

Amar Bir Singh and others v. Maha Rishi Dayanand University
Rohtak and others (S. S. Sandhawalia, C.J.)

of them is 'outstanding', 'very good', 'good' or 'unfit'. If in a given case, it takes into consideration anything outside the service record of the officers concerned without giving its reasons or without furnishing such reasons, if any, to the Commission, and if its categorisation of the candidates does not accord with their 'service record', then the Commission, which has to confine itself to the 'service record' for considering the merits of the candidates, would certainly modify the Select List and bring it in accord with the comparative service record of the candidates. When so viewed it cannot be said that amended provision of sub-regulation (4), read with regulation 7, leaves any scope for arbitrariness in the finalisation of the Select List on the basis of the 'service records' of the candidates.

(18) For the reasons aforementioned, we hold that this Court in *Baldev Kapoor's case* (supra) had laid down the law correctly, and finding no merit in the writ petition, we dismiss the same, but in the circumstances of the case make no order as to costs.

Prem Chand Jain, J.—I agree.

Harbans Lal, J.—I agree.

N. K. S.

FULL BENCH

Before S. S. Sandhawalia, C.J., Prem Chand Jain and D. S. Tewatia, JJ.

AMAR BIR SINGH and others,—*Petitioners.*

versus

MAHA RISHI DAYANAND UNIVERSITY ROHTAK and others,—*Respondents.*

Civil Writ No. 2459 of 1979

May 9, 1980.

Constitution of India 1950—Articles 14 and 15 (4)—Candidates in common rural schools as compared to urban schools handicapped.—Such candidates sought to be uplifted to give parity with those educated in urban schools—Seats reserved in a medical faculty for candidates educated in rural schools—No stipulation that such candidates

must be residents of rural areas—Such reservation—Whether constitutionally valid.

Held, that the underlying purpose of reservation is to uplift the **handicapped class of students educated in common rural schools in order to secure some parity of competition with their environmental superiors educated in the urban schools.** Keeping this in view there seems to be little doubt that the classification made by the State resting squarely on the aforesaid irresistible and objective factors is **a reasonable one.** The classification is not even remotely rested on either the place of birth of the students nor linked to any conditions of residence as regards the candidates themselves or their families. Once it is held that the classification is both objective and reasonable, there is little doubt that it has a direct nexus to the objects sought to be achieved as the experience of the previous years had shown that the handicapped students from the common rural schools were being virtually eliminated from getting admission to the medical faculties in the uneven competition against the urban educated class. The question of applicability of Article 15(4) of the Constitution of India does not therefore, arise and the classification made is plainly sustainable under Article 14 of the Constitution. The students who have studied in the common rural schools situated in the villages form so patently different a class from those who have received education in cities and urban areas. The vast difference between the educational facilities in the shape of science laboratories, **libraries, teaching staff and the like which are available in the urban schools and their paucity and sometimes total absence in the common rural schools in the villages is well known.** As such, the reservation made for the benefit of the candidates educated in the rural schools is constitutionally valid. (Paras 18 and 19).

(Case referred by the Division Bench consisting of Hon'ble Mr. Justice P. C. Jain and Hon'ble Mr. Justice D. S. Tewatia to a Larger Bench on 28th August, 1979 to decide the question of law involved in this Writ Petition. The Larger Bench consisting of Hon'ble the Chief Justice, Hon'ble Mr. Justice P. C. Jain and Hon'ble Mr. Justice D. S. Tewatia finally decided the writ petition on 9th May, 1980).

Petition under Article 226 of the Constitution of India praying that:—

- (a) *a writ of mandamus may be issued thereby declaring that the reservation of seats for candidates from rural area,—vide Annexure P-1 & P-2 is illegal, ultra vires, null and void and unconstitutional and therefore Respondents 1 to 4 may be restrained from enforcing the same;*
- (b) *Selection of the respondents No. 5 to 34 on the basis of the aforesaid reservation is also illegal ultra vires, null and void and, therefore the same may be quashed;*

Amar Bir Singh and others v. Maha Rishi Dayanand University
Rohtak and others (S. S. Sandhawalia, C.J.)

- (c) Respondents No. 1 to 4 may be directed to admit the petitioners to the Medical College because they are duly qualified for admission according to the merit list. They have been denied admission only due to reservation made for candidates from rural area;
- (d) or such other appropriate writ, order or direction as may be deemed fit in the circumstances of the case may be issued in favour of the petitioners and against the respondents.
- (e) ad-interim order may be issued to respondent No. 1 to 4 directing them to admit the petitioners to the Medical College so that the petitioners may be able to attend the classes. If the interim relief was not granted to the petitioners, they would be deprived of the benefit of attending the classes and they may even run short of lectures. In that event the writ petition may become infructuous.
- (f) that in view of the extreme urgency of the matter and in view of the fact that there is no time at the disposal of the petitioners, the conditions regarding service of notice on the respondents may be dispensed with.
- (h) Cost of the petition may be awarded against the respondents.

K. P. Bhandari, Advocate, Gopi Chand and Ravi Kapoor, Advocate, for the petitioners.

Balwant Singh Malik, Additional A. G. Haryana with S. S. Ahlawat, Advocates, for the Respondent.

