Mr. E.R. Kumar, Adv.

Mr. Rohit Alex, Adv.

Mr. Lalit Chauhan, Adv.

Mr. Duval C. Dave, Adv.

for M/s. P.H. Parekh & Co.

I.A. 17 Mr. Yashank Praveen Adhyaru, Sr. Adv.

Ms. Aparna Bhat, Adv.

Mr. P. Ramesh Kumar, Adv.

...10/-

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I.A. 18 Mr. Kapil Sibal, Sr. Adv.

Dr. Rajeev Dhawan, Sr. Adv.

Mr. Ejaz Maqbool, Adv.

Mr. Wajid Ali Kamil, Adv.

Mr. Ujjwal Kr. Jha, Adv.

Ms. Minakshi Nag, Adv.

I.A. 19 Mr. Dipankar Gupta, Sr. Adv.

Ms. Deepti Chowdhary, Adv.

Ms. Sarla Chandra, Adv.

Ms. Y. Kumar, Adv.

Mr. Sanjay Sen, Adv.

Mr. Rajan, Av.

Mr. Rana S. Biswas, Adv.

in TP 287

I.A. 4 Mr. Gourav Agarwal, Adv.

Mr. Prashant Kumar, Adv.

Mr. Joseph Pookkatt, Adv.

in SLP 3465-66

I.As 3-4 Mr. Dipankar Gupta, Sr. Adv.

Mr. T.N. Subramanian, Adv.

Mr. P.H. Parekh, Adv.

Mr. E.R. Kumar, Adv.

Mr. Rohit Alex, Adv.

for M/s. P.H. Parekh and Co., Advs.

I.As 5-6 Mr. P.S. Mishra, Sr. Adv.

Mr. M. Qamaruddin, Adv.

Mrs. M. Qamaruddin, Adv.

Mr. Ambar Qamaruddin, Adv.

Mr. Manish Goswami, Adv.

in WP 443

I.A. 15 Mr. Raju Ramachandran, ASG

Mr. A.D.N. Rao, Adv.

Ms. Vinita Sinha, Adv.

I.A. 18 Mr. A. Mariarputham, Adv.

Ms. Aruna Mathur, Adv.

for M/s. Arputham Aruna & Co.

I.A. 19 Mr. L.R. Singh, Adv.
Mr. Ravi Prakash, Adv.
Ms. Neelam Singh, Adv.
...11/-

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I.A. 20 Mr. Atul Nanda, Adv.
Ms. Veena Nanda, Adv.
Mr. P.N. Puri, Adv.

I.A. /2003 Mr. Raju Ramachandran, ASG
Mr. A.D.N. Rao, Adv.
Ms. Vanita Sinha, Adv.

I.A. 16 Mr. R.K. Adsure, Adv.

I.A. 17 Mr. Altaf Ahmad, ASG
Mr. T.C. Sharma, Adv.

I.A. 21 Mr. S.K. Dholakia, Sr. Adv.
Ms. H. Wahi, Adv.

UPON hearing counsel the Court made the following
O R D E R

Mr. F.S. Nariman, learned senior counsel started his arguments at 10.30 a.m. and concluded at 12.50 p.m. Thereafter Mr. Harish N. Salve, learned senior counsel argued till 4.00 p.m., when the Court rose for the day, leaving the matters as part-heard.

(Alka Dudeja) (D.P. Walia) (Suraj Parkash)
Court Master Court Master Court Master

Item No. 101-108 Court No. 1

Date: 23rd July, 2003.

Coram and Appearance: As above.

