**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 25th DAY OF FEBRUARY, 2026**

**PRESENT**

**THE HON'BLE MR. JUSTICE JAYANT BANERJI**

**AND**

**THE HON'BLE MR. JUSTICE T.M.NADAF**

**WRIT PETITION NO. 2386 OF 2026 (EDN-RES)**

**BETWEEN:**

1. DR. SAGAR K S.,
S/O SHANKARI GOWDA K.N.,
AGED ABOUT 36 YEARS,
WORKING AS A GDMO PHC AKKIHEBBALU,
KRISHNARAJAPETE TALUK,
MANDYA DISTRICT,
MANDYA - 571 426,
R/O KATTERI VILLAGE,
PANDAVAPURA TALUQ,
MANDYA DISTRICT - 571 426.

2. DR. SHALINI GOVIND,
W/o PUNITH N G.,
AGED ABOUT 31 YEARS,
WORKING AS GDMO AT HULIKUNTE PHC,
DODDABALLAPUR TALUK,
BANGALORE RURAL DISTRICT,
R/O 633/62, 5TH MAIN, 13TH CROSS,
MC LAYOUT, VIJAYNAGARA,
BANGALORE - 560 040.

…PETITIONERS

(BY SRI.N.KHETTY., ADVOCATE FOR
SMT. AKKAMAHADEVI HIREMATH., ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA,
DEPARTMENT OF HEALTH & FAMILY WELFARE,
(MEDICAL EDUCATION)
VIKASA SOUDHA, DR. AMBEDKAR VEEDHI,
BENGALURU - 560 001.
REP. BY ITS PRINCIPAL SECRETARY

2. THE COMMISSIONER,
HEALTH AND FAMILY WELFARE SERVICES,
AROGYA SOUDHA, MAGADI ROAD,
BENGALURU - 560 023.

3. THE DIRECTOR OF MEDICAL EDUCATION,
DIRECTORATE OF MEDICAL EDUCATION,
GOVERNMENT OF KARNATAKA,
BMCRI, 1ST FLOOR, FORT, K.R. ROAD,
BENGALURU - 560 002.

4. KARNATAKA EXAMINATION AUTHORITY,
18TH CROSS ROAD, SAMPIGE ROAD,
MALLESHWARAM, BANGALORE - 560 017,
REP. BY ITS EXECUTIVE DIRECTOR

…RESPONDENTS

(BY SRI. REUBEN JACOB., AAG A/W.
*MAMATHA SHETTY, AGA FOR R1 TO R3;
SRI. N.K.RAMESH, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO (A) DIRECT THE RESPONDENT NO.4 TO RECEIVE THE FORM-H DATED 08.01.2026 (ANNEXURE-J1) OF THE PETITIONER NO.1 AND THE FORM-H DATED 20.01.2026 (ANNEXURE-J2) OF THE PETITIONER NO.2, IN RESPECT OF THEIR RESPECTIVE APPLICATIONS BOTH DATED 26.09.2025 (ANNEXURE-E1 AND E2) AND (B) DIRECT THE RESPONDENTS TO OFFER THE FIVE DECATEGORISED INSERVICE SEATS WHICH HAVE REMAINED UNFILLED AFTER THE SECOND ROUND, NAMELY (i) GEN MEDICINE IN KVG SULLIA, (ii) ANAESTHESIA IN KIMS, BANGALORE, (iii) ANAESTHESIA IN BRIMS, BIDAR, AND (iv) ANAESTHESIA IN GRIMS, GADAG AND (v) DERMATOLOGY IN KIMS, KODAGU, TO THE INSERVICE PETITIONERS WHO CAN

*Corrected vide Court order dated 24.03.2026

CHOOSE FROM THE SAID SEATS, ON A FIRST PRIORITY/PREFERENCE BASIS, BEFORE THE COMMENCEMENT OF THE 3RD ROUND (MOP UP) AND ETC.,

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 11.02.2026, COMING ON FOR 'PRONOUNCEMENT OF ORDER' THIS DAY, THE COURT, MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE T.M.NADAF

**CAV ORDER**

(*PER CURIAM*)

Heard learned counsel for the petitioners, learned Additional Advocate General for the respondents/State Authorities and learned counsel for the Karnataka Examination Authority.