JUDGMENT

S. S. Sandhawalia, C.J.

1. Whether the handicapped class of students educated in the common rural schools can be allowed some marginal preferential treatment to equalise the imbalance as against the city educated students, by way of a reservation of some seats for admission to a medical faculty is the significant constitutional question which falls for determination before this Full Bench.

2. It is evident that the issue aforesaid is primarily legal and would necessarily pertain to the rationality and the constitutionality

of the classification involved yet the matrix of facts giving rise to the same first inevitably calls for some notice in detail. The three petitioners duly qualified in the medical entrance examination conducted by the M. D. University, Rohtak, and on the basis thereof claimed admission to the medical faculty of the said University. According to the prospectus for the admission thereto 25 seats out of a total of 115 were reserved for rural candidates who had received education up to the 8th standard in a common rural school situated in a village not having any municipality or notified area or town area committee, for claiming this reservation, a certificate in the prescribed form in appendix 'C' of the prospectus was to be submitted along with the application. According to the merit list drawn up for admission,—*vide* annexure P. 3, the names of the petitioners appeared at serial Nos. 76, 88 and 89 of the open merit list but they were denied admission because of the reservation made for the handicapped class of students educated in common rural schools. The petitioners, therefore, pointedly assailed this reservation as unconstitutional. The basic reliance on their behalf was on *State of U.P. and others v. Pradip Tandon and others*, (1) with the added ground that earlier reservation of similar nature made by the M. D. University, Rohtak, was struck down by the Division Bench in *Kumari Promila Jain etc. v. The State of Haryana and others*, (2), by following the judgment in *Pradip Tandon's case* (*supra*).

3. In the return filed on behalf of the respondents the factual position is not at all controverted. The categorical stand, however, is that indeed the nature of the reservation in *Pradip Tandon's case* was entirely different from the present one and bears no similarity with the same. It is pointed out that in the Supreme Court case the question was entirely under Article 15(4) of the Constitution of India and the identical situation prevailed in *Kumari Promila Jain's case* (*supra*) which again fell within the ambit of the same Article. The firm stand taken is that it would be wholly wrong to say that the impugned reservation herein is for candidates from rural area because there is neither the condition of residence nor any condition of birth in a rural area for its applicability. By way of example, it is pointed out that sons and wards of Doctors, Gram Sachiv,

(1) AIR 1975 S.C. 563.

(2) CWP 3371 of 78 decided on 26th February, 1979.

Amar Bir Singh and others v. Maha Rishi Dayanand University
Rohtak and others (S. S. Sandhawalia, C.J.)

employees of Agriculture Department, Electricity Department, Co-operative Department and Revenue Department who received their education in the common rural schools would be as well entitled to the reservation along with a number of other candidates who may neither be residents nor born in a rural area. It is, therefore, submitted that no question of the applicability of Article 15(4) would arise and the classification made by the respondents is plainly sustainable under Article 14 of the Constitution. The students who have studied in the common rural schools situated in the villages form so patently different a claim from those who have received education in cities and urban areas. The vast difference between the educational facilities, in the shape of science laboratories, libraries, teaching staff and the like which are available in the urban schools and their paucity and sometimes total absence in the common rural schools in the villages is pointedly highlighted. It is then averred that the respondents have got conducted expert surveys in the districts of Rohtak, Kurukshetra, Sirsa, Karnal, Gurgaon and Hissar and the reports or synopses thereof are attached as annexures R. 1/3 to R. 1/8 to the return. The said survey report, according to the respondents, brings out scores of handicaps uniformly suffered by the candidates who received education in the common rural schools. From the said report, the basic handicaps which emerge to the fore may be tabulated as follows,—*vide* R. 1/3 to R. 1/8 :—

- (1) In rural schools majority of the students are of first generation learners and their parents being illiterate in most cases, they stand at a disadvantage in their school achievements as against the children of Urban Areas wherein majority of cases the parents are themselves well educated ;
- (2) Hardly there is a provision for electric fans in summer in any of the rural schools and the extreme summer season followed by rainy season almost shortens the academic year for the rural students and this factor further keeps them at a disadvantage in their academic achievements as compared to children in the urban schools where the academic session goes undisturbed by the extreme summer or the rainy season.

In Rohtak District hundreds of schools in Jhajjar and Bahadurgarh Sub-Divisions are adversely affected by floods every year and

the imparting of instruction during these days becomes almost impossible.

- (3) The development programmes so far implemented in the State of Haryana have not been able to make the rural life attractive to good teachers and they are, therefore, unwilling to join any rural schools. There is consequently great disparity in the educational facilities in rural and urban schools and in such a situation the academic achievements in rural schools cannot be qualitatively compared with the achievements in urban schools.
- (4) In many of the rural middle/high schools in district Rohtak, Science Masters and Mathematics Masters are not available. Consequently, the rural schools students lag behind in the subjects of Science and Mathematics which have the most important place in the present technological age. To enable the students in rural schools to get admission to the Medical and Engineering Colleges, the existing situation puts them at a great disadvantage.
- (5) In majority of the rural schools the science labs. and the Libraries are not well equipped. Hence, the students in rural schools fail to develop reading interests or an experimental attitude in life much needed for pursuing higher courses in science.
- (6) All good recognised private schools and public schools, model schools, if any, are situated in urban areas. In the whole Rohtak District there is no Model/Public School in rural areas.
- (7) Generally the teachers reside in urban areas and go as bus passengers to attend to their duties in rural schools and reach there just in time and leave it immediately after the prescribed school hours. Thus there is no time with them to meet their students in the evening or out of school hours. In such a situation the extra-curricular life of the students in the rural school remains poor and this adversely affects the harmonious development of their personalities.
- (8) Hundreds of primary, Middle Schools have no adequate building, sufficient playgrounds, drinking water facility