Mr. Harish N. Salve, learned senior counsel resumed his arguments at 10.30 a.m. and concluded at 12 o'clock. Thereafter Dr. Rajeev Dhawan, learned
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senior counsel argued in the matters till 3.00 p.m. Thereafter Mr. D.P. Gupta, learned senior counsel made his submissions for 15 minutes. Mr. T.N. Subramaniam, learned counsel argued his case for five minutes. Mr. P.S. Mishra, learned senior counsel was on his legs for 10 minutes. Thereafter Mr. A.K. Ganguli, learned senior counsel argued his case from 3.30 p.m. to 3.40 p.m. M/s. V.A. Bobde and Bhimrao Naik, learned senior counsel and Mr. U.U. Lalit, learned counsel made their submissions in T.Ps for five minutes, when the Court passed the following order in T.P.(C)Nos.405-408 & 409 of 2003:

"In view of the fact that the High Court is seized of the matters and the hearing is going on day-to-day basis, we are not inclined to interfere with the transfer petitions. The same are, accordingly, dismissed."

Mr. Rakesh Dwivedi, learned senior counsel represented his case till 3.50 p.m. Thereafter Mr. Mohan Parasaran, Mr. Yashank Adhyaru, learned senior counsel and Mr. Gaurav Aggarwal, learned counsel represented their respective cases till 4.00 p.m. Ms. Indira Jaising, learned senior counsel
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thereafter made her submissions in W.P. (C) No. 627 of 1993 (which is not on the board today), for two minutes, when the Court rose for the day, leaving the matters as part-heard.

(Alka Dudeja)(D.P. Walia) (Suraj Parkash)
Court Master Court Master Court Master

Item Nos. 101-106

Date: 24th July, 2003.

Coram and Appearance : As above.

Mr. Raju Ramachandran, learned Additional Solicitor General started his arguments at 10.35 a.m. and concluded at 11.00 a.m. Thereafter Mr. H.N. Salve, learned senior counsel argued the matters till 11.30 a.m., when the Court passed the following order:

W.P. (C) No. 285 of 2003 and I.A.No. 15 in W.P. (C) No. 443 of 1992:
Issue rule nisi in Writ Petition (C) No.285 of 2003.

Pending hearing of the writ petition, the operations and further operation or execution of the aforesaid Act is stayed. It is further directed that the
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Authorities shall proceed to complete the counselling of students selected against 15% All India quota as early as possible and the State shall admit the students, who have been selected and put for counselling in the respective colleges.

It is clarified in the signed order that this view of the Court is only a tentative one, which shall not come in the way of the regular Bench hearing the petitions on merits. Liberty to mention.

I.A. No. 16 in W.P.(C) No. 443 of 1992:
Allowed.

I.A. Nos. 18,19,20 and I.A. No.....in W.P.(C) No. 443 of 1992:

To be ordered at the time of hearing of the main matters.

I.A. No. 21 in W.P.(C) No. 443 of 1992:
Issue notice to the Union of India and all the States.

W.P.(C) Nos. 284 of 2003 and I.A. No. 17 in W.P.(C) No. 443 of 1992:

List on 28th July, 2003 before a Bench presided over by Hon'ble Mr. Justice S.Rajendra Babu.
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Mr. Soli J. Sorabjee, learned Solicitor General thereafter assisted the Court from 11.40 a.m. to 12.45 p.m. Mr. R.N. Trivedi, learned Additional Solicitor General argued his case till 2.55 p.m. Mr. K.K. Venugopal, learned senior counsel then made his submissions till 4.00 p.m., when the Court rose for the day, leaving the matters as part-heard.

(Alka Dudeja) (D.P. Walia) (Suraj Parkash)
Court Master Court Master Court Master

[Signed order in W.P.(C) No. 285 of 2003 and I.A. No. 15 of 2003 in W.P.(C) No. 443 of 1992 is placed on the file.]

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. 285 OF 2003

Vivek Yadav... Petitioner(s)

Versus

Union of India and Ors.... Respondent(s)

With I.A. No. 15 in W.P.(C) No. 443 of 1992

O R D E R

Issue rule nisi in W.P.(C) No. 285 of 2003.

