

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

WP(C).No. 30487 of 2014 (I)

PETITIONER(S):

**DR.CHAWARE EKTA SANJAYRAO AGED 24 YEARS
FIRST YEAR MS STUDENT
DOCTOR S.M. CSI MEDICALCOLLEGE, KARAKONAM
THIRUVANANTHAPURAM.**

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENT(S):

- 1. KERALA UNIVERSITY OF HEALTH SCIENCES
MEDICAL COLLEGE P.O.
TRICHUR REPRESENTED BY ITS REGISTRAR 680009.**
- 2. THE ADMISSION SUPERVISORY COMMITTEE FOR PROFESSIONAL
COLLEGES, PRASHANTI BUILDINGS, MP APPAN ROAD
VAZHUTHACAUD, THIRUVANANTHAPURAM - 695 014.**
- 3. THE PRINCIPAL
DR.SOMERVELI MEMORIAL CSI MEDICAL COLLEGE AND HOSPITAL
KARAKONAM, THIRUVANANTHAPURAM DISTRICT 695504.**

**R1 BY ADV. SRI.P.SREEKUMAR,SC
R3 BY ADV. SRI.KURIAN GEORGE KANNANTHANAM (SR.)
R3 BY ADV. SRI.R.T.PRADEEP
R2 BY ADV. SMT.MARY BENJAMIN, SC, ADMISSION SUPERVISORY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: TRUE COPY OF THE PG ADMISSION CHIT ISSUED BY THE COLLEGE ON 10.7.2014

EXT.P-2: TRUE COPY OF THE RECEIPT DATED 10.7.14

EXT.P-3: TRUE COPY OF THE COMMUNICATION NO.2273/ACD.2/2014/MCHK DATED 19.7.14

EXT.P-4: TRUE COPY OF THE COMMUNICATION NO.2273/ACD(2)/2014/MCHK DATED 12.7.14

EXT.P-5: TRUE COPY OF THE COMMUNICATION NO.2273/ACD(2)/2014/MCHK DATED 19.8.14

EXT.P-6: TRUE COPY OF THE ORDER DATED 29.8.14 IN ASC 100/14/PG MEDICAL/DR.SMCSIMC.

EXT.P-7: TRUE COPY OF THE COMMUNICATION GIVEN BY THE PETITIONER TO THE 2ND RESPONDENT

EXT.P-8: TRUE COPY OF THE COMMUNICATION WITH THE COVERING LETTER DATED 5.11.2014 RECEIVED BY THE PETITIONER

EXT.P-9: TRUE COPY OF THE COMMUNICATION NO.6071/ACA/KUHS/2014 DATED 7.11.2014

EXT.P-10: TRUE COPY OF THE COMMUNICATION NO.MCHK/PRIN-523/2014 DATED 13.11.2014

3RD RESPONDENT(S)' EXHIBITS

EXT.R3(a): TRUE COPY OF THE ORDER DT 19.5.14 IN WPC NO.737 OF 2013 BY SUPREME COURT.

EXT.R3(b): TRUE COPY OF THE COMMUNICATION DT 10.7.14 WITH THE LIST OF CANDIDATES FROM PRINCIPAL TO THE 1ST RESPONDENT.

EXT.R3(c): TRUE COPY OF THE COMMUNICATION DT 13.10.14 FROM COLLEGE TO MEDICAL COUNCIL OF INDIA APPENDING THE LIST OF ADMITTED STUDENTS OR PG COURSE 2014-15.

EXT.R3(d): TRUE COPY OF THE REVIEW PETITION WITH COVERING LETTER DT 5.9.14 SUBMITTED BEFORE THE CHAIRMAN OF 2ND RESPONDENT.

EXT.R3(e): TRUE COPY OF THE DECISION OF 2ND RESPONDENT DT 30.10.14 REJECTING THE PRAYER TO RECONSIDER EXT.P6.

EXT.R3(f): TRUE COPY OF THE COMMUNICATION DT 7.11.14 FROM 1ST RESPONDENT TO COLLEGE BY DIRECTING TO DISCHARGE THE PETITIONER FROM COURSE.

EXT.R3(g): TRUE COPY OF THE COMMUNICATION DT 13.11.14 FROM COLLEGE TO PETITIONER DISCHARGING HER FROM THE COURSE.

EXT.R3(h): TRUE COPY OF THE RELEVANT PAGE IN DISPATCH OUTWARD REGISTER PERTAINING TO THE ENTRY IN RELATION TO EXT.P5 COMMUNICATION TO 1ST RESPONDENT WITH THE CORRESPONDING AFFIXTURE OF RECEIPT DT 21.8.14 BY WHICH EXT.P5 WAS SENT BY REGISTERED POST TO 1ST RESPONDENT.