Amar Bir Singh and others v. Maha Rishi Dayanand University
Rohtak and others (S. S. Sandhawalia, C.J.)

and such a situation leaves much to be desired for giving a congenial educational atmosphere to the students in the rural schools.

- (9) The pass percentage of the rural schools is markedly low as compared to that of urban schools. The rural children are not provided with even half the facilities and favourable environment available to their counter-parts of the urban Schools. The result is that they cannot be compared favourably with the students of urban schools.
- (10) Urban students get the educational facilities at their doorstep whereas rural students have to walk a distance of 4 to 8 kilometers daily to reach the school. According to the survey only 46 per cent of the population residing in rural areas has the Middle School facility in their villages. The High School facility in the villages is available to only 33 per cent of the rural population.
- (11) There are many Model/Public Schools in the Urban areas. They admit the students of three years of age in pre-nursery, LKG and K.G. Classes. The students admitted in these schools get the educational atmosphere from the very beginning and their foundation is made in these classes whereas no such facility is available to the rural children.

4. It is the stand of the State that to remove the aforesaid glaring inequalities it has become necessary to frame the present rules of admission along with the reservations in favour of the handicapped class of students educated in any rural school. This was otherwise called for from the experience of previous years which indicated that hardly any candidate who received any education from rural schools could get admission in the open merit category for the medical faculty during the academic sessions of 1978-79 and 1979-80. Only five candidates from this category each year could get admission on the basis of open merit category and their ratio would come to a paltry 6 per cent in each year although they represent over 80% the major portion of the population of the State of Haryana. Such a situation, according to the respondents clearly call for measures to remove the ever-persisting inequality between the two classes which would otherwise have been perpetuated.

5. It deserves highlighting that on behalf of the petitioners no replication has been filed to controvert the stand of the respondents with regard to the obvious disparities emerging from the State-wide survey.

6. Before one enters upon an examination of the issues involved the question arises at the very threshold whether the same are covered by the binding precedent in *Pradip Tandon's case*. Inevitably this must be first settled before entering into any discussion on principle or precedent, because within this Court it would be obviously an exercise in futility if the aforesaid judgment covers the field. Allied to that question is again the applicability of the Division Bench judgment of this Court in *Kumari Promila Jain's case* which in essence only follows *Pradip Tandon's case*.

7. Now what fell for consideration by their Lordships in *Pradip Tandon's case* was the reservations made for admission to the Medical Colleges in the State of Uttar Pradesh. The material part thereof was in the following terms :—

“.....

- (x) Candidates applying for admission to the reserved seats will be required to submit a certificate from the District Magistrate of the district to which they belong that they and their families are permanent residents of rural areas or one of the hill districts or Uttarkhand Division, as the case may be, and they have had a major part of their education in that area.”

Earlier this issue had fallen for consideration by the Division Benches in *Subhash Chandra v. The State of U.P. and others* (3) and *Dalip Kumar v. The Government of U.P. and others*, (3-A) and later by the Full Bench in *Pradip Tandon v. State of U.P.* (4). Now it appears to be plain from the aforequoted provision that the core of the classification therein was sought to be rested on the place of birth and residence not only of the candidates themselves but of their families as well who were required to be either permanent residents of rural

(3) AIR 1973 All. 295.

(3-A) A.I.R. 1973 All. 592.

(4) AIR 1975 All. 1.

Amar Bir Singh and others v. Maha Rishi Dayanand University
Rohtak and others (S. S. Sandhwalia, C.J.)

areas or one of the hill districts of Uttarkhand division. Once that is so it is plain that Article 15 entirely bars such a discrimination except within the narrow confines of the exception laid down in clause (4) thereof. A bare reference to the Division Bench judgment in *Dilip Kumar v. The State of U.P. and others* (supra) would show that the matter therein was viewed primarily, if not entirely, under Article 15 of the Constitution and the learned Judges themselves noticed that the main challenge to the instructions was that they were hit by Article 15(4) of the Constitution. It was expressly held that the determination of the class of citizens as being socially and educationally backward was not proper and therefore, the reservation was violative of Article 15(4) of the Constitution. Similarly, the analysis of the judgment in *Subhash Chandra v. The State of U.P. and others*, (supra), the State would indicate that the issue was examined entirely in the context of Article 15(1), (2), (3) and (4) of the Constitution.

8. Now it was the apparent conflict of the aforesaid two Division Bench judgments of the Allahabad High Court which had necessitated the reference to a Full Bench in *Pradip Tandon v. State of Uttar Pradesh and others* (5). Since both the judgments had viewed the matter essentially in the light of Article 15 of the Constitution, it was inevitable and indeed a reference to the Full Bench judgment would disclose that the argument again turned primarily on Article 15 of the Constitution and the applicability or otherwise of clause (4) thereof.