In the writ petition filed under Article 32 of the Constitution of India, the writ petitioner has prayed for issuance of writ in the nature of mandamus/certiorari, declaring Maharashtra Medical and Dental Colleges Admissions (Regulation & Abolition of All India Quota) Act, 2003 as ultra vires the Constitution of India being violative of the Fundamental Rights of the petitioner. A further prayer was made directing the State of Maharashtra to strictly abide by the scheme laid down by this Court for allocation of students of the 15% All India quota of the MBS and BDS courses in the Medical and Dental Colleges situate in the State of Maharashtra. The Union of India has also filed an application in Writ Petition (C) No. 443 of 1992, inter alia, praying for direction upon the State to strictly abide by the said Scheme.

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We have heard Shri Raju Ramachandran, learned Additional Solicitor General appearing for the Union of India and Shri H.N. Salve, learned senior counsel.

It is not disputed that this Court evolved a Scheme and modified the same from time to time as would appear from the following:

In the case of Dr. Pradeep Jain and Ors. Vs. Union of India and Ors. - 1984 (3) SCC 654, directed that 30% of the open seats shall be available for admission of students on All India basis irrespective of the State or University from which they come and such admissions shall be granted purely on merit on the basis of either All India entrance examination or entrance examination to be held by the State. This Court therein condemned the wholesale reservation made on the basis of 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.

Para 21 of the aforementioned judgment reads as follows:

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"But, then to what extent can reservation based on residence requirement within the State or on institutional preference for students passing the qualifying examination held by the university or the State be regarded as constitutionally permissible? It is not possible to provide a categorical answer to this question for, as pointed out by the policy statement of the Govern

ment of India, the extent of such reservation "would depend on several factors including opportunities for professional education in that particular area, the extent of competition, level of educational development of the area and other relevant factors". It may be that in a State where the level of educational development is woefully low, there are comparatively inadequate opportunities for training in the medical speciality and there is large scale social and economic backwardness, there may be justification for reservation of a higher percentage of seats in the medical colleges in the State and such higher percentage may not militate against "the equality mandate viewed in the perspective of social justice". 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 per cent 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

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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. We are of the opinion that this outer limit fixed by us must gradually over the years be progressively reduced but that is a task which would have to be performed by the Indian Medical Council. We would direct the Indian Medical Council to consider within a period of nine months from today whether the outer limit of 70 per cent fixed by us needs to be reduced and if the Indian Medical Council determines a shorter outer limit, it will be binding on the States and the Union Territories. We would also direct the Indian Medical Council to subject the outer limit so fixed to reconsideration at the end of every three years, but in no event should the outer limit exceed 70 per cent fixed by us. The result is that in any event at least 30 per cent of the open seats shall be available for admission of students on all-India basis irrespective of the State or university from which they come and such admissions shall be granted purely on merit on the basis of either all-India entrance examination or entrance examination to be held by the State. Of course, we need not add that even where reservation on the basis of residence requirement or institutional preference is made in accordance with the directions given in this judgment, admissions from the source or sources indicated by such reservation shall be based only on merit, because the object must be to select the best and most meritorious students from within such source or sources."

In para 24 of the said judgment, this Court directed that the decisions reached by this Court in those writ petitions will bind the Union of India, the State Governments and Administrations of the Union

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Territories as therein the law for the entire country was laid down. Moreover this Court came to the said conclusion after giving notice to Union of India and all the State Governments and Union Territories.

However, this Court in the case of Rita Nirankari Vs. Union of India, reported in 1984 (3) SC C 706, by an order dated 26th July, 1984, clarified that the aforementioned dicta of Dr. Pradeep Jain's case (supra) would not apply to the States of Andhra Pradesh and Jammu and Kashmir.

