

# “Private non-minority colleges cannot have 100% reservation”

## Court says it violates basic principles of democratic governance

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**NEW DELHI:** Private non-minority unaided professional educational institutions cannot have 100 per cent quota or the right to admit students of their choice from only a particular social group, excluding all other students from being considered for admission, the Supreme Court has held.

A Bench of Justices B. Sudershan Reddy and S.S. Nijjar was setting aside the policy of the Army College of Medical Sciences (ACMS), New Delhi, to allot all seats to wards of current and retired Army personnel and widows of Army personnel, provided they qualified in the Common Entrance Test conduct by appropriate authorities for admission to medical colleges in the National Capital Territory of Delhi.

The Bench held that the exemption granted by the Delhi government allowing the ACMS to fill 100 per cent seats with wards of Army personnel “violates the basic principles of democratic governance.”

Justice Reddy, writing the judgment, said: “It is now a well-settled principle of our constitutional jurisprudence that Article 14 does not merely aspire to provide for our citizens mere formal equality, but also equality of status and of opportunity. The goals of the nation-state are the securing for all citizens a fraternity assuring the dignity of the individual and the unity of the nation. If a publicly offered service follows a particular rule that achieves the same or similar consequences as the

• **Court sets aside policy of Army College of Medical Sciences, New Delhi**

• **Article 14 aspires to provide citizens equality of status, opportunity**

proscribed discrimination, and tends to perpetuate the effects of such discrimination, then it would violate the principle of substantive equality.”

The Bench said:

“In the case of admissions to colleges, it is an acknowledged fact that the basis of so-called absolute abilities, we would end up selecting more students from better social and educational backgrounds, thereby foreclosing or substantially truncating the possibility of individuals in such disadvantaged groups from being able to gain access to a vital element of modern life that grants dignity to the individuals, and thereby to the group as a whole, both in this generation, and in future generations.

“If a vast majority of our youngsters, especially those belonging to disadvantaged groups, is denied access in the higher educational institutions in the private sector, it would mean that a vast majority of youngsters, notwithstanding a naturally equal distribution of talent and ability, belonging to disadvantaged groups, would be left without access to higher education at all. That would

constitute a state of social emergency with a potential for conflagration that would be on an unimaginable scale. The fact that non-minority unaided educational institutions insist on ‘social disadvantages blind’ admission policies is proof that they are not recognising the true purpose of education as an occupation.”

**‘Illegal, ultra vires’**

The Supreme Court said: “The admission procedures devised by the Army College of Medical Sciences, Delhi Cantonment, for admitting students to the first year MBBS course from a pre-defined source, carved out by itself and its parent society, are illegal and ultra vires the Delhi Act 80 of 2007.”

It directed the authorities to admit the writ petitioners to the first year of MBBS course in ACMS “if the writ petitioners still so desire, for they have been deprived of their legitimate right of admission to the course for no fault of theirs, notwithstanding the rank secured by them in the CET by creating supernumerary seats. However, we make it clear that the admissions already made by the Army College of Medical Sciences are saved and shall not be affected in any manner whatsoever.”

The Indian Medical Association and some students challenged the admission policy of the ACMS. After the Delhi High Court upheld the policy, appeals and writ petitions were filed in the Supreme Court questioning the policy.