9. Now in *State of Uttar Pradesh and others v. Pradip Tandon and others* (supra), the appeals amongst others were directed against the Full Bench judgment in *Pradip Tandon v. State of Uttar Pradesh and others*, (supra), and *Subhash Chandra v. The State of Uttar Pradesh and others* (supra).

Apart from the basic background of the case before their Lordships a perusal of the judgment by Chief Justice Ray, speaking for the Bench in *Pradip Tandon's case* leaves hardly any manner of doubt that the issue canvassed was one primarily and directly under Article 15 of the Constitution and the applicability or otherwise of clause (4) thereof. The learned Chief Justice came to the conclusion

(5) A.I.R. 1975 All. 1.

that the reservation did not satisfy the requisite test of Article 15(4) of the Constitution and this is manifest from the conclusion in paras 29 and 30 of the report, in the following terms :—

“.....In the instructions for reservation of seats it is provided that in the application form, a candidate for reserved seat from rural areas must submit a certificate of the District Magistrate of the District to which he belonged that he was born in rural area and had a permanent home there, and is residing there or that he was born in India and his parents and guardians are still living there and earn their livelihood there. *The incident of birth in rural areas is made the basic qualification. No reservation can be made on the basis of place of birth as this would offend Article 15.*

30. The onus of proof is on the State to establish that the reservations are for socially and educationally backward classes of citizens. The State has established that the people in hill and Uttarkhand areas are socially and educationally backward classes of citizens.”

It appears to be plain from the aforesaid that *Pradip Tandon's case* (supra) was fairly and squarely decided under Article 15 of the Constitution.

10. Coming now to *Kumari Promila Jain's case* (Supra) it deserves recalling that prior to the present reservation Maharishi Dayanand University, Rohtak had themselves earlier reserved 25 seats for admission to students from rural areas in the Medical College, Rohtak in 1978. To be eligible for this reservation, three conditions were prescribed which will be quoted *in extenso* hereinafter. It was this reservation only which had come up for consideration before the Division Bench and the learned Judges expressed the view in terms that the observations made in *Pradip Tandon's case* applied with full force to the case before them and following the same quashed the said reservation. It was obviously after the said judgment had been rendered that now the State of Haryana, on their own has made the present reservation which is under challenge here. In order to highlight the difference it is best to juxtapose the earlier reservation made by the University and the present one made by the Government for the purpose of bringing out

Amar Bir Singh and others v. Maha Rishi Dayanand University
Rohtak and others (S. S. Sandhawalia, C.J.)

the meaningful difference therein as also the applicability of the precedents thereto :—

The Earlier Reservation by the University

The Impugned reservation

1. The names of parents of the candidate should be in the village electoral roll.
2. The parents should be engaged in cultivation or allied activities in the village.
3. The candidates should have received at least primary Education from a school situated in any village not having a Municipality or notified area or town Area Committee.

“.....

- (ii) For deciding the eligibility of a candidate from rural areas, the following criterion will be observed:—

A candidate must have received education upto 8th Standard in a common rural School situated in any village not having any Municipality or notified area or town area Committee.

For this purpose a certificate is required to be submitted which may be seen in Appendix 'C'

It would be plain from the above that both in language and in content, the earlier and the impugned reservations are materially and indeed radically different from each other. The earlier reservation was rooted entirely to the place of birth and the residence of the parents of the candidates, who had to be voters registered in the village electoral rolls and thus satisfying the essential pre-requisites thereof. Again not only the candidate himself, but his parents had to satisfy the test of occupation in the village relating to cultivation or its allied activities. On the other hand, the present reservation is totally devoid of any such condition or limitation. It requires neither any reference to the place of birth nor the continuance of a place of residence of the parents, nor has any relevance to the occupational activities of the candidate's family. Inevitably, it follows that both in its nature and scope the present reservation is rested on a ground materially different from the earlier one.

11. Now in *Pradip Tandon's case* as also in *Kumari Promila Jain's case* the classification and the scope of the reservation (When read with the contents of certificates required therefor) extended to persons born in rural areas and their families being resident therein as also the nature of the occupation carried on by them. In the present reservation, this is not even remotely so. Indeed, the learned Additional Advocate-General was able to forcefully point out that the converse would perhaps be true and he rightly contended that herein the reservation has not been a blanket one for the rural population as such but only for those who suffer the handicap inherent in studying in ill-equipped, ill-housed and ill-manned common rural schools. An example thereof was that even a serviceman who may belong to the urban elite whilst posted in rural areas in the Health, Agriculture, Electricity or Revenue Departments would be able to claim the reservation for his children, if they get the education in the common rural schools at the place of his posting. On the other hand, the children of an affluent rural based family would not come under the reservation if they had their education in good schools in urban areas. It was highlighted that the reservation is not a blanket one for the rural population as such nor a discriminatory one against the urban born or urban resident population, but is rooted to the rational factor of suffering the handicap of education in common rural schools which according to the respondent-State are no match as regards Science and Maths. education imparted in the urban schools and which is the necessary basis for admission to the medical faculty.

