IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA

CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 19th OF NOVEMBER, 2025

WRIT PETITION No.38169 of 2025

SAWAN BOHRA AND ANOTHER

Vs.

STATE OF M.P. AND OTHERS

Appearance:

Shri Shashank Verma - Senior Advocate with Shri Yashovardhan Singh & Shri Avi Singh- Advocates for petitioners.

Shri B.D. Singh – Deputy Advocate General for respondents/State.

Shri Dheerendra Mishra – Advocatefor respondent No.3.

JUDGMENT

Per*: *Chief Justice Sanjeev Sachdeva:

1. Petitioners *inter alia* seek quashing of amendment notification dated 3rd September, 2025 in Schedule I of Madhya Pradesh Medical Education

Admission Rules, 2018 {hereinafter referred to as "the Rules, 2018"} amending the eligibility conditions for admission in postgraduate seats in private medical colleges in State of Madhya Pradesh to the extent that 100 % institutional preference has been granted to MBBS graduates of the medical colleges in Madhya Pradesh.

2. Learned senior counsel for the petitioners submits that though there are other challenges, however the present petition is being restricted to the grant of 100% institutional preference in postgraduate medical seats of the Private Medical Colleges to MBBS graduates from the State of Madhya Pradesh.

3. Petitioners are all MBBS graduates who are aspiring for postgraduate medical seats in private medical colleges in the State of Madhya Pradesh. Challenge is raised to the amendment notification which was issued on 03.09.2025 amending the 2018 rules in respect of the eligibility conditions for admission to MD/MS seats. The notification *inter alia* prescribes that one of the eligibility conditions for admission to said seats is that the student should have qualified MBBS from a Medical College situated in the State of Madhya Pradesh and recognized by the National Medical Commission. There is an exception to the clause that in case sufficient number of such students are not available in the first round of counseling then in the second round of counseling said restriction would not apply.

4. Contention of the petitioners is that said clause violates various

judicial pronouncements of the Supreme Court wherein it is stipulated that maximum reservation in all categories cannot exceed 50% and balance 50% seats have to be filled purely on the basis of All India Merit. Reliance is placed on the Judgments in ***Pradeep Jain and others vs. Union of India and others, (1984) 3 SCC 654, Saurabh Chaudri vs. Union of India, (2003) 11 SCC 146 and Tanvi Behl vs. Shrey Goel, 2025 SCC Online SC 180.***

5. Learned senior counsel for the petitioners summits that there is a great likelihood that all the seats in the Postgraduate Medical College which are very limited in number are likely to get filled by way of the reservation/preference being given to students who have qualified MBBS from medical colleges situated in Madhya Pradesh and there may not be any seat available in the second round and even if there is any seat available, it would not be allotted based on All India Merit.

6. Notice was issued on the subject petition on 24.09.2025. Reply has been filed by the State Government wherein the respondents have also relied on the judgments of the Supreme Court in ***Pradeep Jain and others vs. Union of India and others, (1984) 3 SCC 654, Saurabh Chaudri vs. Union of India, (2003) 11 SCC 146*** and ***Tanvi Behl vs. Shrey Goel, 2025 SCC Online SC 180*** to contend that reservation based on institutional preference has been upheld by the Supreme Court.

7. It is contended in the reply that 50% seats are contributed to All India Quota and; therefore, the contention of the petitioners that there was 100%

reservation based on institutional preference is not correct. It was further contented by the respondents that this was not a case of a blanket reservation but a sequential preference system grounded in objective criteria i.e. candidates from Madhya Pradesh institutions are given opportunity on merits and if seats remain vacant then they are open to others and; as such, this could not be treated as a 100% exclusion and petitioners could participate if the seats were not filled up by the preferential candidates in first round of counseling.

8. State has sought to justify the classification on the ground that the State has a goal of retaining and advancing talent trained within its ecosystem. It is contended that such students are better to the State's healthcare landscape including regional diseases patient profiles and institutional protocols thereby enhancing the efficacy of PG training and contributing to long term public health improvements. It is further contented that such a reasoned approach promotes substantive equality by addressing the unequal competitive pressures faced by local students in a national merit pool ensuring the State's investment in undergraduate education yield proportional benefit in PG level. It is further stated in the reply that though domicile based reservation has been done away the object of granting institutional preference is to encourage students who have studied in the medical institutions in the State to take up medical courses so that some of them might, after passing out from the college, settle down as doctors and serve the needs of the locality. It is contended that institutional preference is

not a reservation rather it is an identification of source of admission looking to the requirements and needs of the State and has a rational relationship with the object of making specialized doctors available in the State.