2. This Writ Petition has been filed seeking following reliefs:

1) Direct the Respondent No.4 to receive the Form-H dated 08-01-2026 (Ann-J1) of the Petitioner No.1 and the Form-H dated 20-01-2026 (Ann-J2) of the Petitioner No.2, in respect of their respective Applications both dated 26-09-2025 (Annexure-E1 and E2), and

2) Direct the Respondents to offer the five decategorised Inservice seats which have remained unfilled after the second round, namely, (i) GEN MEDICINE in KVG Sullia, (ii) ANAESTHESIA in KIMS, Bangalore, (iii) ANAESTHESIA in BRIMS, Bidar, and (iv) ANAESTHESIA in GRIMS, Gadag, and (v) DERMATOLOGY in KIMS, Kodagu, to the Inservice Petitioners who can choose from the said seats, on a first priority/preference basis, before the commencement of the 3rd Round (Mop Up):

3) Such other writs or orders as this Hon'ble Court deems fit in the facts and circumstances of the case, and in the interest of justice.

3. Petitioner No.1 is working as General Duty Medical Officer (GDMO for short) at Akki Hebballu, K.R.Pet, Mandya in the first respondent Department and was appointed on 01.06.2021, and completed his probationary period successfully on 31.05.2023 and he has completed his mandatory three years of regular service on 31.05.2024.

4. Petitioner No.2 is working as GDMO at PHC Hulikunte, Bengaluru Rural District in the first respondent Department and was appointed on 01.06.2021, and completed her probationary period successfully on

31.05.2023 and she has completed her mandatory three years of regular service on 31.05.2024.

5. Both the petitioners filed their respective applications on 26.09.2025 for PG Course.

6. It is stated that both the petitioners are eligible to secure seats for pursuing the Post Graduate course under the in-service quota. A circular was issued by the Government of Karnataka dated 08.05.2025 on the subject of exemption from the 'Creamy Layer' limit and the issuance of caste certificates for candidates belonging to Backward Classes categories 2-A, 2-B, 3-A and 3-B who are currently in service. In this circular it is specified that the Tahsildars must issue Caste or Caste-cum-Income Certificates in Forms D, E and F for education, employment, and other purposes within 2 months from the date of receipt of application. For direct recruitment under Articles 15 (4) and 16 (4) of the Constitution, the creamy layer rule shall not apply to candidates belonging to categories 2-A, 2-B, 3-A and 3-B in cases where specific periods of experience are prescribed for certain lower-level posts. According to the Karnataka

Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointments, etc.) Act, 1990 and Rules, 1992 (including 2000 amendments), candidates are eligible to obtain a Caste Certificate or a Caste-cum-Income Certificate. Therefore, to provide creamy layer exemptions to in-service candidates belonging to categories 2-A, 2-B, 3-A, 3-B, the concerned Tahsildars were directed to verify the relevant documents and take action to issue the Caste Confirmation Certificate for Backward Class candidates in Form-H.

7. It is stated that none of the notifications stipulated that on production of Form-H the candidates would be entitled to reservation under the OBC category in the in-service category and therefore there was no information to the in-service candidates that they would be required to produce Form-H. Instead it was only Form-F that was mentioned in the notification issued by the KEA and thereby the petitioners were in fact 'disentitled' to the benefits available to OBCs. In-service category doctors were not given the benefit of OBC reservations the in-service category. The petitioners believed that in-service candidates

like themselves would not be entitled to the benefit of eligibility criteria of 40th percentile cut-off scores applicable, inter alia, to OBC category in terms of the notice dated 19.08.2025 issued by the National Board of Examinations in Medical Sciences, New Delhi. It is stated in the petition that since then, the petitioners had been awaiting reduction in the cut-off marks as General Category candidates. It is stated that the petitioner is had come to know of a judgment dated 11.12.2025 passed in W.P.No.36085/2025 by this Court whereby reservation of seats for OBC candidates in the in-service quota has been permitted and creamy layer is held to be not applicable to the in-service candidates, based on the submissions of the State Government. The petitioners state that they have lost out on the opportunity to avail the benefit of the lower cut-off marks for OBC candidates fixed in the 1st round itself, as well as the opportunity on the benefit of reservation of seats. This loss was entirely due to the State Government not notifying the candidates as to the availability of reservation for the OBC categories, and also not notifying the process of availing it by procuring the Form-H.

