

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

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

WRIT PETITION NO. 54259 OF 2016 (EDN-MED ADM)

BETWEEN:

1. MS. SPARSHA VIJAY
DAUGHTER OF S. VIJAY KUMAR,
AGED ABOUT 18 YEARS,
NO.578, 15TH MAIN, NEW
1ST A MAIN, NEAR MARUTHI
CIRCLE, BSK 1ST STAGE,
1ST BLOCK, BANASHANKARI,
BANGALORE - 560 050
2. MR MANJUNATH K C
SON OF CHITRA SHEKHARAIH,
AGED ABOUT 20 YEARS,
RESIDING AT BALAJI NILAYA,
BALAJI RAO ROAD,
CHIKKAPETE, TUMKUR,
KARNATAKA - 572 101

...PETITIONERS

(BY SRI. PRADEEP C YADAV, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY MINISTRY OF
MEDICAL EDUCATION,
VIKASA SOUDHA,
BENGALURU - 560 001.
2. ASSOCIATION MINORITY PROFESSIONAL
COLLEGES IN KARNATAKA,

UNIT NO.205, LAKSHMI APARTMENT,
NO.6, CORNWELL ROAD,
LANGFORD GARDEN, RICHMOND
TOWN, BENGALURU - 560 025.
REP. BY ITS SECRETARY

3. SAPTHAGIRI INSTITUTE OF MEDICAL
SCIENCE & RESEARCH CENTRE,
NO.15, CHIKKASANDRA,
HESARAGHATTA MAIN ROAD,
BANGALORE - 560 090.
REP BY ITS PRINCIPAL.
4. MEDICAL COUNCIL OF INDIA
POCKET 14, SECTOR-8,
DWARKA PHASE-1,
NEW DELHI - 110 077.
REP BY ITS SECRETARY
5. DADIGIRI HEMANTH BHARGAV
S/O. D. SAMPATH KUMAR
AGED 19 YEARS
R/AT VYSYA BANK COLONY
BEHIND MAHALAKSHMI TEMPLE,
KADIRI, ANANTHPUR DISTRICT
ANDRAPRADESH. ALSO AT
NO.1, SIMS & RK, BOYS HOSTEL
HESARAGATTA MAIN ROAD
CHICKASANDRA, BANGALORE.

...RESPONDENTS

(BY SRI. MANJUNATH RAYAPPA, AGA FOR R1.
SRI. OMKAR KAMBI, ADVOCATE FOR R2
SRI. SARAVANA S., ADVOCATE FOR R3
SRI. N. KHETTY, ADVOCATE FOR R4
SRI. A. SHANKAR, ADVOCATE FOR R5 & R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO

DIRECT THE R-3 TO ADMIT THE PETITIONERS IN THE R-3 INSTITUTION FOR THE MBBS COURSE IN ACCORDANCE WITH THE LETTER OF ALLOTMENT ISSUED BY THE R-2 ASSOCIATION IN THE ALTERNATIVELY DIRECT THE R-2 ASSOCIATION AND ETC.,

THIS PETITION HAVING BEEN HEARD AND RESERVED AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

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

CAV JUDGMENT

(PER CURIAM)

Heard learned counsel for the petitioner and learned counsel for the respondent Nos.2 and 3. The learned counsel for the respondent No.2 appears online. Learned Additional Government Advocate representing the respondent No.1 states that the State is not concerned with the matter as it involves allotment of seats in Private Medical Colleges on private basis.

2. The instant Writ Petition has been filed on 18.10.2016, seeking the following relief:

- (i) Directing the 3rd Respondent to admit the Petitioners in the 3rd Respondent institution for

the MBBS course in accordance with the letter of allotment issued by the 2nd Respondent Association;

- (ii) In the alternative directing the 2nd Respondent Association to allot seat for the MBBS course to the Petitioners in any of its member colleges;
- (iii) pass such other orders as this Hon'ble Court deems fit in the facts and circumstances of the case;