9. We are informed by the learned Deputy Advocate General appearing for the State that counseling which was scheduled to commence today has been deferred to await the outcome of the present petition. The statement is taken on record.

10. To test the validity of the reservation/preference, reference may be had to the judgment of Supreme Court in ***Pradeep Jain (supra)***. The Supreme Court in ***Pradeep Jain(supra)*** was dealing with the question *"whether, consistently with the constitutional values, admissions to a medical college or any other institution of higher learning situate in a State can be confined to those who have their "domicile" within the State or who are resident within the State for a specified number of years or can any reservation in admissions be made for them so as to give them precedence over those who do not possess "domicile" or residential qualification within the State, irrespective of merit"*.

11. The Supreme Court held as under:-

> ***"20.*** *The only question which remains to be considered is as to what should be the extent of reservation based on residence requirement and institutional preference. There can be no doubt that such reservation cannot completely exclude admission of students from other universities and States on the basis of merit judged in open competition. Krishna Iyer, J., rightly remarked in Jagdish Saran case [(1980) 2 SCC 768 : AIR 1980 SC 820 : (1980) 2 SCR 831] at pages 845 and 846 of the Report: (SCC p. 778, para 22)*

> *"... reservation must be kept in check by the demands of competence. You cannot extend the shelter of reservation where minimum qualifications are absent. Similarly, all the best talent cannot be completely excluded by wholesale reservation. So, a certain percentage, which may be available, must be kept open for meritorious performance regardless of university, State and the like. Complete exclusion of the rest of the country for the sake of a province, wholesale banishment of proven ability to open up, hopefully, some dalit talent, total sacrifice of excellence at the altar of equalisation — when the Constitution mandates for every one equality before and equal protection of the law — may be fatal folly, self-defeating educational technology and antinational if made a routine rule of State policy. A fair preference, a reasonable reservation, a just adjustment of the prior needs and real potential of the weak with the partial recognition of the presence of competitive merit — such is the dynamics of social justice which animates the three egalitarian articles of the Constitution."*

We agree wholly with these observations made by the learned Judge and we unreservedly condemn wholesale reservation made by some of the State Governments on the basis of "domicile" or residence requirement within the State or on the basis of institutional preference for students who have passed the qualifying examination held by the university or the State excluding all students not satisfying this requirement, regardless of merit. We declare such wholesale reservation to be unconstitutional and void as being in violation of Article 14 of the Constitution.

21. *But, then to what extent can reservation based on residence requirement within the State or on institutional preference for students passing the qualifying examination held by the university or the State be regarded as constitutionally permissible? It is not possible to provide a categorical answer to this question for, as pointed out by the policy statement of the Government of India, the extent of such reservation "would depend on several factors including opportunities for professional education in that particular area, the extent of competition, level of educational development of the area and other relevant factors". It may be that in a State where the level of educational development is woefully low, there are comparatively inadequate opportunities for training in the medical speciality and there is large scale social and economic backwardness, there may be justification for reservation of a higher percentage of seats in the medical colleges in the State and such higher percentage may not militate against "the equality mandate viewed in the*