The modern manner of filling up of percentage of seats came up for consideration again before this Court in Dr. Dinesh Kumar and Ors. Vs. Motilal Nehru Medical College, Allahabad and Ors., reported in 1985 (3) SCC 22, and it was clarified that 30% seats mean 30% of the seats available for non-reserved categories after providing for reservation therefor. However, subsequently, in the case of Dr. Dinesh Kumar and Ors. (II) Vs. Motilal Nehru Medical College, Allahabad and Ors.-1986 (3) SCC 727, the Court reduced the All India quota from 30% to 15%. This Court further laid down that the Scheme involving therein was to be kept confined to the Medical Colleges or Institutions run by the Union of India or a State Government or Municipal or Local authority. It was further laid down that the examination would be held

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once a year commencing at any time between July 15 and August 1 of each year. Indisputably, having regard to the observations made in Dr. Pradeep Jain's case (supra) that whenever any difficulty arises in implementing the said Scheme, the parties may approach this Court for clarification, several applications were filed at the instance of several States and other parties whereupon directions were issued from time-to-time.

The prospectus for All India Pre-Medical/Pre-Dental Entrance Examination, 2003 provided that t

he last date for submission of the application for 15% All India quota was 30th November, 2002 . It was further informed that the sale of Information Bulletin at notified Canara Bank Branches/Regional Office of CBSE would be 15th October to 30th November, 2002, the sale of Information Bulletin by Post from CBSE, PMT Unit, Delhi would be 15th October to 23rd November, 2002, the date of receipt of Application Form at the CBSE, PMT Unit, Delhi would be 30th November, 2002, the date of despatch of Admit Card would be 20th March, 2003 and the date of examination would be 27th April, 2003.

On 12th April, 2003, the Maharashtra legislature enacted an Act known as 'The Maharashtra Medical and

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Dental Colleges Admissions (Regulations and Abolition of the All India Quota) Act, 2003 (hereinafter referred to as 'the Act'), whereby and whereunder the 15% quota of All India by this Court in Pradeep Jain's case (supra) and Dinesh Kumar (II) (supra) were sought to be abolished. Sections (3) and (4) of the Act reads as under:

"3. Notwithstanding anything contained in any judgment, order or direction of any Court, or any law, rule, regulation, bye-law, scheme, document or instrument to the contrary, on and from the appointed date, "All India quota" shall, in relation to the medical admissions in the State, stand abolished:

Provided that, out of the total number of medical seats in the State, certain seats as specified below, shall be reserved for the eligible students from the disturbed areas or States declared as such by the Government of India and from the States where no medical or dental educational facilities are available, namely:-

40 seats for M.B.B.S. Degree Course;
5 seats for B.D.S. Degree Course;
18 seats for Post-Graduate Degree Courses in Medical Disciplines; and
2 seats for Post-Graduate Degree Courses in Dental Discipline:

Provided further that, nothing in this section, shall affect the existing reservation policy and the reservation policy declared by Government for medical admissions, from time to time.

4. For the removal of doubt, it is hereby declared that -

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(a) from the appointed date, there shall be no "All India quota" medical seats reserved on All India basis in the State for medical admissions and the State Government hereby withdraws from the scheme laid down by the Government of India providing for medical admissions on all India basis, from "All India quota";

(b) the "All India quota" under the Government of India Scheme having been abolished as provided in section 3, the medical seats having become so available shall be filled in, along with the other medical seats, following the same procedure and shall be subject to the same terms and conditions, as laid down by the Competent Authority in this behalf, from time to time."

After hearing the learned counsel at length, we are prima facie of the view that the said Act is constitutionally invalid. Moreover, the State of Maharashtra before enacting the aforesaid Act, did not approach this Court for modification of the Scheme as provided in *Sharwan Kumar Vs. DGHS-1993 (3) SCC 332*.

Pending hearing of the writ petition, we stay the operations and further operation or execution of the aforesaid Act. We further direct that the Authorities shall proceed to complete the counselling of students selected against 15% All India quota as early as possible and the State shall admit the students, who have been selected and put for counselling in the respective colleges.

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It is hereby clarified that this view of ours is only a tentative one, which shall not come in the way of the regular Bench hearing the petitions on merits.
Liberty to mention.

.....CJI.

.....J.
(S.N. Variava)

.....J.
(K.G. Balakrishnan)

.....J.
(Arijit Pasayat)

.....J.
(S.B. Sinha)

New Delhi,
July 24, 2003.