12. It is plain that *Pradip Tandon's case* and *Kumari Promila Jain's case*, following the same, were decided wholly on the principle underlying Article 15 of the Constitution whilst in the present case the said provision is not even remotely attracted. The fair stand of the respondent-State both in the written statement and its pleadings as also the equally categorical argument of the learned Additional Advocate-General, in Court, is that herein Article 15 cannot even remotely be brought into play. The case on the respondents' behalf is sought to be rested plainly under Article 14 and it is forcefully argued that it satisfies the requisite tests of this equality clause in its entirety. It appears to be evidently so. As has been noticed earlier, the impugned reservation now has not the least relevance to either the place of birth or the requirement of residence and the occupation in rural areas. Therefore, the principle laid down and the

Amar Bir Singh and others v. Maha Rishi Dayanand University
Rohtak and others (S. S. Sandhawalia, C.J.)

discussion in the aforesaid two cases can have, but little relevance in the present **one**.

13. What then deserves notice is the fact that the qualification of having education in the rural areas was part and parcel of the reservation made in the State of Uttar Pradesh which fell for consideration in *Pradip Tandon's case*. It is significant that there is not a solitary observation therein or in the judgments recorded by the Division Benches in *Subhash Chandra v. The State of U.P. and others* (supra) and *Dilip Kumar v. The Government of U.P. and others* (supra) as also by their Lordships of the Supreme Court in *Pradip Tandon's case* to the effect that the backwardness of the quality of education imparted in the common rural schools, cannot be made a basis for classification. All the three judgments are entirely silent and indeed the whole question in terms therein turned on Article 15(1) to (4) of the Constitution, and this aspect did not come up for consideration at all. Indeed, it may perhaps be said that their Lordships found not the least infirmity or invalidity in the classification on the basis of the backwardness of the education in common rural schools and therefore, either tacitly approved of the same or in any case ignored it altogether from consideration. *Pradip Tandon's case* is, therefore, no authority for saying that the admittedly poor quality of education in common rural schools cannot be a criteria for a rational classification.

14. To conclude on this aspect, I hold that *Pradip Tandon's case* and *Kumari Promila Jain's case* are totally distinguishable and not at all attracted to the impugned reservation which rests on a foundation wholly and radically different from that made by the State of Uttar Pradesh and earlier by the Maharishi Dayanand University.

15. Having cleared the ground about the non-applicability of the aforesaid precedents, the matter may now be examined refreshingly on principle. Inevitably the question arises as to what is the purpose and the object of the reservation? If that object is a valid and laudable one then all that remains is to determine whether the classification made by the reservation stands the test of reasonableness and has a nexus to the object sought to be achieved? The stand of the respondent-State fairly is that the underlying purpose of the reservation is to up-lift the handicapped class of the students educated in common rural schools in order to secure some parity of competition with their environmental superiors educated in the

urban schools. In a way the attempt is to remove the inequality inherently engendered by the poor quality of education in the common rural schools and to prevent this disability or handicap from becoming endemic. As has been averred in the written statement, the seats in the Medical Colleges are sought to be distributed among all the sections of the society in a fair and equitable manner.

16. A secondary and ancillary object implicit in the reservation and projected forcefully by the learned Additional Advocate-General was that there was also a long range purpose to encourage the provision of medical facility in the out-lying rural areas. It is the common case that the rural areas are denuded of modern medical aids and no qualified doctor is willing to return to these areas for setting up practice there and even for accepting a posting in government service at such places. So much so, that the government and the Universities have to provide for the execution of bonds by the medical students in order to virtually compel them to serve in the rural areas after they are duly qualified. However, these bonds, it was said, are honoured more in breach than in performance and it was sometimes profitable for a qualified student to pay the penalty under the bond rather than take on the onerous conditions of service in remote rural areas. It was argued by the learned Additional Advocate-General with some degree of plausibility that the possibility of students educated in common rural schools taking over the burden of serving in rural areas was much greater and larger than that of the wholly urban oriented students.

17. It appears to me as obvious that the aforementioned object to do social justice and to bring at par the students educated in common rural schools with their more favoured counter-parts having education in good urban schools, is not only a valid one but laudable also. Question that next follows therefore, is whether the classification made for the reservation to attain the above-said object is reasonable and sustainable? This again does not seem to brook of much doubt. This classification is rested on the objective criterion of the patent backwardness of the education in common rural schools and especially of the science education therein which inevitably is the foundation on which the later teaching in the medical faculty is to be rested. This, on the present material, appears to be nothing more than a realistic recognition of facts which are glaring and stare one in the face. However, the respondent-State rests itself squarely not only on matters plain to the eye, but also

Amar Bir Singh and others v. Maha Rishi Dayanand University
Rohtak and others (S. S. Sandhwalia, C.J.)