8. As regards Form-H, the Tahsildar had stated by an endorsement that it was not possible to issue such a certificate. Thereafter a writ petition was filed and pursuant to orders passed by this Court, the said Form-H were furnished.

9. It is stated that after the de-categorisation of the in-service quota seats in the 2nd round, a total of 371 postgraduate in-service seats remained which were merged with the non-in-service seats in the ongoing counselling for the 2nd round. However since no notification was issued in respect of the said seats in the seat matrix for the 2nd round for the non-in-service candidates, several seats remain vacant.

10. It is stated that a writ petition bearing W.P. No. 110014/2025 was filed by one in-service candidate in the Dharwad bench of this Court seeking, inter alia, a direction to the Respondents to receive the application for participating in the in-service quota category of PG-NEET 2025 and thereafter to forward the name of the petitioner to

the Directorate of Medical Education[1] and the Karnataka Examination Authority[2] to enable the petitioner to participate in the counseling in the in-service quota category of PG-NEET 2025. It was noted in that case that 62 seats out of 433 seats were filled by in-service candidates and the remaining 371 seats were merged with non-in-service seats and were offered to non-in-service candidates. The learned AGA appearing for the State-respondents had stated that the State has no objection for treating the petitioner therein as an in-service candidate. However, in the light of the first two rounds of counselling already having been completed and the successful candidate in the said counselling not been made a party, disrupting any of the seats allotted or redoing the counselling process for the petitioner would not be feasible. It was then submitted by the counsel for the petitioner that he would have no objection if any one of the 371 seats which were unfilled by the in-service candidates, is allotted to the petitioner.

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[1] DME

[2] KEA

11. The KEA in its objection filed in the said writ petition at the Dharwad Bench had stated that once the seats reserved for in-service candidates are de-categorised and converted to non-in-service seats by the State government, the converted seats get merged with the non-in-service seats and it cannot be ascertained as to which of the de-categorised seats have remained vacant. Therefore it was urged that the petitioner be permitted to choose any one of the seats in the mop up round among the vacant seats. It was ordered by the Court that the petitioner therein shall be treated as an in-service candidate and would be offered first preference in the order of merit along with similarly situated candidates, if any, to choose from the available 1501 seats for regular Post Graduate courses and 110 seats reserved for Diplomate of National Board[3] courses which are offered only to Health and Family Welfare[4] in-service candidates. Moreover, after allotting seat to the petitioner, the remaining seats would be offered to the other regular PG course candidates in mop up round.

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[3] DNB

[4] HFW

12. It is stated that the petitioners herein participated in the counselling and also obtained seats in the General category and so no other candidates are there other than the petitioner's who have been deprived or prejudiced because of this fault of the State government. The petitioners had no information about availing Form-H nor were they provided Form-H by the Tahsildar until after directions were issued by the court. It has been stated that the petitioners, without prejudice to their entitlement on parity basis, will be content with the selection being restricted to the five seats (in General Medicine, Anaesthesia and Dermatology) which constitute some of the identified de-categorised in-service seats.

13. This Court on 03.02.2026, at the request of learned Additional Government Advocate appearing for respondent Nos.1, 2 and 3 and learned counsel appearing for respondent No.4, adjourned the matter to 04.02.2006 to enable them to obtain instructions. On 04.02.2026, the Learned Additional Advocate General for respondent Nos.1, 2 and 3 made his submissions on the basis of instructions. This Court directed the respondents to file counter-affidavits to

the aforesaid Writ Petition and adjourned the matter to 09.02.2026. However in view of the petitioners' submission on interim relief, the learned Additional Advocate General and the learned counsel for KEA on the basis of instructions, stated that the allotment of seats will not be done till 08:00 p.m. on 09.02.2026, with the option entries to continue from 05.02.2026 till 09.02.2026. On 09.02.2026, this Court passed the following order:

