

## REGIONALISM IN EDUCATION

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### Abstract

“Nationalism and Sub-Nationalism are two emotional experiences which grew at the expense of each other”, this was the observation of ‘The Linguistic Provinces Committee’ also known as ‘The Dar Committee’, established in the year 1948 in order to examine the long demand of the re-organisation of the provinces of India on linguistic lines. It is pertinent to note that the committee has reported against the proposition.

As Former President A. P. J. Abdul Kalam puts it, “Education is the most important element for the growth and prosperity of the nation.” The providers and receivers of educational service as well as policy makers regard professional education as economic opportunity. Over the years, Courts have recognized the economic component of it and tried to maintain some modicum of justice instead of living it to the vagaries of market forces and competence of economic power holders. Considerations of regional preferences are invoked in this sphere to make the scarce and valuable opportunity available to the children to the region, and on the basis of expectation that the services of professional graduates might be advantageously used for the benefit of the region as a return for the investment and efforts put for the education. Objective of this paper is to identify and analyse the judicial decisions and compare the Considerations of regional preferences with the outlook of generosity & universalism which is expected of an egalitarian framework flowing from the Constitution.

**Key Words:** Regionalism, Education Policy, Sub-regionalism, reservation, regional preferences.

## Introduction

Education is an important social activity that prepares the children for better future life, equips with professional skill and enables the children to enter into competitive life and gainful employment with adequate confidence. Apart from providing opportunities of developing student's personality, it has enormous economic dimensions in terms of both inputs and benefits. As Former President A. P. J. Abdul Kalam puts it, "Education is the most important element for the growth and prosperity of the nation."<sup>1</sup> The providers and receivers of educational service as well as policy makers regard professional education as economic opportunity. Over the years, Courts have recognized the economic component of it and tried to maintain some modicum of justice instead of living it to the vagaries of market forces and competence of economic power holders. Considerations of regional preferences are invoked in this sphere to make the scarce and valuable opportunity available to the children to the region, and on the basis of expectation that the services of professional graduates might be advantageously used for the benefit of the region as a return for the investment and efforts put for the education. On the other hand, an outlook of generosity and universalism is expected of an egalitarian framework flowing from the Constitution. Resolution of tension between these two factors, which pose significant challenges of law-society interaction, is one of the themes around which this paper is centered.

This research is a doctrinal research. Data is collected mainly through various reported case laws and a few other references.

For the purpose of convenience, the situations may be classified and discussed in four heads:

- i. Concession to candidates possessing state domicile or state residence in admission and tuition fee;
- ii. Requirement of domicile or residence in state for certain number of years as a qualifying condition;
- iii. Compartmentalization of regions, districts, or geographical areas and allocation of seats on that basis;
- iv. Reservation of certain percentage of seats to the students of the same institution or university.

## Fee Disparity

The legitimacy of state interest in providing concession to candidates of the state was recognized explicitly in one of the early decisions of Supreme Court in *D. P. Joshi v. State of M. B.*<sup>2</sup> The rule impugned in this case was a rule made by the state of Madhya Bharat for admission to the

<sup>1</sup> Dr. A. P. J. Abdul Kalam, Mission of Education in The Week, 19-03-2006 at p. 33.

<sup>2</sup> AIR 1955 SC 334

Mahatma Gandhi Memorial Medical College, Indore providing that no capitation fee should be charged for students who were bona fide residents of Madhya Bharat; but, for non Madhya Bharat students, there should be a capitation fee of Rs. 1300/- for nominees and Rs. 1500/- for others. The expression 'bona fide residents' was defined for the purpose of this rule to mean, inter alia, a citizen whose original domicile was in Madhya Bharat, provided he had not acquired a domicile elsewhere or a citizen whose original domicile was not in Madhya Bharat but who had acquired a domicile in Madhya Bharat and had resided there for not less than five years at the date of the application for admission. The constitutional validity of this rule was challenged on the ground that it discriminated between students who were bona fide residents of Madhya Bharat and students who were not, and since the discrimination was based on residence in the state of Madhya Bharat, it was violative of article 14 of the constitution. The court by a majority of four against one, held that the rule was not discriminatory as being in contravention of article 14, because the classification between students who were bona fide residents of Madhya Bharat and those who were not was based in an intelligible differentia having rational relation to the object of the rule. *Venkatarama Ayyar, J.*, speaking on behalf of the majority observed:

