

*“List III of Seventh Schedule consists of items shared by both Union and the States”*

**[Case Brief] TAMIL NADU MEDICAL OFFICERS’ ASSOCIATION & ORS VERSUS UNION OF INDIA & ORS**

**Case name:** Tamil Nadu Medical Officers’ Association & Ors. v/s Union of India

**Case number:** Writ Petition (Civil) No (S).196/2018

**Court:** In the Supreme Court of India  
Civil Original Jurisdiction

**Bench:** .....J. Kurien Joseph  
.....J. Mohan M. Shantanagoudar  
.....J. Navin Sinha

**Decided on:** April 13, 2018.

**Relevant** Regulation 9(4) and (8) of the Post Graduate Medical

**Act/Sections:** Education Regulations, 2000; List I Entry 66 and List III  
Entry 25 of Seventh Schedule, Constitution of India.

➤ **BRIEF FACTS AND PROCEDURAL HISTORY:**

1. In these writ petitions, Regulation 9(IV) and (VII), after amendment dated 05.04.2018 – Regulation 9(4) and (8) of the Post Graduate Medical Education Regulations, 2000, as framed by the Medical Council of India, were under challenge.
2. This was subject matter of a Three-Judge Bench decision of this Court in State of Uttar Pradesh and Others v. Dinesh Singh Chauhan, reported in (2016) 9 SCC 749. There had been some minor amendments thereafter in Regulation 9.

➤ **ISSUE BEFORE THE COURT:**

Whether the State is denuded of its power to legislate on the manner and method for admissions to Post Graduate Medical Courses because of the item falling in Union and Concurrent List?

➤ **RATIO OF THE COURT:**

1. Learned senior counsel for the petitioners have vehemently contended that at least three Constitution Bench decisions of this Court, namely, *R. Chitrlekha and Another v. State of Mysore and Others, reported in (1964) 6 SCR 368, Kumari Chitra Ghosh and Another v. Union of India and Others, reported in (1969) 2 SCC 228 and Modern Dental College and Research Centre and Others v. State of Madhya Pradesh and Others, reported in (2016) 7 SCC 353, have not been considered in Dinesh Singh Chauhan (supra)*, on the aspect of the legislative competence under List I, Entry 66 and List III, Entry 25 of the Seventh Schedule.
2. It was the main contention of the petitioners that while “the coordination and determination of standards in institutions for higher education” is within the exclusive domain of the Union, medical education under Entry 25, List III, though made subject to Entry 66 of List I, being an Entry in the Concurrent List, the State is not denuded of its power to legislate on the manner and method for admissions to Post Graduate Medical Courses.
3. It was also submitted that though Regulation 9(4) provides for 10% incentive for every year of service in remote/difficult/rural areas up to a maximum of 30% of the score, the provision will not be available to the benefit of the in-service candidates.
4. It was pointed out by the counsel for the UoI that once an Entry is provided under List I, it is the exclusive domain of the Union and even if the Union has not legislated exhaustively in respect of that Entry, the State cannot legislate on that subject. He also submitted that all the

contentions raised by the petitioners have been considered in Dinesh Singh Chauhan (supra) and, therefore, the writ petitions are only to be dismissed.

5. The court was of the view that far as Modern Dental (supra) was concerned perhaps the judgment had not been published by the time the judgment in Dinesh Singh Chauhan (supra) was rendered. The petitioners raised several other contentions and invited the reference to the judgments by Benches of equal strength as in Dinesh Singh Chauhan (supra). In the above circumstances, the court held it appropriate that these writ petitions require consideration by a larger Bench.

➤ **DECISION HELD BY COURT:**

1. Accordingly, the court placed the matters before the Hon'ble the Chief Justice of India for consideration by a larger Bench, emergently.
2. The petitioners were deemed free to make a mention on the 16<sup>th</sup> April, 2018 before Hon'ble the Chief Justice of India.