"***ORDER***

*In view of the submission made by the learned Additional Advocate General regarding the matter engaging attention of the Government with regard to allotment of seats for In-Service Candidates regarding Post Graduation Courses, we deem it fit to direct that the Karnataka Examinations Authority shall not start allotment process till after the next date of listing of this case nor shall it notify the list.*

*List this case on 11.02.2026 at the top of the list*"

14. On behalf of the Respondent Nos. 1, 2 and 3 a statement of objection has been filed. It is submitted therein that both the petitioners belong to the HFW Department and their request to be considered for PG-NEET in-service quota

seats had to be forwarded through the concerned District Health Officers to the Commissioner, HFW. The said applications were verified and only the applications of eligible Applicants who had secured the qualifying percentile were forwarded to the DME, which in turn forwards the applications to the KEA. The PG-NEET score card submitted by both the petitioners were verified and since their category was mentioned as "General", in the PG-NEET score card, and they had not claimed OBC category at that stage, since they had secured less than the qualifying percentile in respect of General Category, both the petitioners were ineligible to participate in the counselling and hence their applications were not forwarded to the DME for counselling. Therefore both the petitioner had not participated in the 1st and 2nd round of counselling under the in-service quota of PG-NEET 2025. It is further stated that the petitioners have now submitted Form-H certificates to claim OBC category benefits and the Respondent No. 2 has forwarded the applications to the Respondent No. 3 along with Form-H which will be forwarded to the KEA for enabling the petitioners to participate in the mop up around of counselling. Therefore, it

is stated, that the prayer No. 1 made in the writ petition does not survive.

15. It is further stated in the statement of objection that the KEA vide its letter dated 21.01.2026 had sent a proposal for the opinion of the Department of Medical Education regarding the de-categorised in-service seats which the KEA was able to identify as being vacant and available for mop up round of counselling. Further, four de-categorised and allotted seats out of the total 371 de-categorised in-service seats were identified as being vacant now on account of cancellations with seats were available for mop around of counselling and suitable directions was sought for offering the said four MD/MS seats along with the remaining DNB seats to eligible in-service candidates. Concurrence to the said proposal has been given by the Department of Medical Education by its letter of 09.02.2026. It is therefore stated that as far as prayer No. 2 is concerned, a 1st priority/preference cannot be given only to the petitioners before the commencement of the mop up round, but the petitioners can participate in the mop up round and choose the seats in the in-service pool based on

merit and ranking. In other words, there cannot be a separate preference to the petitioners but the preference will be based on the ranking amongst similarly situated candidates (in-service candidates) and if any candidate having a better rank than the petitioners is allotted any of the seats, the remaining seats will be available for allotment to the petitioners based on ranking.

16. The KEA has also filed its statement of objection in which it is stated that the petitioners had scored less than the cut-off score for the general category during the 1st round of counselling. Therefore they did not qualify for the 1st round as their names were not included in the list of eligible doctors qualified for PG studies sent by the 2nd Respondent. For the 1st round of counselling, in the seat matrix, the State government has reserved a total of 441 PG degree and diploma including DNB seats for in-service candidates but there were only 76 eligible in-service candidates. Out of them 71 were allotted the seats of their choice as per their inter se merit by following the roster. Since there were no other qualified in-service candidates as per the rules, the remaining 371 PG seats were de-

categorised and offered to non-in-service candidates in the 2nd round of counselling. After the 2nd round of counselling had concluded, the Medical Counselling Committee by its notification dated 13.01.2026 reduced the qualifying percentile to 40 percentile with cut-off score at 235. On account of reduction on the percentile, the petitioners became eligible for allotment of seats in the available de-categorised seats in the mop up round of counselling. After that de-categorisation of the seats, there cannot be any reservation of seats for in-service candidates in the mop up round. The petitioners have to compete with the non-in-service candidates on the basis of inter-se merit for selection of seats. It is stated that the petitioners are trying to make out notional re-categorisation of the in-service quota to stake their claim to a particular subject which would be detrimental to the interest of other eligible students who have more merit than the petitioners. The Form-H produced by the petitioners also cannot be considered as it would alter the status of the other candidates who have claimed under 3-A category. It is stated that the Respondent has instructed its counsel to file a review petition seeking review of the order

dated 12.01.2026 passed by the Dharwad bench of this court in W.P. No. 110014/2025.

