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W.P(C)No. 417 OF 2000

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ITEM No.109 COURT No. 2 SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition No. 417 of 2000@@  
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Magan Mehrotra & Ors.

...Appellant(s)

Versus

vs.

Union of India & Ors.

...Respondent(s)

(With appl(s) for directions and with office report)

With  
WP(C) No. 316/2000  
(With appl(s) for stay and office report)

Date :11/09/2002 The appeal(s)/matter(s) was/were called on for  
hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK  
HON'BLE MRS. JUSTICE RUMA PAL

For Appellant (s)

Ms. Kamini Jaiswal, Adv.  
Mrs. Shomila Baksi, Adv.  
Ms. Aishwarya Rao, Adv.  
  
Mr. Vijay Kumar, Mr. BK Sharma, Adv.  
Mr. Vishwajit Singh, Adv.

For Respondent (s)

Mr. A. Mariarputham, Adv. for  
M/s. Arputham Aruna & Co.,  
  
Mr. Maninder Singh, Adv.  
  
Ms. Krishna Sarma, Ms. Asha G. Nair, Adv.  
M/s. Corporate Law Group  
  
Mr. M A Krishnamoorthy, Adv.  
  
Mr. N L Ganapathi, Adv.  
  
Ms. A. Subhashini, Adv.

UPON hearing counsel, the Court passed the following  
O R D E R

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The question that centres round in this case is,  
whether the principle of institutionalised preference for  
admission to the Post Graduate Course in Medical Colleges or

the domicile criteria for such admission in some of the States is constitutionally valid?

As it appears, there has been no uniform practice in all the States in the country notwithstanding the observations made and principles laid down by this Court in the case of Dr. Pradeep Jain & Ors. v. Union of India & Ors. [(1984) 3 SCC 654]. Some of the States have followed the directions contained in the said judgment of Dr. Pradeep Jain's case (supra) providing for institutional preference, some others - like States of Assam, Tamil Nadu, Goa and Karnataka have provided for residential preference while, some others have yet taken a third course of providing institutional or residential preference. In the later decisions in the case of Dr. Parag Gupta v. University of Delhi & Ors. [(2000) 5 SCC 684] and Dr. Prachi Almeida v. Dean, Goa Medical College & Ors. [(2001) 7 SCC 640] a two-Judge Bench of this Court has taken a view which prima facie appears to run contrary to the decision in Dr. Pradeep Jain's case (supra).

In yet another judgment in the case of State of U.P. v. Vineet Singh & Ors. [(2000) 7 SCC 262] this Court considered the matter and expressed a view that there does not appear to be any conflict between the decisions in Dr. Pradeep Jain's case and Dr. Parag Gupta's case (supra), which does not appear to us to be prima facie correct. Be it stated that in Dr. Prachi Almeida's case (supra) their Lordships appear to have followed the principle indicated in Dr. Pradeep Jain's case. The Court in all these cases appear to have not taken a firm view as to what should be the uniform

principle thinking that to be a larger question.

In the aforesaid circumstances, we think it appropriate that the so-called larger question, which was considered in Pradeep Jain's case and certain principles have been laid down, be decided Necessarily, therefore, we refer this matter to a three-Judge Bench and direct issuance of notice to all the States excepting the States of Jammu & Kashmir and Andhra Pradesh as they do not participate in the admission to the Post-Graduate Courses in Medical Colleges.

Put up after four weeks. The respective State Governments may indicate their response along with their appearance.

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(J.S. Rawat)  
Court Master

(Suneet Bala Sharma)  
Assistant Registrar