on data expertly collected and investigated and the inevitable conclusion drawn therefrom. In this context, Annexures R-1/3 to R-1/8 have already been referred to in some detail and on this record there is nothing to doubt the facts and the conclusions arrived therein. There indeed would be little dispute that the majority of the students in the common rural schools would be the first generation learners with all the handicaps inherent in such a situation. As a consequence of the absence of good buildings and in some cases hardly any buildings at all and the non-provision of electric fans etc. the academic season is prone to be adversely affected by the extreme rigours of heat and the rainy season and the consequent floods. It is the State's stand that conditions in the out-lying rural areas are not conducive to attracting good teachers to these common rural schools with an inevitable qualitative fall in the education imparted. In particular, the paucity of good science teachers and sometime the total absence of science teachers and even the basic modicum of the teaching of English which is main medium for medical education stands highlighted, inherent handicaps like the absence of libraries in the common rural schools as also of science laboratories and even where the latter are provided, the failure to make available the necessary equipment etc. are again matters of record. It has then been averred that in many cases the teachers who are available are residentially based in urban areas and reach the schools in nick of time and leave forthwith at closing time thus denying any meaningful student-teacher relationship or supervision of extra-curricular activities. All this is shown to be well evidenced by the fact that even the pass percentages of the common rural schools is markedly low as compared to that of the urban schools. Lastly, it is pointed out that even the facility of the common rural schools is not easily available and in many cases students have to walk 4 to 8 kilometers just to reach and then to return therefrom to avail the same.

18. In view of the above, there seems to be little doubt that the classification made by the State resting squarely on the afore-said irresistible and objective factors is a reasonable one. Nothing could be pointed out on behalf of the petitioners to show that such a classification is impermissible either on the canons of logic or of law. It bears repetition and highlighting that herein this classification is not even remotely rested on either the place of birth of the students nor linked to any conditions of residence as regards the candidates themselves or their families.

19. Once it is held that the classification is both objective and reasonable, then there appears to be little doubt that it has a direct nexus to the objects sought to be achieved. It is the respondent's stand that experience of the previous had shown that the handicapped students from the common rural schools were being virtually eliminated from getting admission to the medical faculty in the uneven competition against the urban educated class. During the academic session of 1978-79 only five candidates from the category of students from common rural schools could make the grade in the open merit list for admission to the medical faculty. This was so despite the admitted position that they belonged to the overwhelming number of such like students in a primarily rural and agriculturally based State of Haryana. This was not an isolated phenomenon and in the following academic year of 1979-80 again only five students of this handicapped class could get admission in the medical faculty. The State's stand is that this ratio comes to only six per cent in each year, although this class represented the major portion of the rural based society in Haryana. The reservation of 25 seats for this handicapped class has thus a direct bearing and a patent connection to the object of equalizing the imbalance betwixt the quality of education imparted in the common rural schools as against the one imparted by the patently more favoured urban ones.

20. Having cleared the deck on principle and the logical and legal requirements of the classification, one can now advert to precedent. It seems to me that the final Court has itself in no uncertain terms upheld the classification rested on the basis of educational handicaps so often that the present one would be totally protected by the ratio of those cases. Indeed their Lordships have even extended this principle into fields far beyond that required in the present case.

21. In *Kumari Chitra Ghosh and another v. Union of India and others* (7), the reservation of seats in the Maulana Azad Medical College, Delhi, in favour of the under-mentioned categories was vehemently challenged as being violative of Articles 14, 15 and 29 of the Constitution of India :—

“.....

(c) Sons/Daughters of residents of Union Territories specified below including displaced persons registered therein and

Amar Bir Singh and others v. Maha Rishi Dayanand University
Rohtak and others (S. S. Sandhwalia, C.J.)

sponsored by their respective Administration of Territory :—

- (i) Himachal Pradesh (ii) Tripura (iii) Manipur
- (iv) Naga Hills (v) N.E.F.A. (vi) Andaman.
- (d) Sons/Daughters of Central Government servants posted in Indian Missions abroad.
- (e) Cultural Scholars.
- (f) Colombo Plan Scholars.
- (g) Thailand Scholars.
- (h) Jammu & Kashmir State Scholars.

Grover, J., speaking for the Constitution Bench first observed in categorical terms that Article 15 of the Constitution of India was not even remotely attracted nor was Article 29(2) of any assistance to the challengers (Para No. 7 of the report). He proceeded to uphold the aforesaid reservation on the touchstone of Article 14 and held that a classification in all these cases was based on intelligible differentia which distinguished them from the general group or from that to which the appellants belonged. Of particular significance for the purpose of this case is upholding of the reservations in favour of categories (c), (d) and (h) and an analysis of the judgment would disclose that herein the reservation was upheld basically on the educational handicaps which the candidates, from each one of these classes suffered. It was noticed that candidates from the Union Territories other than Delhi hailed from areas where the educational facilities were comparatively backward and, therefore persons desirous of receiving medical education from these areas should be provided some facility for doing so. Broadly, the same considerations came in with regard to the students from the State of Jammu & Kashmir. In particular, with regard to the sons and daughters of the Central Government servants, posted in the Indian Missions abroad, it was the peculiar difficulty and handicaps which the children of these persons suffered with regard to their educational facilities which was upheld on the basis of the classification. It would thus be evident that this judgment is an authority for the proposition that educational handicaps suffered by the candidates is a fit criteria for classification in order to equalise the imbalance. Following closely on the heels of this judgment was the enunciation of law by

Shelet J., in *D. N. Chanchala v. The State of Mysore and others*, (8). This again pertained to reservations in Medical Colleges for the children of defence personnel, and ex-defence personnel as also the children of political sufferers. Both with regard to the purpose and object as also the intelligible differentia for the classification, it was held as follows :—