17. What is important to note is that the petitioners are eligible candidates who stand deprived of the benefit of Form-H due to the delay in its issuance by the Tahsildar, which delay is not attributable to the petitioners. The respondents have not denied this fact. It is also not denied that had the said Form-H been timely issued, the petitioners would have been eligible to participate in the first round of counseling conducted by the KEA. Where reservation of seats is provided for in-service candidates, by the State Government, it must be implemented. The seats reserved for the in-service candidates such as the petitioners were de-categorised for want of eligible candidates. Now the petitioners are left to fend for their seats in the common pool consisting of de-categorised seats. It is, however, not denied by the petitioners that the process adopted for de-categorisation of seats is as per the applicable enactments/Rules.

18. The petitioners are in-service candidates. It would have been open for them, as has been conceded by

the respondents, to appear in the Mop-up round of counselling under the General Category in respect of decategorised seats. Given the delay in finalising the seat allocation in view of the successive writ petitions being filed and the orders passed from time to time. In our opinion, it could have been a matter of consideration whether the petitioners could have been relegated to appear in the Mop-up round to avail the chance of seat allocation as per their merit.

19. However, as noted above, the co-ordinate Bench of this Court at Dharwad in its order dated 12.01.2026 had ordered, which order was passed on the concession made by the Additional Government Advocate, that the petitioner therein be permitted to participate in the Mop-up round as an in-service Candidate and it was observed that the respondents were willing to permit the petitioner to choose a seat of choice from the available seats. Moreover, in the operative part of the order, this Court had ordered that the petitioner therein would be offered first preference in the order of merit along with similarly situated candidates if any, to choose from the available 1501 seats for regular posts of

Graduate Courses and 110 seats reserved for DNB Courses, which are offered only to HFW in-service Candidates. It was further observed that after allotting seat to the petitioner, remaining seats will be offered to other regular PG Course Candidates in the Mop-up round.

20. It has not been stated by the respondents that any challenge has been made to the aforesaid judgment and order dated 12.01.2026 passed by the Co-ordinate Bench of this Court at Dharwad. A direction is already issued in the aforesaid order of 12.01.2026 providing that similarly situated candidates as the petitioner therein will be offered first preference and shall be treated as in-service candidates. We therefore direct that both the petitioners herein shall also be treated as in-service Candidates and will be offered first preference in the order of merit along with the petitioner of Writ Petition No.11014/2025, to choose from the available regular PG seats and seats for DNB Courses which are offered only to Health and Family Welfare in-service Candidates. After such allotment of seats, remaining seats will be offered to the other regular PG Course Candidates in Mop-up round.

21. The aforesaid directions find support from the aforesaid letter dated 09.02.2026 written by the Secretariat, Department of Medical Education, Department of Health and Family Welfare, Government of Karnataka, which is enclosed as Annexure-R6 to the statement of objections filed on behalf of the State-respondents.

22. This writ petition is, accordingly, disposed of.

**Sd/-**
**(JAYANT BANERJI)**
**JUDGE**

**Sd/-**
**(T.M.NADAF)**
**JUDGE**

After the aforesaid order was passed, learned counsel appearing for the KEA states that the Mop-up round as well as the stray vacancy round are required to be held and directions may be issued.

As such, we direct that the Mop-up round be held anytime before 05.03.2026 and stray vacancy round be held anytime before 12.03.2026. Further, the entire process be concluded on or before 18.03.2026. It is made clear that the timelines provided are only indicative of the outer limits of time, and it shall be open for the respondent KEA to complete the entire process as soon as possible.

Learned counsel for the KEA states that the MCC is not a party but they have to provide open access to the portal for enabling the KEA to make the necessary uploading of the lists.

It shall be open for the KEA to take up the matter with the MCC and we have no reason to doubt that the MCC shall make necessary accommodation in that regard.

**Sd/-**
**(JAYANT BANERJI)**
**JUDGE**

**Sd/-**
**(T.M.NADAF)**
**JUDGE**

TKN,KGR
List No.: 2 Sl No.: 1