

# Medical seats sale: Most states disregarded SC's 2005 verdict

## Instead, Restored 1993 Principle Of Seat-Sharing Between Govt & Management

Manoj Mitta | TNN

**New Delhi:** In the battle of ideas dealing with capitation fee in private medical colleges, a judgment delivered by a seven-judge bench of the Supreme Court in 2005 seems to have lost out to the 1993 verdict of a five-judge bench. For, in a bid to maintain a semblance of merit in admissions to those colleges, most states have disregarded the 2005 decision empowering the management to fill all the seats autonomously. Instead, they passed laws restoring the 1993 principle of seat-sharing between the government and the management.

Putting a judicial stamp on the rampant violation of the 2005 verdict in the P A Inamdar case, a two-judge bench of the apex court allowed the Madhya Pradesh government on May 27 to appropriate 42.5% of the seats in private medical colleges. This is a tacit acknowledgement from the Supreme Court that the 1993 verdict in the J P Unni Krishnan case, despite being overruled, holds the field — at least de facto. Thus, in this age of liberalisation, the 'socialism' of Justice B P Jeevan Reddy, author of the Unni Krishnan judgment, has by and large prevailed over the 'capitalism' of Justice R C Lahoti, author of the Inamdar verdict.

Out of the five states where 100 of the 140 private medical colleges in the country are concen-

trated, Maharashtra is the only one to have adopted the Inamdar ruling and allowed the management to have a free hand in filling all the seats. In the other four states having a large number of private medical colleges, Tamil Nadu, Andhra Pradesh, Karnataka and Kerala, the management has been forced to share seats with the government in varying degrees.

The lowest government share among the four southern states is 40% and that is in Karnataka, where the capitation fee phenomenon originated 30 years ago.

In Kerala, the government fills 50% of the seats in private medical colleges on the basis of the common entrance test conducted by it. The corresponding government quotas in Tamil Nadu and Andhra Pradesh are even higher, 65% and 70%, respectively, making a mockery of the bar on what the Inamdar verdict described as "nationalisation of seats".

If the whole country is taken into account, Gujarat and Punjab have the distinction of appropri-

### Government's share of seats despite SC's ban

State	Share
Andhra Pradesh	70%
Gujarat	75%
Karnataka	40%
Kerala	50%
Madhya Pradesh (SC reduced it from 85%)	42.5%
Maharashtra	0
Pondicherry	13%-33%
Punjab	85%
Rajasthan	0
Tamil Nadu	65%
Uttar Pradesh (HC reduced it from 50%)	0
West Bengal	33%

ating even higher quotas — 75% and 85%, respectively.

Yet, there has so far been only one state in which the high court objected to such subversion of the law laid down by the Inamdar verdict. Setting aside the Uttar Pradesh government's scheme of appropriating 50% of the seats, the Allahabad High Court restored 100% of the seats to the management in consonance with the Inamdar case.

But in the latest judicial intervention, which was on a petition challenging the Madhya Pradesh government's decision to claim 85% of the seats in private medical colleges, the Supreme Court did not display such deference to its Inamdar verdict.

Rather than restoring all those seats to the management, a vacation bench headed by Justice

Markandeya Katju split the 85% share into two and allocated 42.5% each to the government and management, much in the spirit of the overruled Unni Krishnan verdict.