

Case Name	Baqi & Ors v Akram & Ors
Topic	Affirmative action – college can reserve places for disadvantaged students
Category	EQUALITY - affirmative action;
Tribunal	Supreme Court
Country	Pakistan (Asia)
Case Date	31 Oct 2002
Judge(s)	Chaudhry, Ramday and Khokhar JJ

Two sets of students, A and a number of others who were educated outside their local districts, and B and a number of others who were educated within them, applied for admission to Bolan Medical College. Although the local authority stated that it allocated places on the basis of open competition, 70% of places were reserved for those who had been educated from outside their local district with the remaining 30% allocated to those who had been educated within their locality. Whilst B and others were admitted on the 30% local allocation, A and others were unsuccessful in applying through the 70% allocation. Consequently, A and others successfully challenged the admissions policy before the High Court on the grounds that allocating 30% of the places to students from local districts was discriminatory, unreasonable and irrational contrary to the equality before the law as guaranteed by Article 25 of the Constitution read with Articles 22(4), 37 and 38 ensuring the advancement of socially or **educationally** backward citizens. B and others appealed.

In allowing the appeals, it was held that:

1. Equal protection of the law does not envisage that every citizen is to be treated alike in all circumstances, but contemplates that persons similarly situated or place are to be treated alike. In this context, whilst reasonable classification is permissible it must be founded on a reasonable distinction or basis and that no standard of universal application can be laid down as to what may be a reasonable classification in a particular set of circumstances.

2. Furthermore, different laws can validly be enacted for different sexes, persons in different age groups, having different financial standings and those accused of heinous crimes. A law applying to one person or class of persons may be Constitutionally valid if there is a sufficient basis or reason for it, but a classification which is arbitrary will breach Article 25. In order to make a classification reasonable, it should be based on (a) on an intelligible differentia which distinguishes persons or things that are grouped together from those who have been left out; (b) that the differentia must have a rational nexus to the object sought to be achieved by the classification (*Sherwani v Government of Pakistan 1991 SCMR 1041* and *Gul Khan v Secretary of Education, Government of Balochistan & Ors (PLD 1989 Quetta 8)* applied).

3. In this case the rationale behind the distribution of seats is based on the fact that the majority of the students who are able to travel outside their districts enjoy a far more congenial **educational** atmosphere than those who cannot afford to do so and who largely come from rural areas. Accordingly, there is a sound basis for creating the different admission criteria that relies on intelligible differentia with a rational link to the aim sought to be achieved, namely to address the inequality experienced by those disadvantaged students who cannot compete fairly with their colleagues (*Shireen Raza & Ors v Secretary of Education & Ors (2002 SCMR 1218)* and *Bibi Khan v Secretary of Education & Ors (2001 SCMR 1161)* applied).

Lawyers *For the Petitioners : KN Kohli and Raja M Afsar, Advocates Supreme Court
For the Official Respondents: Raja Abdul Ghafoor, Advocate Supreme Court
For Respondent No 1: H Shakil Ahmad, Advocate Supreme Court*

Citations PLD 2003 SC 163