*“the object of classification underlying the impugned rule was clearly to help to some extent students who are residents of Madhya Bharat in the prosecution of their studies, and it cannot be disputed that it is quite a legitimate and laudable objective of a state to encourage education within its borders. Education is a state subject, and one of the directive principles declared in part IV of the Constitution is that the state should make effective provisions for the education within the limits of its economy (Vide article 41). The state has to contribute for the upkeep and the running of its educational institutions. We are in this petitions concerned with a medical college, and it is well known that it requires considerable finance to maintain such an institution. If the state has to spend money on it, it is unreasonable that it should so order the educational system that the advantage to it would to some extent at least enure for the benefit of the state? A concession given to the residents of the state in the matter of fees is obviously calculated to serve that end, as presumably some of them might, after passing out of the college, settle down as doctors and serve the needs of the locality. The classification is thus based on a ground which has a reasonable relation to the subject matter of the legislation, and is in consequence not open to attack.”*

In *Mohini Jain v. State of Karnataka*<sup>3</sup>, the court did not disturb the *D. P. Joshi*<sup>4</sup> rule and decided the case on the issue of discrimination between government seat and management seat in the

<sup>3</sup> AIR 1992 SC 1858

<sup>4</sup> Supra at 2

matter of fee. In *Unni Krishnan, J. P. v. State of A.P.*<sup>5</sup>, the Maharashtra statute, which charged double fee upon non-Maharashtra students, was upheld as a concluded matter after *D. P. Joshi*<sup>6</sup>. The Karnataka government formulated a ‘locals only’ rule in 1995 to totally exclude the claims of non-Karnataka students both in free seat and payment seat categories. The Supreme Court in *T.M.A. Pai Foundation v. State of Karnataka*<sup>7</sup>, stayed the rule and laid down that among the payment seats 15 percent of the seats shall be set aside for non-Karnataka students. In *Dr. Pradeep Jain v. Union of India*<sup>8</sup> case, reservations for the local candidates up to 70 percent of seats at the MBBS level was approved in continuation of *D. P Joshi*<sup>9</sup> rule. Thus the D P Joshi principle has cast its impact for more than five decades. The principle does not rule out the opportunity admission but only permits higher fee structure for outside candidates, and relies on economic reasons of state’s investment and advantages of medical service to the residents of the states.

### **Domicile Requirement as Absolute Condition**

In *N. Vasundara v. State of Mysore*<sup>10</sup>, constitutional validity of the requirement of domicile in the state for a period of 10 years for candidates claiming admission to medical colleges was challenged as violating the article 14. The state argued that the classification was reasonable because by the impugned rule the state has attempted to select those students who are more likely to serve as doctors in the state after they pass out. Although the court had conceded that the object of selection for medical education is to get best of the talents, it recognized the inherent power of the state to classify, keeping in mind benefit to the state. It was observed:

*“The need and demand for doctors in our country is so great that young boys and girls feel that in medical profession they can both get gainful employment and serve the people. The state has therefore to formulate with reasonable foresight a just scheme for classification for imparting medical education to the available candidates which would serve the object and purpose providing broad-based medical aid o the people of the state and to provide medical education to those who are best suited for the education. Proper classification inspired by this consideration and selection on*

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<sup>5</sup> AIR 1993 SC 2431

<sup>6</sup> Supra at 2

<sup>7</sup> AIR 1995 SC 2431

<sup>8</sup> AIR 1984 SC 1420

<sup>9</sup> Supra at 2

<sup>10</sup> AIR 1971 SC 1439

merit from such classified groups, therefore, cannot be challenged on the ground of inequality violating article 14.”<sup>11</sup>

A remarkable development took place in *Pradeep Jain*<sup>12</sup> case, limited the scope of wholesale reservation in favour of residence of particular state. The Supreme Court, in this case regarded access to professional course as something to be substantially decided on the basis of merit in the interest of efficiency and excellence. But with great reluctance, it agreed to permit reservation in admission to MBBS and BDS courses on the basis residence requirement within the state and institutional preference, which could not exceed 70 percent of open general seats for the purpose of bringing about real equality of opportunity between those who were unequal. The court also directed that though residence requirement within the state shall not be a ground for reservation in admissions to postgraduate courses, a certain percentage of seats may, in the present circumstances, be reserved on the basis of institutional preference in the sense that a student who has passed MBBS course from a medical college or university, may to given preference for admission to the postgraduate course in the same medical college or university but such reservation on the basis of institutional preference should not in any event exceed 50 percent of the total number of open seats available for admission to postgraduate course. The court declared wholesale reservation on aforesaid grounds as violative of article 14. When compared to *Vasundhara*<sup>13</sup>, which shuts doors to the candidates coming from other states, *Pradeep Jain*<sup>14</sup>, has a loudable approach of making merit primary criterion to attract best material for education and reflecting the vision of equality in all India citizenship. The national unity, propounded in that case, is not a slogan but a natural outcome of all-India character of freedom of movement and residence.

