

HGRJ & JMCJ:

27.04.2017

1. Learned Counsel appearing for the petitioner submits that respondent Nos.3 and 4 have not provided 'NRI quota' in accordance with law in the matter of admission of students to postgraduate medical courses. The learned Counsel by referring to Annexure-Q submits that all close relatives of a Non-Resident Indian are included to come under the 'NRI quota'.
2. The matter requires examination. Emergent notice re.rule to the respondents.
3. Sri N.Khetty, learned Standing Counsel takes notice for respondent No.1-Medical Council of India.
4. Learned Counsel for the petitioner is at liberty to take out notice to respondent Nos.2 to 8 through their Standing Counsel in addition to taking out notice through the process of Court.
5. Sri N.Khetty, learned Standing Counsel appearing for respondent No.1-Medical Council of India, by referring to para 131 of a Seven Judge Bench decision of the Supreme Court in *P.A.Inamdar v. State of Maharashtra* [(2005)6 SCC 537], submits that only the children of NRIs or their wards can claim admission under the 'NRI quota'. Para 131 of *P.A.Inamdar* reads as follows:

"131. Here itself we are inclined to deal with the question as to seats allocated for Non-Resident Indians ("NRI" for short) or NRI seats. It is common knowledge that some of the institutions grant admissions to a

certain number of students under such quota by charging a higher amount of fee. In fact, the term "NRI" in relation to admissions is a misnomer. By and large, we have noticed in cases after cases coming to this Court, neither the students who get admissions under this category nor their parents are NRIs. In effect and reality, under this category, less meritorious students, but who can afford to bring more money, get admission. During the course of hearing, it was pointed out that a limited number of such seats should be made available as the money brought by such students admitted against NRI quota enables the educational institutions to strengthen their level of education and also to enlarge their educational activities. It was also pointed out that people of Indian origin, who have migrated to other countries, have a desire to bring back their children to their own country as they not only get education but also get reunited with Indian cultural ethos by virtue of being here. They also wish the money which they would be spending elsewhere on education of their children should rather reach their own motherland. A limited reservation of such seats, not exceeding 15%, in our opinion, may be made available to NRIs depending on the discretion of the management subject to two conditions. First, such seats should be utilized bona fide by NRIs only and for their children or wards. Secondly, within this quota, merit should not be given a complete go-by. The amount of money, in whatever form collected from such NRIs, should be utilized for benefiting students such as from economically weaker sections of the society, whom, on well-defined criteria, the educational institution may admit on subsidised payment of their fee. To prevent misutilisation of such quota or any malpractice referable to NRI quota seats, suitable legislation or regulation needs to be framed. So long as the State does not do it, it will be for the Committees constituted pursuant to the direction in *Islamic Academy* to regulate".

(underlining & emphasis supplied)

6. In view of what is stated by the Supreme Court in *P.A.Inamdar* which is extracted above, respondent No.3-Karnataka Examinations Authority and respondent No.4-State of Karnataka, while making allotment of seats under Regulation 9A of the Postgraduate Medical Education

Regulations, 2000 for the academic year 2017-2018 shall not permit 'NRI quota' in excess of fifteen percent and further it shall be confined only to the children of NRIs or their wards.

List immediately after service of notice to respondent Nos.2 to 8.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

KSR