3. The statement of objections was filed by respondent Nos.2 and 3 on 05.12.2016. On 10.02.2017, statement of objections was filed on behalf of respondent Nos.5 and 6. It appears that certain amendments were carried out by the petitioner in the writ petition under order of this Court and thereafter an amended petition was filed on 24.01.2017. Thereafter, yet another amendment was carried out under order of this Court and another amended writ petition was filed on 10.12.2021. The following reliefs came to be sought:

- (i) Directing the 3rd Respondent to admit the Petitioners in the 3rd Respondent institution for the MBBS course in accordance with the letter of

allotment issued by the 2nd Respondent Association;

- (ii) In the alternative directing the 2nd Respondent Association to allot seat for the MBBS course to the Petitioners in any of its member colleges;
- (iii) pass such other orders as this Hon'ble Court deems fit in the facts and circumstances of the case;
- (iv) Directing the Respondents 2, 3, 5 & 6 jointly and severally to pay damages/compensation of Rs.3,00,00,000/- (Rupees Three Crore only) to the Petitioners.

4. Prayer No.4 aforesaid, which was added later, is for a direction to the respondent Nos.2, 3, 5 and 6 to jointly and severally pay damages/compensation of Rs.3 Crores to the petitioners.

5. In the writ petition, it is stated that the National Eligibility Cum Entrance Test ('NEET' for short), was conducted by the Central Board of Secondary Education for the purpose of admission to MBBS course for the academic year 2016-2017. The results of NEET-2016 conducted by Central Board of Secondary Education were announced on 16.08.2016.

6. The first petitioner scored 229 marks with percentile of 72.9% and secured NEET All India Rank of 197486. The second petitioner scored 215 marks with a percentile of 69.8%. The NEET All India Rank was 219669. Thus both the petitioners were qualified and eligible for admission to the MBBS course.

7. The Association of Minority Professional Colleges in Karnataka ('AMPCK' for short), the second respondent, is a registered Society under the Karnataka Societies Registration Act. It is set up with the objective to promote education of linguistic and religious minorities in the State of Karnataka. It conducts entrance tests to facilitate admission to undergraduate, post graduate and Super Specialty courses in Medical, Dental and Engineering colleges. As its members, the AMPCK has several Medical Colleges and Dental Colleges. The third respondent-institution is one such member of the AMPCK.

8. The State Government permitted the AMPCK to conduct MBBS/BDS counselling to fill up the seats in the

member colleges. As per the MOU with the State Government, AMPCK has seat share ratio of 55% with its member colleges. AMPCK invited applications from eligible candidates to participate in counselling for admission to MBBS/BDS courses in Private Medical colleges under the AMPCK on 25.08.2016 and certain eligibility criteria were prescribed.

9. It is stated that the petitioners had satisfied all the eligibility criteria prescribed. They applied for online counselling with the AMPCK on 25.08.2016 and all relevant documents were sent by way of courier to AMPCK. The calendar of events published by the AMPCK is as under:

DETAILS OF EVENTS	DATE
Issue of Online Application	25.08.2016
Late Date for submission of Online application	27.08.2016
Submission of filled in application by post or courier should reach association office	29.08.2016 or before
Announcing of Merit List	27.09.2016
Bulk SMS & E-mail with details of counselling	27.09.2016
Online filing of objections	27.09.2016 (upto 10.30 pm)
Final merit list (Minority & General Merit)	28.09.2016(3.00 am)
1 st round of counselling only for Minority Candidates	28.09.2016 (8.00 am to 11.00 am)

Online counselling for General Merit candidates	28.09.2016 (11.00 am to 5.00 pm)
Online Allotment letter	29.09.2016 (8.00 am onwards)
Date of reporting to respective colleges	29.09.2016 (9.00 am to 6.00 pm)
Late Date for Admission	30.09.2016

10. Upon receipt of applications an *inter-se* merit list was required to be announced by AMPCK. On that basis, the AMPCK was required to conduct first round of counselling to MBBS/BDS course for the minority candidates. If any of the seats remain vacant after filling up minority seats, second round of counselling was to be conducted for General merit candidates. Out of the total intake of 150 seats available in each minority professional college, the AMPCK was allotted 55% of the seats i.e., a total of 83 seats as per the understanding with the State Government. However no *inter-se* merit list was announced and/or published by the AMPCK, which failed to follow the procedures contemplated.

