

CASE COMMENTARY ON FARZANA BATOOL V. UNION OF INDIA & OTHERS

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I. ABSTRACT

A significant step toward ensuring that social, economic, and political justice has been laid down for every Indian citizen through Fundamental Rights, defined under Articles 12 to 35 and included in Chapter III of the Indian Constitution. It is what Pt. Jawaharlal Nehru referred to as the constitution's conscience. The Indian Constitution guarantees both the Fundamental Rights, which protect people's freedom and dignity, and the 'Directive Principles' which uphold the social, economic, and political fairness for all community members. Given that "education" has long been viewed as a fundamental 'human right', on a worldwide scale, there are no impending restrictions on granting the 'Right to Professional Education' or 'Higher Education' legal recognition. The notion of education as a basic human right cannot be fully realized if the "Right to Higher Education" is not seen as a fundamental human right.

The case of Farzana Batool v. Union of India and Others is a landmark case laying down the significance of higher professional education and specifying the state's obligatory duty to provide the resources and services for the same. It also lays down the authority and importance of Writ Petition which comes under Article 32 of the Indian Constitution. The Hon'ble Supreme Court admitted the fact of higher education not being a fundamental right but prudently laid its importance and the state's obligatory duty

to provide or help to provide the same to the section of society who doesn't have the resources or is facing some hindrances on the path to a to achieve it, as the same is not guaranteed under the Fundamental Rights.

II. KEYWORDS: Fundamental rights, court, human right, professional/ higher education, Article 32, state, duty.

Case Title	Farzana Batool v. Union of India and Others
Case No.	SC WP (Civil) No. 364 of 2021 with SC WP (Civil) No. 375 of 2021
Citation	<i>Farzana Batool v. Union of India</i> , Writ Petition (Civil). No. 364 of 2021
Date of the Judgment	13-04-2021
Jurisdiction	Supreme Court of India
Quorum	Dr. Dhananjaya Y Chandrachud
Author of the Judgment	Dr. Dhananjaya Y Chandrachud
Appellant	Ms. Farzana Batool and Mr. Mohammad Mehdi Waziri
Respondent	Union of India and Others
Counsel for Respondent	Mr. Rupinder Singh Suri (Additional Solicitor General) Mr. K M Nataraj (Additional Solicitor General)

Acts and Sections Involved	Constitution of India: <ul style="list-style-type: none"> • Article 32 • Article 142 • Article 41 Universal Declaration of Human Rights <ul style="list-style-type: none"> • Article 26(1)
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in this matter. The administration of Ladakh nominated two Ladakh-based applicants for admission to MBBS courses under the 'central pool' seats. The students approached the Apex Court's door after the admittance request was denied and thereafter the court ordered the authorities to admit the nominated students within a week of the court's ruling stating that, accessibility is an essential component of any education ecosystem at all levels. Further, in the context of education, accessibility refers to making education available to all based on their merit. Apart from that measures should be taken to ensure that financial difficulties do not hinder access to higher education.

III. INTRODUCTION AND BACKGROUND:

Education deals with colossal purposes which invigorate individual development through social conditions, and financial growth which leads to the growth of a country. It not only succumbs its presence to material conditions but also acts as an invisible hand in establishing life goals, sharing relevant social concerns, and determining the appropriate solutions for any problem. In order for a society to be healthy and smart, both men and women need education. In addition to being a major contributor to the growth and improvement of the nation, education is necessary for delivering a brilliant future.

Our constitution though not guarantees a specific Fundamental Right to safeguard the interest of professional or higher education but the Directive Principles of State Policies by Article 41 do act in such a way that makes the State obligatory to act in a due manner to safeguard the interest of the citizens. Article 41 of the Indian Constitution obligates the State to provide an environment to enthuse the Right to Education. Whenever the Government has failed to act in a due manner, Supreme Court through the authority given under Article 142 has stepped in and given justice in its accordance, thus B.R Ambedkar's connotation that Article 32 is the heart and soul of our Constitution is profound in its own manner. Justice D.Y Chandrachud is a pillar of renaissance to the reformation of the idea of justice. The right to Higher Education is not evident under the Fundamental Rights and this specific issue is apparent

IV. FACTS AND ISSUE OF THE CASE:

The case begins with the filing of the Writ Petition under Article 32 of the Constitution of India by two students from the union territory of Ladakh. The plaintiffs had been nominated by the government of Ladakh for admission to the MBBS degree under the 'central pool' seats which were set apart by the union government. The name of the petitioner i.e. Ms. Farzana Batool, in Writ Petition (Civil) No. 364 of 2021 appears at Serial No. 4 while the name of the petitioner i.e. Mr. Mohammad Mehdi Waziri, in Writ Petition (Civil) No. 375 of 2021 appears at Serial No. 1 in the list containing the names and allotted universities to each student. The petitioner under the former writ petition was allotted a seat in Lady Hardinge Medical College (LHMC) New Delhi and the petitioner in the latter Writ Petition was allotted a seat in Maulana Azad Medical College (MAMC), New Delhi. Despite the allotment, these students have not been admitted to their courses. The two writ petitions have been combined to seek directions to facilitate the admission of these as well as the other students in their allotted medical colleges.