perspective of social justice". So many variables depending on social and economic facts in the context of educational opportunities would enter into the determination of the question as to what in the case of any particular State, should be the limit of reservation based on residence requirement within the State or on institutional preference. But, in our opinion, such reservation should in no event exceed the outer limit of 70 per cent of the total number of open seats after taking into account other kinds of reservations validly made. The Medical Education Review Committee has suggested that the outer limit should not exceed 75 per cent but we are of the view that it would be fair and just to fix the outer limit at 70 per cent. We are laying down this outer limit of reservation in an attempt to reconcile the apparently conflicting claims of equality and excellence. We may make it clear that this outer limit fixed by us will be subject to any reduction or attenuation which may be made by the Indian Medical Council which is the statutory body of medical practitioners whose functional obligations include setting standards for medical education and providing for its regulation and coordination. We are of the opinion that this outer limit fixed by us must gradually over the years be progressively reduced but that is a task which would have to be performed by the Indian Medical Council. We would direct the Indian Medical Council to consider within a period of nine months from today whether the outer limit of 70 per cent fixed by us needs to be reduced and if the Indian Medical Council determines a shorter outer limit, it will be binding on the States and the Union Territories. We would also direct the Indian Medical Council to subject the outer limit so fixed to reconsideration at the end of every three years but in no event should the outer limit exceed 70 per cent fixed by us. The result is that in any event at least 30 per cent of the open seats shall be available for admission of students on all-India basis irrespective of the State or university from which they come and such admissions shall be granted purely on merit on the basis of either all-India entrance examination or entrance examination to be held by the State. Of course, we need not add that even where reservation on the basis of residence requirement or institutional preference is made in accordance with the directions given in this judgment, admissions from the source or sources indicated by such reservation shall be based only on merit, because the object must be to select the best and most meritorious students from within such source or sources.

22. *So much for admission to the MBBS course, but different considerations must prevail when we come to consider the question of reservation based on residence requirement within the State or on institutional preference for admission to the post-graduate courses, such*

as, MD, MS and the like. There we cannot allow excellence to be compromised by any other considerations because that would be detrimental to the interest of the nation. It was rightly pointed out by Krishna Iyer, J., in Jagdish Saran case [(1980) 2 SCC 768 : AIR 1980 SC 820 : (1980) 2 SCR 831] , and we wholly endorse what he has said:

> *"The basic medical needs of a region or the preferential push justified for a handicapped group cannot prevail in the same measure at the highest scales of speciality where the best skill or talent, must be handpicked by selecting according to capability. At the level of PhD, MD, or levels of higher proficiency, where international measure of talent is made, where losing one great scientist or technologist in-the-making is a national loss, the considerations we have expanded upon as important lose their potency. Here equality, measured by matching excellence, has more meaning and cannot be diluted much without grave risk. (SCC pp. 778-79, para 23)*

If equality of opportunity for every person in the country is the constitutional guarantee, a candidate who gets more marks than another is entitled to preference for admission. Merit must be the test when choosing the best, according to this rule of equal chance for equal marks. This proposition has greater importance when we reach the higher levels of education like post-graduate courses. After all, top technological expertise in any vital field like medicine is a nation's human asset without which its advance and development will be stunted. The role of high grade skill or special talent may be less at the lesser levels of education, jobs and disciplines of social inconsequence, but more at the higher levels of sophisticated skills and strategic employment. To devalue merit at the summit is to temporise with the country's development in the vital areas of professional expertise. In science and technology and other specialised fields of developmental significance, to relax lazily or easily in regard to exacting standards of performance may be running a grave national risk because in advanced medicine and other critical departments of higher knowledge, crucial to material progress, the people of India should not be denied the best the nation's talent lying latent can produce. If the best potential in these fields is cold-shouldered for populist considerations garbed as reservations, the victims, in the long run, may be the people themselves. Of course, this unrelenting strictness in selecting the best may not be so imperative at other levels where a broad measure of efficiency may be good enough and what is needed is merely to weed out the worthless. (SCC p. 785, para 39)

Secondly, and more importantly, it is difficult to denounce or renounce the merit criterion when the selection is for post-graduate or post-doctoral courses in specialised subjects. There is no substitute for sheer flair, for creative talent, for fine-tuned performance at the difficult heights of some disciplines where the best alone is likely to blossom as the best. To sympathise mawkishly with the weaker sections by selecting sub-standard candidates, is to punish society as a whole by denying the prospect of excellence say in hospital service. Even the poorest, when stricken by critical illness, needs the attention of super-skilled specialists, not humdrum second-rates. So it is that relaxation on merit, by overruling equality and quality altogether, is a social risk where the stage is post-graduate or post-doctoral." (SCC p. 786, para 44)