11. The AMPCK, in the meanwhile, sent an email on 27.09.2016 to the petitioners informing them that they were eligible to participate in the second round of

counselling and they were advised to appear for the counselling on 28.09.2016. It is stated that pursuant to that, the petitioners participated in the second round of counselling conducted by AMPCK on 28.09.2016. Thereafter AMPCK issued an allotment letter in favour of the petitioners provisionally allotting the seats for MBBS course in the respondent No.3-institution. By the letter of allotment, the AMPCK directed the petitioners to report to the Principal of the respondent No.3-institution on or before 30.09.2016, along with all original documents, together with prescribed fee, by way of Demand Draft, in favour of respondent No.3-institution.

12. It is stated that immediately upon receipt of the provisional allotment letter, the petitioner No.1 reported to the Principal of the respondent No.3-institution on 28.09.2016 itself along with all original documents and a Demand Draft for an amount of Rs.5,75,000/-, in favour of the respondent No.3-institution. Similarly the second respondent reported to the Principal of the respondent No.3-institution on 29.09.2016 along with all original

documents and a Demand Draft for an amount of Rs.5,75,000/-.

13. However, respondent No.3-institution refused to admit the petitioners stating that there were no seats available in respondent No.3-institution and insisted that the petitioners approach the AMPCK for alternative allotments.

14. Immediately thereafter, the petitioners personally visited the office of the AMPCK which was found shut. Repeated telephonic calls to the office of the AMPCK remained unanswered. Thereafter, the petitioners made a representation to the AMPCK, with request to admit them in the respondent No. 3-institution in accordance with their letter of allotment. This representation was sent by e-mail. However the AMPCK failed to respond to the petitioners' request. Representation was also made to the respondent No.4.

15. The respondent No.3-institution announced the list of candidates who secured admission in the respondent

No.3-institution. It is stated that the candidates who scored less than the petitioners in the NEET examination have obtained admission in the respondent No.3-institution in active collusion with the AMPCK. Students have been admitted by the respondent No.3-institution, who are of doubtful merit and who have scored lesser than the petitioners in the NEET examination. Suspecting foul play and large scale unfair practice in the admission process by the AMPCK and the respondent No.3-institution, the petitioners gave a representation to the MBBS Seat Allotment Supervisory Cell, KEA Complex. However, the respondents failed to take any action. Hence this petition is filed.

16. The AMPCK in its statement of objections has stated that the Member Medical/Dental/Engineering colleges are all Unaided Linguistic Minority Professional colleges in the State which are recognized by the Medical Council of India and affiliated to the Rajiv Gandhi University of Health Sciences. Pursuant to the various directions issued by the Supreme Court in various cases,

the State Government entered into Annual Consensual Agreements where under the Member, Medical and Dental colleges have voluntarily surrendered 25% of their annual MBBS and BDS intakes as Government seats with a concessional fee structure.

17. The AMPCK was formed to conduct the annual Common Entrance Test for undergraduate and postgraduate courses in the Linguistic Minority Professional Colleges in the State of Karnataka. However, for that particular year, the entrance examination for UG-MBBS/BDS was conducted through NEET and the AMPCK only conducted counselling. It is admitted that after complying with the directions of this Court and other formalities, the AMPCK was able to hold counselling only on 28.09.2016. The selected students were permitted to admit themselves on 29.09.2016 and till 12.00 p.m. on 30.09.2016. It is stated that there were several problems, but despite technical issues and problems, the AMPCK and member institutions have sorted out the matters well in time. The Office of respondent No.2 was open on

29.09.2016 and 30.09.2016 and any issue was duly addressed and the contention of the petitioners contrary to the same are denied. It is stated that the AMPCK now suspects that the petitioners were pursuing admission in other institutions and that is why they did not approach the respondent No.3-institution, particularly on 30.09.2016. It is stated that the AMPCK and its member institutions cannot be penalized for no fault of theirs. The AMPCK and its Member-institutions have given admission to almost 630 students in the 55% General Merit category.