EXT.R3(i): TRUE COPY OF THE RELEVANT PAGE IN DISPATCH OUTWARD REGISTER PERTAINING TO THE ENTRY IN RELATION TO EXT.R3(D) SENT TO 1ST RESPONDENT ON 16.9.14.

EXT.R3(j): TRUE COPY OF THE RELEVANT PAGE IN DISPATCH OUTWARD REGISTER PERTAINING TO THE ENTRY IN RELATION TO EXT.R3(C) FORWARDED TO 1ST RESPONDENT WITH THE CORRESPONDING AFFIXTURE OF RECEIPT DT 14.10.14 BY WHICH EXT.R3(c) WAS SENT BY REGISTERED POST TO 1ST RESPONDENT.

//True Copy//

PA TO JUDGE

Rp

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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W.P.(C) No. 30487 of 2014
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Dated this the 23rd day of January, 2015

J U D G M E N T

Antony Dominic, J.

The writ petition is filed seeking to quash Exts.P6, P8, P9 and P10 and to declare that the validity of admission to a candidate can only be determined on the basis of the records maintained in the college and that the decision taken by the 2nd respondent ignoring such records is bad in law. Though the second prayer in the writ petition is for a declaration that Exts.P6 and P8 are beyond the powers of the 2nd respondent, such an argument was not urged and therefore, we are not considering that question in this judgment.

2. The facts of the case are that Ext.R3(a) is the order passed by the Apex Court in W.P.(Civil) No.737/13 where the Court has fixed the schedule for the admissions to Post Graduate Medical Courses. As per this schedule, on completion of the three rounds of counselling, the last date for the candidates to join the allotted seats in the third round of counselling in the State quota is 30th of June and 19th of June, in the All India quota. The date fixed for commencement of the academic session is 30th of June. It is

thereafter provided that the last date up to which students can be admitted from the waiting list against vacancies arising due to any reason shall be 10th of July.

3. In so far as this case is concerned, we are concerned with admission to MS (OBG) 2014-15. It is stated that on 29/6/14, the respondent college issued an advertisement inviting candidates to report on 30/6/14 for spot admission to lapsed government seats. It is stated that on 30/6/14, petitioner hailing from State of Maharashtra and Dr.Aravind.S hailing from State of Tamil Nadu reported for spot admission to the one seat that was vacant. According to the College, due to his inability to produce the original certificates, Dr.Aravind was provisionally admitted on 30/6/14 and the petitioner was placed in the waiting list for admission to the said course. It is also stated that Dr.Aravind did not remit the prescribed fee on 30/6/14.

4. In para 7 and 8 of the counter affidavit filed by the College, it is stated thus;

"7. Dr.Aravind.S did not produce the original certificates till 4.30 PM on 10/7/14. A relative of Dr.Aravind S is in the teaching faculty of the college who assured from time to time that he

shall produce the certificate within no time despite alerting him the mandatory requirement of production of original certificates. The petitioner was also alerted to be ready and available for admission with original certificates by the after noon of 10/7/14 in case the other candidate does not produce the original certificates. Dr.Aravind S. having not produced the original certificates till 4.30 PM on 10/7/14, the college had no other option but to admit the petitioner by 5 PM on 10/7/14 who was available at the college then to save the seat from being lapsed.

8. *The petitioner remitted the fees of ₹15,45,760/- under various heads to the college on 10.7.14 by Ext.P2 pursuant to issuance of PG Admission by Ext.P1 dated 10.7.14. The bank transaction of the college on 11.7.2014 also reveal the remittance of fee by petitioner on 10.7.2014. She occupied the hostel from 11.7.2014 and started attending the classes."*

5. Exts.P1 and P2 produced in the writ petition are the admission chit and cash receipt, both dated 10/7/14, which are relied on by the petitioner to show that her admission process was completed on 10/7/14.

6. In compliance with the directions of the 1st respondent University, under cover of Ext.P3 letter dated 10/7/14, the college forwarded a print out of the details of candidates admitted to MD/MS course 2014-15 under management quota. In this list, at Sl.No.9, Dr.Aravind's name was shown to have been admitted for MS (OBG). The date of admission is also shown as 30/6/14. Subsequently, in response to the letter dated 3/6/14 issued by the 2nd respondent Committee, the college submitted Ext.P4 letter dated 12/7/14 and in the appendix, they explained the spot admission for lapsed seats by stating thus;

"6. Spot Admission for Lapsed seats

One seat each for MD Anaesthesia and MD Community Medicine under Management Quota and MS Obstetrics & Gynecology from (lapsed Government seat) were vacant as on 28/6/2014. Subsequently on 29th June 2014 a notification regarding spot admission for the above courses was published in two dailies Copy of press cutting enclosed as Annexure C. On 30/6/14, candidates who attended spot interview were admitted as detailed below in obedience to circular no.2386/ AC.B/ KUHS/ 2014 dated 9.6.14 of the Registrar KUHS.