“But an equally fair and equitable principle would also be that which secures admission in a just proportion to those who are handicapped and who, but for the preferential treatment given to them, would not stand a chance against those who are not so handicapped and are, therefore, in a superior position. The principle underlying Article 15(4) is that a preferential treatment can validly be given because the socially and educationally backward classes need it, so that in course of time they stand in equal position with the more advanced sections of the society. It would not in any way be improper if that principle were also to be applied to those who are handicapped but do not fall under Article 15(4). It is on such a principle that reservation for children of Defence personnel and Ex-Defence personnel appears to have been upheld. The criteria for such reservation is that those serving in the Defence forces or those who had so served are and were at a disadvantage in giving education to their children since they had to live, while discharging their duties in difficult places where normal facilities available elsewhere are and were not available. In our view it is not unreasonable to extend that principle to the children of political sufferers who in consequence of their participation in the emancipation struggle became unsettled in life; in some cases economically ruined, and were, therefore, not in a position to make available to their children that class of education which would place them in fair competition with the children of those who did not suffer from that disadvantage. If that be so, it must follow that the definition of ‘political sufferer’ not only makes the children of such sufferers distinguishable from the rest but such a classification has a reasonable nexus with the object of the rules which can be nothing else than a fair and just distribution of seats.....”

Amar Bir Singh and others v. Maha Rishi Dayanand University
Rohtak and others (S. S. Sandhawalia, C.J.)

It is evident from the aforesaid concluding observations of Shelat, J., that the very rationale for upholding the reservation was that in view of the peculiar situation in which the children of Defence personnel and Ex-Defence personnel as also those of political sufferers were placed, they were continually exposed to certain educational handicaps and disadvantages which deserved to be equalised. That exactly seems to be the situation in the present case as well.

22. Faced with the ratio of *Kumari Chitra Ghosh and another and D. N. Chanchala's cases* (supra) Mr. Bhandari was pushed in the corner to contend that the reservation in favour of Defence Servicemen, political sufferers, Central Government employees, posted abroad etc. was based more on the sentimental ground of a debt of gratitude to be paid to these classes and on no other. The submission has only to be noticed and rejected for such a consideration, is totally irrelevant in the constitutional scheme of classification. We are unable to appreciate this supposed gloss sought to be put on the clear enunciation of the law by their Lordship laying down that the reservation in favour of all these cases, was rested on nothing else, but the fact of such students suffering certain educational handicaps and difficulties which are inseparable from the hazards of the employees. It is these educational handicaps and hazards which render them unable or at least unequal to compete with their educational superiors and the reservations in their favour are intended to correct the imbalance created by the circumstantial factors. Once that is so, the present case is obviously more within that rule than for instance the cases of the children of Ambassadors and senior ranking Defence personnel.

23. The case directly on the point is Division Bench judgment in *Sukhvinder Kaur v. State of Himachal Pradesh and others*, (9), which again was a case of reservation of seats to the medical faculty amongst others in the following terms :—

“.....

- (e) Candidates who have passed Matriculation or Higher Secondary Examination from the Schools located in the rural areas ; 12.

.....”

The Division Bench thought the matter to be so evident and well covered by precedents as not to require any great elaboration and concluded as follows:—

“12. The second point is that cl. (e) of para 1 of the prospectus, as amended, with regard to reservation of 12 seats is discriminatory. As regards this it would suffice to say that this is a reservation for children coming from schools in the rural areas. This reservation does not appear to be unreasonable inasmuch as the children in the rural areas who usually attend such schools are socially, economically and educationally poor and they cannot compete with the children of their age-group coming from the urban areas and, therefore, the reservation is valid.”

It is evident, that apart from principle, the stream of precedent flows entirely in aid of the firm stand taken on behalf of the respondents.

24. Once it is held that the object or the purpose of the reservation is valid and laudable and the classification is rested on an intelligible differentia then, it appears to be well settled that it is not for the Courts to pronounce on the desirability of the object or enter into mathematical evaluation of the foundation for the classification. In such a situation, the Courts are not to interfere because the respondent-State is obviously the best Judge of whom to uplift and equalise and to whom to provide succour in a particular situation of hardship and inequality. It is unnecessary to multiply authorities. In *The State of Jammu and Kashmir v. Triloki Nath Khosa and others* (10).

Chandrachud, J. speaking for the Constitution Bench observed as follows :—

“Judicial scrutiny can, therefore, extend only to the consideration whether the classification rests on a reasonable basis and whether it bears nexus with the object in view. It cannot extend to embarking upon a nice or mathematical evaluation of the basis of classification, for were such an enquiry permissible it would be open to the courts to substitute their own judgment for that of the legislature or the rule-making authority on the need to classify or the desirability of achieving a particular object.”

Amar Bir Singh and others v. Maha Rishi Dayanand University
Rohtak and others (S. S. Sandhawalia, C.J.)

Again a recent enunciation of the rule by a Bench of seven Judges in *Pathumma and others v. State of Kerala and others* (11) is in the following terms :—

“.....It is also clear that in making the classification, the legislature cannot be expected to provide an abstract symmetry but the classes have to be set apart according to the necessities and exigencies of the society as dictated by experience and surrounding circumstances. All that is necessary is that the classification should not be arbitrary, artificial or illusory.....”.