18. Another statement of objections was filed by the respondent No.3-institution. Paragraph Nos.4 to 6 of the Statement of Objections is as stated below:

"4. It is submitted that the 2nd Round of Counselling was held on 28.09.2016. On the same day, some of the students who were stated to have been provisionally allotted to the 3rd Respondent college had approached the college. It appears that the Petitioners had also approached the college on that date. Since, the 3rd Respondent college had not received from AMPCK, the list of students to be admitted, the students were requested to wait. Thereafter, the 3rd Respondent has given admission to students who had approached the college on time. It appears that some of the students had

opted for other colleges and they did not report for admission.

5. It is submitted that the 3rd Respondent has made admissions on 29.09.2016 to large number of students. In this year, due to various reasons there was lot of confusion, but the 3rd Respondent never refused admission to the Petitioner and the Petitioner is put to strict proof thereof. Though there were certain technical and others issues but all that was sorted out between AMPCK and the managements and everybody had worked hard to ensure that admission process goes on smoothly. The 3rd respondent college waited till the last minute on 30-09-2016 and keeping in view that the seats should not go waste and in consultation with AMPCK, filled up the remaining seats with other eligible students. This was to adhere to the deadline fixed by the Hon'ble Supreme Court. The Petitioner has not stated as to why she did not turn up on 30.09.2016, which was the last date fixed for admission. Further, the 3rd respondent college forwarded the list of 150 students to Rajiv Gandhi University of Health Sciences on 30-09-2016 and the same list was forwarded to the Medical Council of India on 07-10-2016.

6. The averments made in paragraph 10 of the petition are wild and highly imaginary, false and the petitioners are put to strict proof of the same. It is specifically denied by the answering respondent that none of the petitioners approached the 3rd respondent college on 29-09-2016 and that the petitioners are put to strict proof of the same."

19. Apart from the aforequoted extract of the statement of objections, only a general denial in paragraph No.7 was made and no specific denial was made by the respondent No.3 - Institution.

20. The respondent Nos.5 and 6 filed separate statement of objections. These respondents are the candidates who were stated to have joined the institution against the seats allotted to them, which were the seats initially in respect of the petitioners. Their statements made in the Affidavit are as follows:

"The Respondent No.5 and 6 most humbly and respectfully submits as hereunder:

1. The Respondent Nos.5 & 6 are meritorious students from their school days. The Respondent No.5 had secured 8.2 Grade Point Average ('GPA') in his Secondary Education and 'A' Grade in his Intermediate Education. Likewise, the Respondent No 6 had secured 9.2 GPA in her Secondary Education and 'A' Grade in her Intermediate Education.

2. It is submitted that the Respondent Nos.5 & 6 had taken National Eligibility Cum Entrance Test (NEET) - UG - 2016, aspiring to pursue medical course. They were duly qualified and were awaiting for admission.

3. It is submitted that this year there was lot of confusion having regard to postponement of NEET etc., Apart from

others, in respect of few of the colleges, some of the students were not keen in joining because of certain issues. The 5th Respondent in order to ascertain the infrastructural facilities and teaching facilities available visited a few colleges including the 3rd Respondent College. Having been satisfied with the facilities available and also upon enquiries made with the students studying in the 3rd Respondent College, he approached the College authorities seeking admission. The College authorities informed that it was very difficult and that he could take his chance, only if any selected student does not report within the time fixed on 30th September, 2016. He was also informed that in view of the fact that 30th September happened to be a public holiday he may have to keep the Demand Draft payable towards the fee ready. The 6th Respondent had also encountered similar circumstances.

4. Accordingly, the answering Respondents approached the college authorities on 30.09.2016 afternoon and came to know that some students who had been allotted seats have not joined and these Respondents could get admitted. Thus, these Respondents were admitted to the College on 30.09.2016 in the late afternoon.

5. It is submitted that these Respondents are bona fide students. They have prosecuted their studies for over 4 months. They have necessary qualifications and eligibility. Their admission cannot be faulted. The Petitioners having not approached the 3rd Respondent College within the time fixed for admission, cannot now plead equities.

6. WHEREFORE, it is most respectfully prayed that this Hon'ble Court may be pleased to protect the admissions

*of the Respondent No. 5 & 6 to the Respondent College,
in the interest of justice and equity."*

21. Having considered the rival submissions and contentions taken in the respective pleadings, we have perused the entire writ petition paper.