These passages from the judgment of Krishna Iyer, J., clearly and forcibly express the same view which we have independently reached on our own and indeed that view has been so ably expressed in these passages that we do not think we can usefully add anything to what has already been said there. We may point out that the Indian Medical Council has also emphasized that playing with merit, so far as admissions to post-graduate courses are concerned, for pampering local feeling, will boomerang. We may with advantage reproduce the recommendation of the Indian Medical Council on this point which may not be the last word in social wisdom but is certainly worthy of consideration:

> *"Students for post-graduate training should be selected strictly on merit judged on the basis of academic record in the undergraduate course. All selection for post-graduate studies should be conducted by the Universities."*

The Medical Education Review Committee has also expressed the opinion that "all admissions to the post-graduate courses in any institution should be open to candidates on an all-India basis and there should be no restriction regarding domicile in the State/Union Territory in which the institution is located". So also in the policy statement filed by the learned Attorney General, the Government of India has categorically expressed the view that:

> *"So far as admission to the institutions of post-graduate colleges and special professional colleges is concerned, it should be entirely on the basis of all-India merit subject to constitutional reservations in favour of Scheduled Castes and Scheduled Tribes."*

> *We are therefore of the view that so far as admissions to post-graduate courses, such as MS, MD and the like are concerned, it would be eminently desirable not to provide for any reservation based on residence requirement within the State or on institutional preference. But, having regard to broader considerations of equality of opportunity and institutional continuity in education which has its own importance and value, we would direct that though residence requirement within the State shall not be a ground for reservation in admissions to post-graduate 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 be given preference for admission to the post-graduate course in the same medical college or university but such reservation on the basis of institutional preference should not in any event exceed 50 per cent of the total number of open seats available for admission to the post-graduate course. This outer limit which we are fixing will also be subject to revision on the lower side by the Indian Medical Council in the same manner as directed by us in the case of admissions to the MBBS course. But, even in regard to admissions to the post-graduate course, we would direct that so far as super specialities such as neuro-surgery and cardiology are concerned, there should be no reservation at all even on the basis of institutional preference and admissions should be granted purely on merit on all-India basis."*

12. Supreme Court in ***Pradeep Jain (supra,)*** after emphasizing the importance of merit and the concept of integrity of the nation emphasized that India is one nation and we are all Indians first and Indians last, condemned the wholesale reservation made by some of the State Governments on the basis of domicile or residence requirement within the State or on the basis of institutional preference for students who had passed the qualifying examination held by the University or the State excluding all students not satisfying this requirement regardless of merit. Wholesale reservation was declared to be unconstitutional and void. The Supreme Court thereafter went on to consider the extent that reservation could be

based on residents requirement within the State or on institutional preference for students passing the qualifying examination held by the University or the State. The Supreme Court held that this extent of reservation would depend on several factors including opportunities for professional education in that area, extent of competition, level of educational development of the area and other relevant factors.

13. Supreme Court in ***Pradeep Jain(supra)*** further held that admissions to postgraduate courses such as MS and MD and the like should not provide for any reservation based on residence requirement within the State or on institutional preference. However, having regard to broader considerations of equality of opportunity and institutional continuity in education, which the Supreme Court noticed had its own importance and value, held that though residence requirement within the State could not be a ground for reservation in admission to Postgraduate courses, a certain percentage of seats could be reserved on basis of institutional preference. The Supreme Court thereafter placed a caveat that such reservation based on institutional preference should not in any event exceed 50% of the total number of open seats available for admission to Postgraduate courses.

14. Reference may also be had to the judgment of the Constitution Bench of Supreme Court in ***Saurabh Chaudri (supra)*** where once again the question involved was with regard to constitutional validity of reservation based on domicile or institution in matters of admission into Postgraduate courses in government run medical colleges.