V. ARGUMENTS IN FAVOUR OF THE PETITIONER

The petitioner contended that in the Memorandum issued on April 9, 2020, the government of India through the Ministry of Health and Family Welfare (MHFW) issued guidelines for the allocation of the general pool

MBBS/BDS seats for 2020-2021. By a Notification dated 23 November 2020, the MHFW (Department of Health and Family Welfare) allotted one seat at LHMC to the Union Territory of Ladakh from the central pool and one seat at MAMC. These allocations were made for the Ladakh central pool medical seats for the year 2020-21.

Petitioners argued that similarly placed students nominated by the Ministry were allotted to their specific universities and had their admissions confirmed. It was prayed on behalf before the Hon'ble court that the discrepancy in the admission process of both these candidates should be resolved at the earliest.

But, Additional Solicitor General Rupinder Singh Suri and Advocate KM Natraj argued on behalf of the Union of India and the Government of Union Territory of Ladakh contended that the denial of admission to the students due to the guidelines is not consonance with any legal justification.

VII. JUDGMENT BY THE COURT

The court ruled in the favour of the petitioners and was of the view that there is no reason or justification to deny them admission to their allotted courses. The court directed the authorities to complete the admission process within a week.

Annexure - "A" (Selected/Nominated list)

Order No:27/DHSL(21) of 2021, Dated 19/02/2021

S.No.	Details of the Candidates	Category	NEET, Score	Discipline	College allotment
1	Mohammad Mehdi Waziri S/o Mohammad Ali, R/o: Sankoo, Kargil	Unreserved Kargil	440	MBBS	Maulana Azad Medical College, New Delhi (1 st preference)
2	Mohammad Imran S/o Abdul Razak, R/o: Drass, Kargil	Reserved Common Seniority Combined Ladakh	437	MBBS	Medical College Ambikapur, Sarguja, Chhattisgarh (2 nd preference)
3	Nadeem Hussain Shabani S/o Mohd Hussain, R/o: Pashkum, Kargil	Reserved Kargil	407	MBBS	M.L.B. Medical College Jhansi, Uttar Pradesh (2 nd preference)
4	Farzana Batool D/o Kalbi Ali, R/o: Pashkum, Kargil	Unreserved Kargil	403	MBBS	Lady Hardinge Medical College, New Delhi (2 nd preference)
5	Masooma Khanum D/o Sheikh Mohammad Hussan, R/o: Sankoo, Kargil	Reserved Kargil	386	MBBS	VCSGGMS & RI, Srinagar, Garwal, Uttarakhand (3 rd preference)

VI. ARGUMENTS IN FAVOUR OF THE RESPONDENT

The respondents contended that 'Right to higher or professional education' is not included and specified under Part III of the Indian Constitution. It was argued before the court that, the Petitioners were not admitted to the respective colleges not because of the failure of the Central Pool, but due to their financial conditions.

The court held that even though the right to pursue professional (higher) education is not a fundamental right under Part III of the Constitution, but the State has an affirmative obligation to facilitate access to education, at all levels. This obligation assumes far greater importance for students whose background imposes obstacles on their path to access quality education.

The Hon'ble court also brought in Article 26(1) of the Universal Declaration of Human Rights, which holds a persuasive value, but it obligates every state party to ensure that technical and professional education is made generally available and that higher education is equally accessible to all on basis of merit. Also, it directs the State to take steps to ensure that financial constraints do not come in the way of accessing education. The court suggested the Union MHFW and DHSL to appoint a nodal officer which would be tasked with the responsibility of ensuring that students who are nominated under this pool of seats get their chosen course of study. The details of such an officer can be widely publicized on Central government websites.

VIII. CONCLUSION

The Supreme Court decision in *Farzana Batool v. Union of India* dispels the myth that receiving a professional education is a boon from the state. Though, Ms. Farzana Batool and Mr. Mohammad Mehdi were nominated by the Central Pool Scheme of the Union Government (Union Ministry of Family and Welfare) and Government of Union Territory of Ladakh to Lady Hardinge Medical College (LHMC) and Maulana Azad Medical College (MAMC) but they were not admitted in the respective colleges which they were allotted to. Due to Writ Petition filed by the students, Supreme Court ordered granting back the admission to the said students within 7 days of order. Due to this judgement, Supreme Court not only invigorated the judicial decision in the case of *Mohini Jain v. State of Karnataka* also stated that 'the right to education flows directly from the right to life. The right to life and the dignity of an individual cannot be assured unless it is accompanied by the right to education.' The Honourable Supreme Court, also emphasised about the critical need of making education accessible to students from backgrounds where factors like caste, class, gender, religion, disability, and geographic location impose substantial hurdles to educational excellence. It was noted by the Supreme Court that accessibility is one of the fundamental features of any education ecosystem, which applies to all levels of education, in light of the notes of the

Committee on Economic, Social and Cultural Rights (ICESCR Committee) and the Universal Declaration of Human Rights (UDHR). In terms of education, 'accessibility' means that educational opportunities will be available to all. All steps must be taken to ensure that financial constraints do not impede access to education. To have a successful education system, one has to make sure that fair judgment is made and that justice is promoted. In order to fulfill our moral obligation to provide students with their basic right to an education, we will have to ensure justice in educational matters so that our future depends on education.

IX. REFERENCES

1. *Farzana Batool v. Union of India*, Writ Petition (Civil). No. 364 of 2021
2. *Miss Mohini Jain vs State of Karnataka*, Supreme Court of India, 30 July 1992
3. *Sunil Batra vs Delhi Administration*, (1978) 4 SCC 409, Supreme Court of India, 20 December, 1979