22. Though initially the writ petition was filed, seeking a direction to 3rd respondent to admit the petitioners in 3rd respondent-Institution for the MBBS course or in alternative direction to 2nd respondent to allot seat for the MBBS course to the petitioners in any of its member colleges. In view of passage of time, an application seeking amendment to the prayers sought in the petition came to be filed, which was allowed by order dated 10.12.2021, permitting the petitioner to add prayer No.4, which we have already extracted that is, for a direction to the respondent Nos.2, 3, 5 and 6 to pay damages/compensation at the rate of Rs.3 Crores to the petitioners.

23. The admissions are of the year 2016. From the records, it is also forthcoming that before filing this writ petition, they have also made a grievance before the specially constituted 'Admission Overseeing Committee' under Section 5 of the Karnataka Professional Educational Institutions (Regulation of Admission and Determination of Fee) Act, 2006¹.

24. The committee by order dated 16.12.2016, declined to provide any relief to the petitioners as the complaint came to be initiated after the last date for admission, that was 30.09.2016, and the complaint was filed on 03.10.2016, cannot be entertained and accordingly rejected the same. However, in the body of the order, the Authority has clearly stated that there is no fault attributable to the students in seeking admission as there was no serious dispute regarding the students/petitioners approaching the 3rd respondent-Institution well within the time after they have been issued allotment letter, but for the reason that they have initiated

¹ "the Act of 2006" for short

the complaint after the last date of admission i.e., 30.09.2016 they were denied the relief.

25. In these circumstances, the petitioners now submitted that the petitioner No.2 lost his interest in medical seat and continued his profession in Ayurveda and the 1st petitioner lost opportunity and secured medical seat in some other college. The admission was of the year 2016. Now, we are in 2026 that is, 10 years lapsed. In these circumstances there is no meaning in seeking prayer Nos.1 to 3 and this Court to grant the same. In that view of the matter the petitioners are pressing on prayer No.4 i.e., the damages/compensation. To consider the submission of the learned counsel for the petitioners, which is strongly objected by all the respondents, including the State, certain dates which assume importance are required to be stated in chronological order.

26. As per the schedule of calendar of events published by respondent No.2, which we have already

extracted above and as per the contention of respondent No.2, it had held second counselling on 28.09.2016. The petitioners were sent e-mail intimation, stating that they were found eligible in participating second round of counselling on 28.09.2016, as per **Annexure-E & F**. The petitioners had attended the counselling and were found eligible for allotment and accordingly allotment letters were issued in favour of the petitioners with the 3rd respondent-Institution. After they have been issued allotment letter, directing them to report to the respondent No.3-Institute, latest by 30.09.2016, on or before 11 a.m., along with all required original documents and prescribed fees in the form of DD drawn in favour of respective institutions. The said allotment letters were found as per **Annexures-G and H**. These letters of allotment are not denied by any of the respondents.

27. The petitioner No.1 stated to have approached the 3rd respondent-Institution on the very same day i.e., on 28.09.2016 along with Demand Draft for Rs.5,75,000/- (Rupees Five Lakh Seventy Five Thousand only) and

another Demand Draft for Rs.1,000/- (Rupees One Thousand only) as processing fee, which is found at ***Annexure-J***. However, the petitioner No.1 was denied admission by the 3rd respondent-Institution, on the premise that they have not received the list of selected candidates. Both the petitioners again approached 3rd respondent-Institution along with all documents and the petitioner No.2 apart from documents with Demand Draft of Rs.5,75,000/- and Rs.1,000/- both dated 29.09.2016, stated supra in the name of the 3rd respondent-Institution as course fee and process fee. However, they were denied admission on the premise that there were excess admission allotted by the 2nd respondent as against 55% quota, and were directed to approach the 2nd respondent. Immediately on 29.09.2016, two emails were sent by petitioner No.1 to the 2nd respondent. However, there was no response.