### Compartmentalization within The State

In *P. Rajendran v. State of Madras*<sup>15</sup> district wise classification of the candidates was struck down as violating right to equality, and it was held that whether selection is from socially and educationally backward classes or from the general pool, the object of selection must be to secure the best possible talents from the two sources. If that is the object, it must necessarily follow that, that object would be defeated if seats are allocated district by district.

In *State of UP v. Pradip Tandon*<sup>16</sup>, the question arose whether the action of the state in reserving certain percentage of the seats available in medical colleges in favor of the candidates from

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<sup>11</sup> ibid

<sup>12</sup> Supra at 8

<sup>13</sup> Supra at 10

<sup>14</sup> Supra at 8

<sup>15</sup> AIR 1968 SC 1012

<sup>16</sup> AIR 1975 SC 563



rural areas, hill areas and Uttarakhand was justified? The court reasoned that a division between the population of our country on the ground of poverty that the people in the urban areas are not poor and that the people in the rural areas are poor is neither supported by facts nor by a proposition that the rural people are socially and educationally backward class. However, reservation of seats for students hailing from hill areas and Uttarakhand was upheld under article 15(4) as benefiting the socially and educationally backward classes of citizen.

The principle laid down in *Rajendran case* was reiterated in *Nidamarti Maheshkumar v. State of Maharashtra*<sup>17</sup>, when region wise classification for admission to medical college was sought to be defended on the ground that Vidarbha and Marathwada regions are backward as compared to pune and bombey regions. The court found no material to show that the entire region within the jurisdiction of Pune University is advanced. It thought about existence of backward region within the jurisdiction of Pune University and of regions within the jurisdiction of the university of Vidarbha, which are not backward. The court declined to categorise the regions within the jurisdiction of various universities as backward or advanced as if they were exclusive categorized, and nullified the rule as violating right to equality.

In *Govind A. Mane v. State of Maharashtra*<sup>18</sup>, fixing a district wise quota for admission to B. Ed. Course showed no nexus between district wise distribution of seats and object ought to be achieved, and hence it was held by the Supreme Court as violative of article 14.

In *Ahmedabad Municipal corporation v. Nilaybhai R. Thakore*<sup>19</sup> the medical college in question was managed and administered by Ahmedabad Municipal Corporation and was also financed by the Municipal Funds. While it had reserved admission therein to local students of Ahmedabad, it had also made provisions for admission to 15 percent of the seats available in the said colleges to be reserved for all India candidates. The court found, the Municipality's venture are rare, laudable and worthy of compliments, and observed, "it's desire to provide as many seats as possible to its students in a natural and genuine desire emanating from its Municipal obligations which deserves to be upheld to the extent possible." The court rectified the defect in the definition of 'local candidate' by including in it all residents of Ahmedabad irrespective of the school in which they passed the qualifying examination.

Major thrust of these categories of cases is that unless an inter-state geographical reservation is justified in terms of social and educational backwardness, the classification is not permissible. Avoidance of fragmentary approach within the state and focus on merit-based selection constitutes definite advantage of this approach.

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<sup>17</sup> AIR 1986 SC 1362

<sup>18</sup> AIR 2000 SC 1576

<sup>19</sup> AIR 2000 SC 114

## Institutional Preference

The issue of regional preference has cropped up also when institutional preference rule for admissions in the medical, education or other technical institutions is invoked by the state and questioned by the aggrieved person. In *Jagdish Saran (Dr.) v. Union of India*<sup>20</sup>, V. R. Krishna Iyer, J. observed:

*“It is no blessing to inflict quacks and medical midgets on people by wholesale sacrifice of talent at the threshold. Nor can the very best can be rejected from admission because that will be a national loss and the interest of no region can be higher than those of the nation.”* He further said *“If potential of rural service of aptitude for rendering medical attention among backward people is a criterion of merit- and it, undoubtedly, is in the land of sickness and misery, neglect and penury, wails and tears – then, surely, belonging to a university catering to a deprived region is a plus point of merit.”*

In this pronouncement, the Supreme Court approved institutional reservation to the extent of 70 percent of seats at admission to MBBS. The requirement as to quantum of residence varies from state to state. While this adversity due to federalism was not specifically addressed to the viewpoint of equality, the overall approach of the judgment by Bhagwati, J. in *Pradeep jain*<sup>21</sup> was not in favor of discrimination arising from such diversity. Following *Jagdish Saran*<sup>22</sup>, the court in *Pradeep Jain*<sup>23</sup>, allowed residence-based or institutional reservation to the extent of 70 percent and 50 percent at undergraduate and post graduate levels of medical education. In *Dinesh Kumar (Dr) v. Motilal Nehru Medical College*<sup>24</sup> the court insisted that 50 percent of the seats in admission to PG medical course should be to open merit seats allocated exclusively on the basis of marks obtained in an all India examination. Again in next case of *Dinesh Kumar (Dr) v. Motilal Nehru Medical College*<sup>25</sup> the quantum of open seats was reduced to 25 percent of total seats.