15. The Supreme Court in ***Saurabh Chaudri (supra)***held as under:-

> ***"70.*** *We, therefore, do not find any reason to depart from the ratio laid down by this Court in Dr Pradeep Jain [(1984) 3 SCC 654 : AIR 1984 SC 1420] . The logical corollary of our finding is that reservation by way of institutional preference must be held to be not offending Article 14 of the Constitution of India.*
>
> ***71.*** *However, the test to uphold the validity of a statute on equality must be judged on the touchstone of reasonableness. It was noticed in Dr Pradeep Jain case [(1984) 3 SCC 654 : AIR 1984 SC 1420] that reservation to the extent of 50% was held to be reasonable. Although subsequently, in Dr Dinesh Kumar (II) case [(1986) 3 SCC 727] it was reduced to 25% of the total seats. The said percentage of reservation was fixed keeping in view the situation as then existing. The situation has now changed to a great extent. Twenty years have passed. The country has during this time produced a large number of postgraduate 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.*
>
> ***72.*** *Having regard to the facts and circumstances of the case, we are of the opinion that the original scheme as framed in Dr Pradeep Jain case [(1984) 3 SCC 654 : AIR 1984 SC 1420] should be reiterated in preference to Dr Dinesh Kumar (II) case [(1986) 3 SCC 727] Reservation by way of institutional preference, therefore, should be confined to 50% of the seats since it is in public interest."*

16. Supreme Court in ***Saurabh Chaudri(supra)***affirmed the ratio laid down in ***Pradeep Jain(supra)*** and held that the test to uphold the validity of a statute on equality must be judged on the touchstone of reasonableness. Supreme Court noticed that in ***Pradeep Jain(supra)***, the reservation to the extent of 50% was held to be reasonable whereas in ***Dr Dinesh Kumar and others (II) vs. Motilal Nehru Medical College, Allahabad and others (1986) 3 SCC 727***, reservation was reduced to 25% of the total seats. The Supreme Court further held that the percentage of 25% was fixed keeping in

view the situation then existing and 20 years had passed and situation had changed. Supreme Court held that the Constitution is organic in nature and being a living organ, it is ongoing and with passage of time law must change. Horizons of constitutional law are expanding. Keeping in view the fact and circumstances, the Supreme Court in ***Saurabh Chaudri(supra)*** reiterated the original scheme as framed in ***Pradeep Jain(supra)*** in preference to ***Dr. Dinesh Kumar(II) (supra)*** and held that reservation by way of institutional preference should be confined to 50% of the seats since it was in public interest.

17. Before concluding, the Supreme Court in ***Saurabh Chaudri(supra)*** held as under:-

> ***"105.*** *In the case of Article 15(4) reservations, this Court has made it clear that the claims of national interest demands that these reservations can never exceed 50% of the available seats in the educational institutions concerned.*
>
> ***106.*** *The view was approved by this Court in the case of Indra Sawhney v. Union of India [1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1 : (1992) 22 ATC 385] . If one looks at this issue in the light of the spirit of the ratios laid down in Preeti Srivastava v. State of M.P. [(1999) 7 SCC 120 : AIR 1999 SC 2894] and in AIIMS Students' Union v. AIIMS [(2002) 1 SCC 428 : AIR 2001 SC 3262] , one would come to the inevitable conclusion that the constitutional reservations contemplated under Article 15(4) should be kept at the minimal level so that national interest in the achievement of the goal of excellence in all fields is not unduly affected.*
>
> ***107.*** *Of course, as between the reserved category candidates, there should be inter se merit observed. This has been emphasised by this Court in several cases.*

> ***108.*** *As regards the constitutional validity of institutional/ regional/ university wise reservation/preference, in view of this Court's emphasis on the need to strive for excellence which alone is in the national interest, it may not be possible to sustain its constitutional validity. However, the presently available decisional law is in support of institutional preference to the extent of 50% of the total available seats in the educational institutions concerned."*

18. Supreme Court in ***Saurabh Chaudri(supra)*** made it clear that claims of national interest demand that reservations cannot exceed 50% of the total available seats in the educational institutions concerned. Supreme Court reiterated that the extent of reservation in no case could exceed 50% of the seats.

19. Learned Deputy Advocate General appearing for the State submits that the original Rule of 2018 was amended on 3rd September, 2025 in view of the recent judgment of the Supreme Court in ***Dr Tanvi Behl (supra)*** wherein reservation based on domicile was held to be unconstitutional.

20. In ***Dr Tanvi Behl (supra)*** once again the question before the Supreme Court was as to whether residence based reservation in Postgraduate(PG) medical courses by a State is constitutionally valid.