28. A perusal of statement of objection filed by respondent No.2, particularly at paragraph No.8, which reads as under:

"8. It is submitted that this academic year, having regard to the nature and circumstances under which the admissions had to be made, there were several problems. Despite the technical issues and the problems, the 2nd Respondent and the member institutions had sorted out the matters well in time. The office of 2nd Respondent was open on 29th & 30th September and any issue was duly addressed and the contention of the Petitioners contrary to the same is denied herewith and they are put to strict proof. The Petitioners have not stated as to at what time they had visited the office of the 2nd Respondent, the allegations are vague and no particulars are furnished. The 2nd Respondent on receipt of the complaints including through telephone or e-mails have immediately addressed the concerns. They have sorted out the issues with the respective managements."

From the paragraph stated supra, it was the contention of 2nd respondent-Institution that the petitioners have not specified at what time they have visited the 3rd respondent-Institution and as such the allegations are vague and no particulars are furnished. Further they have stated that, they had addressed all the complaints to the concern immediately, on complaints received even telephonically or through emails. However,

the records produced at ***Annexures-L and M***, clearly shows that there were emails sent regarding denial of admission to the petitioners and there was no such response. The petitioners till last minute tried their fate, reposing confidence in respondent No.2-Institution that it would correct the mistake committed by respondent No.3-Institution and provide them seat in the institution. However, all their aspirations shattered with no response due to the apathy on the part of respondent Nos.2 and 3 to consider the grievance in time. This led them to file a complaint before the Admission Overseeing Committee, making their grievance as per Section 5 of the Act of 2006.

29. Besides that, the petitioners immediately approached this Court on 18.10.2016, seeking direction to 3rd respondent-Institution to admit them to the medical course or in the alternative seeking direction to 2nd respondent-Institution to provide medical seat in any other member colleges. However, no relief was granted to the petitioners, immediately.

30. An occasion arose before the Hon'ble Supreme Court in ***S.Krishna Sradha Vs. State of Andhra Pradesh and Others***², wherein at paragraph No.33.3, it is specifically held as under:

"33.3. If a candidate is not selected during a particular academic year due to the fault of the institutions/authorities and in this process if the seats are filled up and the scope for granting admission is lost due to eclipse of time schedule, then under such circumstances, the candidate should not be victimised for no fault of his/her and the court may consider grant of appropriate compensation to offset the loss caused, if any."

Answering the reference, the Hon'ble Apex Court further held as under:-

"9. In light of the discussion/observations made hereinabove, a meritorious candidate/student who has been denied an admission in MBBS course illegally or irrationally by the authorities for no fault of his/her and who has approached the Court in time and so as to see that such a meritorious candidate may not have to suffer for no fault of his/her, we answer the reference as under:

(i) That in a case where candidate/student has approached the court at the earliest and without any delay and that the question is with respect to the admission in medical course all the efforts shall be made

² AIR 2020 SC 47

by the concerned court to dispose of the proceedings by giving priority and at the earliest.

(ii) Under exceptional circumstances, if the court finds that there is no fault attributable to the candidate and the candidate has pursued his/her legal right expeditiously without any delay and there is fault only on the part of the authorities and/or there is apparent breach of rules and regulations as well as related principles in the process of grant of admission which would violate the right of equality and equal treatment to the competing candidates and if the time schedule prescribed - 30th September, is over, to do the complete justice, the Court under exceptional circumstances and in rarest of rare cases direct the admission in the same year by directing to increase the seats, however, it should not be more than one or two seats and such admissions can be ordered within reasonable time, i.e., within one month from 30th September, i.e., cut-off date and under no circumstances, the Court shall order any Admission in the same year beyond 30th October. However, it is observed that such relief can be granted only in exceptional circumstances and in the rarest of rare cases. In case of such an eventuality, the Court may also pass an order cancelling the admission given to a candidate who is at the bottom of the merit list of the category who, if the admission would have been given to a more meritorious candidate who has been denied admission illegally, would not have got the admission, if the Court deems it fit and proper, however, after giving an opportunity of hearing to a student whose admission is sought to be cancelled.

