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**Case Comment: Farzana Batool vs Union of India***~Manisha Dodani<sup>1</sup>**Supreme Court Case: 9<sup>th</sup> April 2021**Petitioner: Farzana Batool**Respondent: Union of India**Bench: Hon'ble Mr. Justice D.Y.Chandrachud, Hon'ble Mr. Justice M.R Shah***INTRODUCTION**

Article 21-A of Indian Constitution was inserted by Eighty-Six Amendment, Act 2002 which provides free and compulsory education of all the children in the age group of 6 to 14 years as a fundamental right. Education is a path for a better society and it is right for every individual, it not only develops individuals but also develops the nation and society. It is the best tool for the backward classes to grow up in the society. But the provision of Article 21-A of the Indian Constitution is not for higher education.

In this particular case of Farzana Batool V. Union of India, the matter was raised that the government has a duty to promote access to education at all levels. In this case the two petitioners filed a petition under Article 32 of India Constitution, which is a constitutional remedy for the citizen when their fundamental right is infringed.

**FACTUAL BACKGROUND OF THE CASE:**

The Government of India, through the Ministry of Health and Family Welfare (MHFW), published a memorandum outlining the requirements for allocating the general pool MBBS/BDS seats for the academic years 2020–2021. The Director of Health Services, Ladakh (DHSL) transmitted the list of chosen candidates from Ladakh to be admitted in the central pool medical seats for the 2020–2021 academic year by a communication dated 19 February 2021 issued by the Administration of the Union Territory of Ladakh.

Two students from Ladakh namely Ms. Farzana Batool and Mr. Mohammed Mehdi Waziri were proposed by the Administration of the Union Territory of Ladakh for admission to the MBBS degree program through the "central pool" seats of the Union Ministry of Health and Family Welfare. A place has been reserved for one of them at Lady Hardinge Medical College ("LMHC").

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<sup>1</sup> You may contact the author at the following email address: [manishadodani517@gmail.com](mailto:manishadodani517@gmail.com)

One of them was assigned at Maulana Azad Medical College ("MAMC"). Unfortunately, despite being properly nominated by the Administration of the Union Territory of Ladakh and in accordance with the seats announced by the Union Government, these students were deprived of the opportunity to be admitted in the college. As a result, the two candidates filed a writ petition in accordance with Article 32 of the Indian Constitution.

On March 26, 2021, the court issued a notice in which Mr. Rupinder Singh Suri, Additional Solicitor General, represented the Union of India, and Mr. KM Nataraj, Additional Solicitor General, represented the Administration of Ladakh. Both parties supported the claim and stated that the allocation for these students has been made, and there is no reasonable basis on which their admission can be denied.

### **ISSUES RAISED**

- A. Whether the right to a higher education or a professional education is a fundamental right?
- B. Whether it is ethical to limit a student's potential based on their caste, class, gender, religion, disability, or geographic location?
- C. Whether it is appropriate to deny students access to professional education even when they have been nominated under the central pool?

### **CONTENTION OF THE PETITIONER**

- A. The petitioners were rejected from admission to their chosen colleges despite being nominated by the Ladakh administration and guidelines established by the Indian government.
- B. The petitioner complained that she had been denied access to further education and professional training due to her caste, class, race, and location of birth, among other factors.
- C. It was further stated that other chosen students had already been admitted to their designated colleges.
- D. The petitioner further submitted that, while not being explicitly stated in the Indian Constitution, the right to professional education should be regarded as a fundamental right of the citizens.

### **CONTENTION OF THE RESPONDENT**

- A. It was argued that the right to higher education does not qualify as a fundamental right.
- B. Additionally, it was said that the students were not financially stable to be admitted into their respective institutions.

### **RATIONALE OF THE JUDGEMENT**

Supreme Court held in the case of *Farzana Batool v. Union of India* that:

“Although Part III of the Constitution does not explicitly provide that the right to seek higher education is a fundamental right, it is important to stress that access to professional education is not a gift from the government. Rather, the State has a duty to actively promote access to education at all levels”.

Further, the court thought that since a professional education is a necessity for students, they should be given a healthy atmosphere to thrive in. The court also brought attention to the concept of "accessibility," which is crucial in the field of education. The court emphasizes that the availability of education should be based on the student's ability, not on the student's ability to pay for it.

By concluding the judgement, the court orders that Farzana Batool and Mr. Mohammed Mehdi Waziri's admission procedures be finished at their respective colleges or within seven days of the date of the judgement.

The Supreme Court further stated that since education is a fundamental right and is of the utmost importance, all students whose names were listed in Annexure A to the notification dated February 19, 2021, should be admitted to the relevant institutions, if not already done so. The Supreme Court further stated that the court issuing the order as a general directive to avoid the possibility that each of the similarly placed students will need to come to this court.

### **INFERENCE**

The Supreme Court in the present case ordered that the petitioners, based on their nomination, be admitted to LHMC and MAMC as quickly as possible, and the admission procedure be finished within a week of the judgment date. The judge in this case not only assisted the students in obtaining admission to the college, but he also served as a role model for the community,

demonstrating the value of education for all students and emphasizing that education is gained based on student aptitude rather than their financial stability. Since students are the foundation of our educational system and represent the future of society, it is our moral obligation to ensure that they have access to the education.