21. The Supreme Court formulated the questions for consideration as under:

> *"**1.** As to whether providing for domicile/residence-based reservation in admission to "PG Medical Courses" within the State Quota is constitutionally invalid and is impermissible?*
>
> ***2.(a)*** *If answer to the first question is in the negative and if domicile/residence-based reservation in admission to "PG Medical Courses" is permissible, what should be the extent and manner of*

providing such domicile/residence-based reservation for admission to "PG Medical Courses" within the State Quota seats?

2.(b) *Again, if domicile/residence-based reservation in admission to "PG Medical Courses" is permissible, considering that all the admissions are to be based on the merit and rank obtained in NEET, what should be the modality of providing such domicile/residence-based reservation in relation to the State/UT having only one Medical College*

3*. If answer to the first question is in the affirmative and if domicile/residence-based reservation in admission to "PG Medical Courses" is impermissible, as to how the State Quota seats, other than the permissible institutional preference seats, are to be filled up ?"*

22. In ***Tanvi Behl (supra)*** after examining the judgments in ***Pradeep Jain (supra)*** and ***Saurabh Choudri(supra)***, the Supreme Court held as under:-

"31. *We are all domiciled in the territory of India. We are all residents of India. Our common bond as citizens and residents of one country gives us the right not only to choose our residence anywhere in India, but also gives us the right to carry on trade & business or a profession anywhere in India. It also gives us the right to seek admission in educational institutions across India. The benefit of 'reservation' in educational institutions including medical colleges to those who reside in a particular State can be given to a certain degree only in MBBS courses, for which we have assigned reasons in the preceding paragraphs. But considering the importance of specialists doctors' in PG Medical Course, reservation at the higher level on the basis of 'residence' would be violative of Article 14 of the Constitution of India. This has been explained with pronounced clarity both in Jagadish Saran and Pradeep Jain. If such a reservation is permitted then it would be an invasion on the fundamental rights of several students, who are being treated unequally simply for the reasons that they belong to a different State in the Union! This would be a violation of the equality clause in Article 14 of the Constitution and would amount to a denial of equality before the law.*

32. *The law laid down in Jagadish Saran and Pradeep Jain has been followed by this Court in a number of decisions including the Constitution Bench decision in Saurabh Chaudri. We may also refer here judgments such as Magan Mehrotra v. Union of India (UOI) (2003) 11 SCC 186, Nikhil Himthani v. State of Uttarakhand (2013) 10 SCC 237, Vishal Goyal v. State of Karnataka (2014) 11 SCC 456 and Neil Aurelio Nunes*

> *(OBC Reservation) v. Union of India (2022) 4 SCC 1, which have all followed Pradeep Jain. Thus, residence-based reservations are not permissible in PG medical courses.*
>
> ***33.*** *Having made the above determination that residence-based reservation is impermissible in PG Medical courses, the State quota seats, apart from a reasonable number of institution-based reservations, have to be filled strictly on the basis of merit in the All-India examination. Thus, out of 64 seats which were to be filled by the State in its quota 32 could have been filled on the basis of institutional preference, and these are valid. But the other 32 seats earmarked as U.T. Chandigarh pool were wrongly filled on the basis of residence, and we uphold the findings of the High Court on this crucial aspect."*

23. Supreme Court in ***Tanvi Behl(supra)*** held that we are domiciled in territory of India and our common bond as citizen and residents of one country give us the right not only to choose our residence anywhere in India but also gives us the right to carry on trade and business or profession anywhere in India. It also gives us right to seek admission in educational institutions across India. Benefit of reservation in educational institutions to those residing in a particular State could be given to a certain degree only in MBBS courses. But considering the importance of specialist doctors in PG medical courses, reservation at higher level on the basis of residence would be violative of Article 14 of the Constitution of India. Supreme Court in ***Tanvi Behl(supra)*** reiterated the decision in ***Pradeep Jain(supra)*** and held that if such a reservation was permitted then it would be an invasion on the fundamental rights of several students who were being treated unequally simply for the reason that they belong to a different State in the Union. Supreme Court further held that though residence based reservation was impermissible in PG medical courses, the State quota seats apart from a

reasonable number of institution based reservations had to be filled strictly on the basis of merit in all India examination.