(iii) In case the Court is of the opinion that no relief of admission can be granted to such a candidate in the very academic year and wherever it finds that the action of the authorities has been arbitrary and in breach of the rules and regulations or the prospectus affecting the rights of the students and that a candidate is found to be meritorious and such candidate/student has approached the court at the earliest and without any delay, the court can mould the relief and direct the admission to be granted to such a candidate in the next academic year by issuing appropriate directions by directing to increase in the number of seats as may be considered appropriate in the case and in case of such an eventuality and if it is found that the management was at fault and wrongly denied the admission to the meritorious candidate, in that case, the Court may direct to reduce the number of seats

in the management quota of that year, meaning thereby the student/students who was/were denied admission illegally to be accommodated in the next academic year out of seats allotted in the management quota.

(iv) Grant of the compensation could be an additional remedy but not a substitute for restitutional remedies. Therefore, in an appropriate case the Court may award the compensation to such a meritorious candidate who for no fault of his/her has to lose one full academic year and who could not be granted any relief of admission in the same academic year.

(v) It is clarified that the aforesaid directions pertain to admission in MBBS course only and we have not dealt with postgraduate medical course."

31. A Co-ordinate Bench of this Court in an identical matter in the case of **Sanjana V.Tumkur Vs. State of Karnataka and Others**³, had an occasion to dwell upon the compensation be awarded for denial of admission. This Court referring to the judgment of Hon'ble Supreme Court in **S.Krishna Shrada** at paragraph Nos.15, 16 and 17 fixed the compensation of Rs.15,00,000/- for denial of admission, when there is no fault found on the part of the student. The said paragraphs read as under:

"15. In the instant case, the denial of admission was admittedly in September 2017. However, on 11.10.2017, the Chancellor of the University had made

³ W.P.No.6014/2018 Dt: 20.08.2025

an assurance of a free medical seat in the year 2018-19. The said letter is countersigned by the Principal of the College and the petitioner. If the said letter was obtained by force and coercion as contended by respondent No.6, no complaint of any nature has been submitted before any authorities raising any such complaint either by the Institution or the Principal. Though the Institution has contended that the document is not genuine, no attempt has been made to establish the said contention in accordance with law. We are therefore, of the opinion that there was justification in the student having waited to see whether the assurance held out by the chancellor would be honored by the Institution. We therefore cannot accept the contention that there is any undue delay on the part of the petitioner in approaching this Court.

16. We notice that the instant case was one where the writ petitioner was not at fault and it was only on account of the illegal demand raised by respondent No.6 that she was unable to join a MBBS Course in the Academic Year 2017-2018. She had paid the first year fees before the prescribed date, she had also provided the Bank Guarantee immediately thereafter, that is, on 08.09.2017. Hence, we are of the opinion that this is a fit case, where compensation should be awarded to the petitioner by respondent No.6- College for the denial of admission for the year 2017-2018. Though the learned counsel for the petitioner vehemently contended that the compensation to be granted should be referable to the entire fee she had paid for the MBBS Course

undergone by her in the subsequent year, that is, 2018-19, we are unable to accept the said contention.

17. Having regard to the facts and circumstances of the case, we fix the compensation at Rs.15,00,000/-. The said amount shall be paid to the petitioner within a period of two months from the date of receipt of copy of this judgment."

32. In the instant case petitioners were allotted seat in 3rd respondent-Institution by respondent No.2 after holding second round of counselling on 28.09.2016. The petitioner No.1 approached along with Demand Draft on 28.09.2016, but denied admission on the premise that they have not received the list of selected candidates. Thereafter, both the petitioners were intimated that they have to come on the following dates. Accordingly, both the petitioners approached the 3rd respondent-Institution along with Demand Draft for Rs.5,75,000/- each and Rs.1,000/- as processing fee. However, this time they were stated that the respondent No.2 has admitted more than the permissible seats i.e., 55% and asked them to approach respondent No.3. Though they have approached the office of respondent No.3, it was closed and the

petitioners have sent two e-mails dated 29.09.2016 on the very same day. However, there was no response to the said e-mails.

