

Contempt Petition No.181 of 2021  
and Sub Application No.49 of 2021

THE HON'BLE CHIEF JUSTICE  
and  
SENTHILKUMAR RAMAMOORTHY, J.

(Order of the Court was made by the Hon'ble Chief Justice)

The matter pertains to an order dated July 27, 2020 passed by this court on a matter relating to the reservation in All India Quota seats in this State in the under-graduate and post-graduate courses in medical and dental colleges.

2. The relevant matter was taken up by this Court and decided pursuant to an observation of the Supreme Court in an order dated July 13, 2020 to the effect that the point raised in the writ petitions pending in this court was not similar to that in the *Saloni Kumari* case, which was pending before the Supreme Court. By the order dated July 13, 2020, the Supreme Court went on to say that "the High Court can proceed to adjudicate the writ petitions on merits". The Supreme Court also took note of the fact that the matter had been listed before this court on July 17, 2020.

3. The order of this court of July 27, 2020 clearly held that "the matter has to be resolved between the State Government and the Central Government with the participation of the Medical Council of India as well as the Dental Council of India and in this view of the matter, we find that it would be appropriate that the issue is referred to a Committee for providing the terms of implementation of such reservation as claimed by the petitioners, which can only be done with regard to the courses that are to be run in future and not in the present academic year ..."

4. A Special Leave Petition was carried by the State or the petitioners in the writ petitions. In such proceedings, the Union filed a counter-affidavit stating therein, inter alia, as follows:

"17. It is submitted that in compliance of the said directions issued by the Hon'ble Madras High Court, the MoHFW has constituted the Committee to finalise the manner in which the facilities of OBC reservation are to be provided against All India Quota seats in UG/PG courses in the State of Tamil Nadu w.e.f. next academic year 2021-22."

5. Indeed, the Supreme Court passed an order on the Special Leave Petition on October 26, 2020 observing at paragraph 8 of the order that the High Court had accepted the submission of the appellants before the Supreme Court that the 1993 Act could be made applicable to the All India Quota seats in the State. The Supreme Court also noticed the direction given by this court for the constitution of a Committee. The order recorded the Union's submission that the Committee was already in place and was examining the modalities for implementation of reservation for OBC candidates in the All India Quota seats. The following observation at paragraph 9 of the Supreme Court order of October 26, 2020, is of some significance in the present context:

"9. ... After holding discussions with the State of Tamil Nadu and other States, a final decision will be taken by the Committee which can be implemented from the next academic year i.e. 2021-2022. ..."

6. It must be appreciated that the challenge to the order of this court of July 27, 2020 was restricted to the timing of the

implementation of the OBC reservation as per the State Act of 1993 qua the All India Quota seats. This court had directed the implementation from the academic year 2021-22, while the petitioners and the State sought an earlier implementation of the relevant reservation. There was no challenge to the application of the OBC reservation as per the State Act of 1993 to the All India Quota seats, as had been held in principle in the order of this court. To repeat, the considered stand of the Union was that steps were being taken to implement the OBC reservation to All India Quota seats in this State from the academic year 2021-22.

7. It now appears that the Union seeks to change tack and keep the implementation of the OBC reservation as per the 1993 State Act in suspension till the *Saloni Kumari* case is decided by the Supreme Court. The contempt petition is directed against such proposal or suggestion of the Union. Prima facie, it is completely unacceptable that despite the Union representing in course of the relevant proceedings before the Supreme Court that the OBC

reservation quota as per the 1993 State Act would be implemented in respect of the All India Quota seats in this State in terms of the order of July 27, 2020 passed by this court, the Union would now not implement the reservation on the specious ruse that the *Saloni Kumari* matter had first to be decided by the Supreme Court. In the first place, the matter pertaining to the OBC reservation quota in respect of the All India Quota seats in the State came to be taken up for final decision and was finally decided pursuant to the observation in the previous Supreme Court order of July 13, 2020 to the effect that the issue involved in the *Saloni Kumari* case would not stand in the way of the matter being decided by this court.

8. In the light of such observation, the Union's attempt to not implement the OBC reservation quota in respect of the All India Quota seats in the State in the academic year 2021-22 appears to be contumacious, in derogation of the order dated July 27, 2020 passed by this Court and contrary to the representation made

before the Supreme Court as recorded in the order dated October 26, 2020.

9. It is submitted on behalf of the State that the State has indicated its proposal as to the manner of implementation of the reservation quota to the Committee constituted in terms of this court's order of July 27, 2020 by the middle of October, 2020.

10. Accordingly, the contemnors are permitted a week's time to indicate their considered stand as to the mode and manner of implementation of the OBC reservation quota in terms of the 1993 State Act in respect of the All India Quota seats in the State pertaining to the medical and dental colleges from the next academic year 2021-22. The admission into the relevant colleges in this State can only now be upon implementing such reservation quota.

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List the matter on July 26, 2021.

(S.B., CJ.) (S.K.R.,J.)  
19.07.2021

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