When college preference rule was introduced by University of Rajasthan by adding 5 percent bonus marks, this was disapproved by the Supreme court as violative of article 14<sup>26</sup>. The attempts of the state of Maharashtra and Uttar Pradesh to fix institutional preference either by exclusion rule or by compartmentalized merit list rule were nullified by the Supreme Court as violative of article 14<sup>27</sup>.

<sup>20</sup> AIR 1980SC 820

<sup>21</sup> Supra at 8

<sup>22</sup> Supra at 20

<sup>23</sup> Supra at 8

<sup>24</sup> AIR 1985 SC 1059

<sup>25</sup> AIR 1986 SC 1877

<sup>26</sup> *State of Rajasthan v. Ashok Kumar Gupta*, AIR 1989 SC 177.

<sup>27</sup> *Municipal corporation of Greater Bombay v. Thukral Anjali Deokumar* AIR 1989 SC 1194; *P. K. Goel v. U. P. Medical Council*, AIR 1992 SC 1475

In *Magan Mehrotra v. Union of India*<sup>28</sup>, a three judge bench of the Supreme Court held that, apart from institutional preference, no other preference including reservations on the basis of residence is envisaged in the Constitution, in view of the decision of the court in *Pradeep Jain*. In a series of cases relating to super specialities in medical education, the Supreme Court has categorically preferred to narrow down the scope of reservation and expand the claim of merit in the interest of excellence<sup>29</sup>.

In *Saurabh Chaudri v. Union of India*<sup>30</sup>, *Pradeep jain*<sup>31</sup> and subsequent cases came for discussion and consideration before the five judge bench of the Supreme Court. The Court distinguished place of birth under article 15 (1) from residence and upheld the states power of providing institutional reservation. The share of open seats fixed at 50 percent in *Pradeep jain*<sup>32</sup> was restored by overruling the *Dinesh*<sup>33</sup> ruling that had fixed it as 25 per cent. AIIMS was asked to hold entrance examinations until the Central Government made necessary law in the National interest. The court referred to the process of social change interfaced with law as under:

*“The situation has now changed to great extent. Twenty years have passed. The country has during this time have produced a large number of post graduate doctors. Our Constitution is Organic in nature. Being a living organ, it is ongoing and with the passage of time, law must change. Horizons of constitutional law are expanding. Having regard to the facts and circumstances reservation by way of institutional preference, should be confined to 50 percent of the seats since it is in public interest.”*

The overall development in this category of cases on institutional preference is towards reasonable balancing between the competing claims of merit and candidate’s expectation of institutional continuity. The Mother University – other University dichotomy is given equitable treatment in this approach. Accordingly, state policies also have been modified. However in Karnataka, the new rule introduced in 2006 for admission to post graduate courses providing for 50, 40, and 10 percent of seats respectively for the same university candidates, other university candidates within Karnataka, and candidates from other states was temporarily withdrawn for the want of adequate preparation and student protest.

## Conclusion

<sup>28</sup> AIR 2000 Sc 2319

<sup>29</sup> *K. Duraisami v. State of T. N.*, AIR 2001 SC 717; *AIIMS student’s union v. AIIMS*, AIR 2001 SC 3262; *Parag Gupta v. University of Delhi*, AIR 2000 SC 2319; *State of UP v. Vineet Singh*, AIR 2000 SC 2766.

<sup>30</sup> AIR 2004 SC 361

<sup>31</sup> Supra at 8

<sup>32</sup> Supra at 8

<sup>33</sup> Supra at 25



In principle, regionalism need not be regarded as an unhealthy or anti-national phenomenon— unless it takes a militant, aggressive turn and encourages the growth of secessionist tendencies. National unity is not impaired if the people of a region have a genuine pride in their language and culture. There is nothing basically contradictory between nationalism and regionalism. Nor does the growth of regional values and consolidation of regional forces as such pose a challenge to the central administration of the country.

India is a large country having continental dimensions and comprising of 28 States and 8 Union Territories. It is a multi-racial, multi-lingual, multi-cultural nation. There are scores of regional languages, various strains of culture and different loyalties, single as well as multiple. Amidst the amazing diversities, it is natural that regional feelings, regional parties, regional institutions and similar other organizations meant for voicing the aspirations of local people and providing forums for them, should emerge. Indeed, with the passage of years, the multi-faceted aspirations, which together may be described as regionalism, have gained strength.

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