33. We find very hard to accept the contentions of respondent Nos.2 and 3 that the petitioners have no intention to join the 3rd respondent-Institution and might have opted to join some other institution as such they have not approached the 3rd respondent-Institution within the time prescribed under the allotment letter. The reason being, the petitioners have obtained Demand Draft for Rs.5,75,000/- in the name of respondent No.3-Institution along with registration fee the petitioner No.1 on 28.09.2016 itself and petitioner No.2 on 29.09.2016 approached 3rd respondent-Institution, but they were denied admission, without there being any reason. Immediately thereafter they approached the Admission Overseeing Committee on 03.10.2016 making the grievance/complaint against the respondent Nos.2 and 3. However, the same was declined and their complaint was rejected, on the premise that, the petitioners had filed the

complaint after the last date of admission. The petitioners who tried all their best to get the admission on 30.09.2016 cannot be found fault with to contend that they approached the Authority belatedly or this Court belatedly, as contended by the learned counsel appearing for the respondents. They approached this Court immediately i.e., on 18.10.2016, making the grievance.

34. As per the judgment in ***S.Krishna Shradha*** supra, the Hon'ble Supreme Court in clause 4, of paragraph No.9 observed that the grant of the compensation could be an additional remedy but not a substitute for restitutorial remedies, and in an appropriate case the Court may award the compensation to such a meritorious candidate who for no fault of his/her has to lose one full academic year and who could not be granted any relief of admission in the same academic year.

35. The records produced by both the sides clearly show that less meritorious candidates than the petitioners have been given admission in the 3rd respondent-

Institution. In the facts and circumstances stated supra, we find no fault attributable to the petitioners in approaching the respondent No.3-Institution well in time after they have been issued with allotment letter. However it was 3rd respondent-Institution has denied admission without any reason. The contentions of respondent No.2 raised in paragraph No.8 goes against the respondent No.2 itself, in the presence of Demand Draft obtained by the petitioners in the name of respondent No.3-Institution and their emails, making their grievance against respondent No.3-Institution denying them the admission.

36. It is a trite law that the authorities are under obligation to act fairly without ill-will or malice - in fact or in law. "Legal malice" or "malice in law" means something done without lawful excuse. It is an act done wrongfully and willfully without reasonable or probable cause, and not necessarily an act done from ill feeling and spite. It is a deliberate act in disregard to the rights of others. When the respondent Nos.2 and 3 have been facilitated to admit the students in accordance with law after following all the

Act and Regulations, and if any diversion in such an obligation, it means conscious violation of the law to the prejudice of another.

37. In that circumstances, it amounts to a deprived inclination on the part of the Authority or the Institution to disregard the rights of others, which intend is manifested by its injurious acts. The contentions of respondent Nos.2 and 3 by themselves goes against them, that though they do not seriously dispute regarding the approach of the petitioners with 3rd respondent-Institution, but they contend that they never denied the admission. This contention cannot be countenanced in the teeth of documents such as, the course fee and processing fee taken by way of Demand Drafts in the name of 3rd respondent-Institution.

38. The contentions of both respondent Nos.2 and 3 goes against them in stating that the petitioners never approached the institution as they have not stated specific time and date when they approached, this contention also

goes against them. As per the order passed by the authority constituted under Section 5 of the Act of 2006, i.e., Admission Overseeing Committee, wherein the authority has stated that there is no serious doubt regarding the petitioners approaching the Institution in respect of allotment order.

39. Since much time has been lost, as much water flown under the bridge after 2016 till this day, we are of the considered opinion that this is a fit case where compensation should be awarded to the petitioners for denial of admission for the year 2016-2017. Though the petitioners have claimed a sum of Rs.3 Crores as compensation, contending that the petitioner No.2 forced to take Ayurvedic course as he has lost his interest to join in MBBS and petitioner No.1 completed her medical in some other college, by paying higher medical admission fees, in that view of the matter, we are of the opinion that if a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) each is ordered to be paid to the petitioners as compensation/damages for denial of admission in the

absence of any fault attributable to the petitioners would meet the ends of justice.

40. Accordingly, we ***dispose of*** these writ petitions directing respondent Nos.2 and 3 to pay a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) each to petitioner Nos.1 and 2 as compensations/damages for denial of admission, within a period of three months from today.

41. Since respondent Nos.5 and 6, who were the students, who have been given admission against the seats for which the petitioner Nos.1 and 2 are entitled, no direction is issued against them. Therefore, the prayer against them is declined.

No order as to costs.

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

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

RR