25. As has been noticed at the very outset the corner stone of the petitioners' stand was its reliance on the judgment in *Pradip Tandon's case* (supra). Taking his cue entirely therefrom, Mr. K. P. Bhandari on behalf of the petitioners had sought to contend that the impugned reservation was for the majority of the population and therefore, it was necessarily, bad. This contention is plainly oriented on the assumption that the factual base or the ratio of *Pradip Tandon's case* would be attracted here which point has already been dealt with elaborately. It is obvious that the reservation herein has no relevance to the population as such nor is it rested on the qualifications of residence or the place of birth in the rural areas. No question of the majority or the minority of population, therefore, arises and the argument rested on the theory of the majority or population, is not even remotely attracted. The reservation herein is entirely based on the realistic assessment of the quality of education imparted in the ill-equipped, ill-housed and ill-manned common rural schools and the handicaps which the students thereof inevitably suffer.

26. Mr. Bhandari had then argued that the prescribed condition on the basis of education upto the Middle standard only in common rural schools is arbitrary and the reservation should, therefore, be struck down for this reason. This argument again suffers from the patent fallacy of embarking upon a mathematical or scientific evaluation of the classification which as has already been noticed, is prohibited for the Courts by the binding precedent in *The State of Jammu & Kashmir v. Triloki Nath Khosa and others* (supra). Even otherwise rationality of receiving education upto the Middle Standard in common rural schools has been rightly and forcefully pointed out by the

learned Additional Advocate-General with considerable plausibility. It is pointed out that by the time the student reaches Middle Standard in the common rural schools, the basic grounding for his education for the pre-medical examination which is the minimum prescribed for admission to the medical faculty has been laid. A handicap of eight years of study in the common rural schools, therefore, conditions both the approach and the capacity of the student to imbibe higher education thereafter. It was also pointed out that in the peculiar context of existing conditions in Haryana, most of the High Schools in the rural areas were devoid of the necessary facilities of study in Science subjects with the result that after the Middle standard students of common rural schools aspiring for the medical faculty were by and large compelled to seek admission in the Science oriented urban Schools and thus pushed into the uphill task of competing with their counterparts having congenitally superior advantages.

27. Travelling far beyond the pleadings and even remotely away from the record, Mr. K. P. Bhandari attempted to refer to a Brochure published by the Director of Public Relations, Haryana for the year 1979 to contend that there had been a great growth of education in rural areas and consequently it would be now inapt to give any weightage to students of common rural schools. This contention, it appears would also boomerang to show that there has been perhaps a quicker mushrooming of rural schools with equally and perhaps more ill-equipped facilities of teaching. It is not the number or quantity of the common rural schools which lies at the core of the problem here, but the content and the quality of education imparted therein. The contention raised by Mr. Bhandari herein seems only to highlight the basic handicap of the quality of education rendered in the common rural schools.

28. In this very context, the learned counsel for the petitioners had contended that the alleged handicap of study in the common rural schools was not valid because therein also the students have to study the same syllabus and they take the same examination either conducted by the Board or the university. This contention suffers from patent fallacy. The handicap is not because in variations of syllabus or the nature of the examination to be taken, but in the content and the quality of education imparted and extended to students in the common rural schools as against the more favourably situated and well-manned urban schools. The identity of syllabi and examinations is, therefore, of no relevance.

Kanwaljit Singh Sidhu and others *v.* State of Punjab and others
(D. S. Tewatia, J.)

29. On the other hand, the learned Additional Advocate-General had rightly pointed out that the medium of Medical education is generally English whereas in the common rural schools, the English language is sometimes not taught at all. If so, its teaching begins at a later stage and it is taught by teachers so ill-qualified to teach this language that the very medium through which the medical education is to be imparted is rendered weak in the students. This condition also solidifies by the time the student has completed his education upto the Middle Standard and in many cases students upto this standard in common rural schools would have little or no knowledge of English language or if any, it would be so rudimentary as to present a basic handicap thereafter.

30. Mr. Bhandari had repeatedly attempted to contend that the reservation herein was in favour of a class which could not be mathematically labelled as both socially and educationally backward. His argument has relevance only in the context of Article 15 of the Constitution of India and the importation of clause (4) thereof. I have already, unequivocally opined that the present case does not attract Article 15 and hence the contention raised has now little relevance.

31. In the light of the aforesaid exhaustive discussion, I am of the considered view that the impugned reservation does not at all suffer from any vice of unconstitutionality and has, therefore, to be upheld. The writ petition is without merit and is hereby dismissed. In view of the difficult questions raised, I would decline to burden the petitioners with costs.

Prem Chand Jain, J.—I agree.

D. S. Tewatia, J.—I agree.

H.S.B.

FULL BENCH

Before S. S. Sandhawalia C.J., D. S. Tewatia and S. S. Kang, JJ.

KANWALJIT SINGH SIDHU and others,—Petitioners

versus

STATE OF PUNJAB and others,—Respondents.

Civil Writ Petition No. 3723 of 1979

May 17, 1980.

Constitution of India 1950—Articles 14, 15, 16 and 341—Quota of appointments and posts reserved, for scheduled castes—50 per cent of