24. In the instant case, by the impugned amendment notification, State has prescribed an eligibility condition of having qualified MBBS from a college situated in the State of Madhya Pradesh which amounts to an institutional reservation/preference. Though the contention on behalf of the State is that there is a proviso to the said restriction that in case sufficient numbers of students are not available in the first round, said seats would be made available to open category candidates in the second round of counseling, but the said relaxation is superficial. Giving institutional preference in first round would most likely entail filling up of all the Postgraduate seats from institutional candidates who have qualified MBBS from colleges within the State of Madhya Pradesh as the number of Postgraduate seats are far less than the MBBS seats.

25. Further, we note notification dated 3rd September, 2025 partly amends the Rules of 2018. Rule 11 remains unchanged. Rule 11 provides that no person who has not registered in the first round of counseling will be permitted to participate in the second round of counseling or thereafter. As per the amended rules candidates who are aspiring for seats in Postgraduate seats in Private Medical Colleges and have not qualified their MBBS from colleges situated in Madhya Pradesh, are ineligible to participate in the first round of counseling. Since they are ineligible to participate in the first round, they cannot register prior to the first round and if they have not

registered for the first round, then they cannot participate in the second round and thereafter. This clearly establishes that none of the candidates who have not qualified their MBBS from colleges situated in Madhya Pradesh can participate in counseling of the Postgraduate seats in Private Medical Colleges. Even if they were permitted to participate there would hardly be any seat left after the first round of counseling.

26. Learned Deputy Advocate General for the State has placed on record a computation of the total number of seats available in Private Medical Colleges and the break up thereof in terms of reservation and the same are as under:

Total Seats in Private Medical Colleges in MP	**1026**
15% Reserved for NRI	154
30% Reserved for In-service candidates	262
Balance	610

27. Above table shows that out of the 1026 seats, 15% seats have been deserved for NRI quota, 30% seats have been reserved for in-service candidates and the remaining seats are to be preferentially allotted based on institutional preference. This implies that all 100% seats in private medical collegesin Postgraduate courses have been reserved in one category or other. This is clearly impermissible as per the law laid down by the Supreme Court in ***Pradeep Jain(supra)***, ***Saurabh Chaudri (supra)*** and ***Tanvi Behl(supra)***.

28. As noticed *hereinabove*, there is a reservation of 15% seat for NRI quota and out of the balance 85%, 30% have been reserved for in-service candidates and all balance seats are reserved for institutional candidates.

29. Clearly, as the reservation in private colleges in one form or other exceeds 50%, same cannot be countenanced. As noticed hereinabove, 100% reservation is being given to in one form or the other which as per the Supreme Court is not permissible. Accordingly, said rule as amended on 3rd September, 2025 is unconstitutional to the extent that it creates a 100% reservation of all the seats in Postgraduate course in private colleges.

30. Further, similar rationale for justifying the classification was also given by the State in ***Association of Private Universities versus State of Madhya Pradesh 2021 SCC Online MP 2644***, wherein a Division Bench of this court relying upon ***Tanvi Behl (Supra)*** negated the same. Even otherwise said rationale cannot be sustained in view of the law laid down by the Supreme Court in ***Tanvi Behl (Supra)***.

31. In view of the above, we hold that the amended provision notified on 3rd September 2025 does not conform to the directions issued by the Supreme Court in ***Tanvi Behl(supra)*** inasmuch as it makes a reservation of 100% of the seats in one form or the other. Accordingly, we hold that reservation in all categories cannot exceed 50% of the total seats in Private Medical Colleges (including 15% NRI quota and 30% in-service candidateseats). We clarify that since there is no challenge to the reservation

of seats to the extent of 15% for NRI quota and 30% for in-service candidates, we are not commenting upon the validity of the same.

32. In so far as the Government Colleges are concerned, the contention of the State is that since 50% seats are contributed to All India Quota and thus there is no infraction of the above restriction. We clarify that as the challenge in this case was restricted to private medical colleges, we have not commented upon the same and this judgment is restricted to private medical colleges.

33. The petition is accordingly **allowed** in the above terms. The respondent state is directed to permit the petitioners as well as other similarly situated candidates to register for the purposes of counseling and participate in the same. There shall be no reservation exceeding 50% of the total seats in postgraduate courses in private medical colleges including all the categories i.e. NRI, In-service and Institutional preference.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

(VINAY SARAF)
JUDGE

YS