Sl. No.	Name	Course (MD/MS)	Date of Admission
1	Dr.Ashabi.M	Anaesthesia	30/06/2014
2	Dr.Aravind S.	Obstetrics and Gynecology	30/06/2014
3	Dr.Leena Viswan	Community Medicine	30/06/2014

At this stage, it is relevant to note that neither in Ext.P3 nor in Ext.P4 dated 12/7/14, the College had a case that the admission of Dr.Aravind was a provisional one.

7. After five weeks, the College sent Ext.P5 letter dated 19/8/14 to the 2nd respondent Committee, in which, for the first time, they described the admission of Dr.Aravind as “provisional” and sought ratification of the provisional admission granted to the petitioner, by stating thus;

“In this connection I may inform that Dr.Aravind.S who was provisionally admitted to MS (OBG), under Management quota, towards lapsed Government seat did not submit original certificates before 5 PM on 10th July 2014 (he is a Government employee in Tamil Nadu Government Service). Hence Dr.Chaware Ekta Sanjayarao, who had attended spot interview on 30.6.14 and first

candidate in the waiting list was admitted provisionally to MS(OBG) at 5 PM on 10.7.14, to avoid lapsing of seat.

I would therefore humbly request that the provisional admission of Dr.Chaware Ekta Sanjayarao to MS (OBG) may kindly be ratified and permission given to register her name with KUHS, Thrissur at the earliest, under intimation to the Director of Medical Education. Final list of 21 students admitted under both Government and Management quota for MS/MD course during 2014-15 as on 10/7/14 is submitted for favour of consideration.

8. Here also, it is to be mentioned that even Ext.P5 letter was also not sent by the college on its own, but was in reply to the letters dated 3/8/14 and 11/8/14, sent by the 2nd respondent. Another important factual aspect to be noticed from Ext.P5 is that despite the petitioner allegedly completed all requirements for admission, she is also shown to have been provisionally admitted. The reason for this is not explained anywhere. Secondly, while in para 7 of the counter affidavit, the College claims to have given time till 4.30 p.m. to Dr.Aravind for producing his certificates, the statements in Ext.P5 show that he was given time till 5 p.m. on

10/7/14 and his failure led to the petitioner's provisional admission.

9. According to the Committee, on receipt of Ext.P5, on 19/8/14 itself, it addressed the 1st respondent seeking clarification whether the College had made any request for substitution of Dr.Aravind with the petitioner. It is stated that in reply, the University vide letter dated 28/9/14 informed the Committee that till that date, the college had given no intimation to the University regarding the replacement of Dr.Aravind. This is stated in para 7 of the statement filed by the 2nd respondent.

10. Subsequently, the Committee considered Ext.P5 and passed Ext.P6 order dated 29/8/14 holding that the admission granted to the petitioner was in violation of the admission schedule fixed by the Apex Court and that the admission of the petitioner cannot be permitted and the request of the college for ratification contained in Ext.P5 was rejected. The Committee also directed the Registrar of the University not to register the name of the petitioner for MS (OBG) 2014-15. This order reads thus;

“The Principal of Dr.SMCSI Medical College, has addressed a communication dated 19/8/14

stating that, though Dr.Aravind.S, was provisionally admitted to MS(OBG), under management quota, towards lapsed government seat, he failed to submit the original certificates before 5 Pm, on 10/7/2014. Therefore, the waitlisted candidate Dr.Chaware Ekta Sanjayrao, was provisionally admitted at 5pm, on 10/7/2014 to avoid lapse of seat. The principal, therefore, requested that, the action of the college may be ratified and permission given to KUHS to register the name of Dr.Chaware Ekta Sanjayrao.

*On receipt of the above letter and on perusal of the records, the appendix attached to Medical College letter dated 12.7.2014 was noted. In it, under serial number 6. caption "**Spot Admission for lapsed seats**", the name of Dr.Aravind.S, is shown against OBG with date of admission as 30/6/2014. Thus, it is clear that, after 10.7.2014, the last date of admission of PG students, it was Dr.Aravind.S, who was admitted for MS(OBG) and not Dr.Chaware Ekta Sanjayrao.*

Further, in the letter dated 10.7.2014 of the Principal of Dr.SMCSI Medical College addressed to the KUHS Registrar, with copy to ASC, the list of PG Students was attached. Against MS(OBG), the name of Dr.Aravind.S, is

shown having admitted under management quota, the date of admission being 30.6.2014. Thus, through this letter also, the principal of Dr.SMCSI Medical College, had reiterated that, as on the last date of admission, i.e., 10/7/2014, it was Dr.Aravind.S, who stood admitted for MS(OBG) by the Medical College.

Owing to the above facts, it was decided to clarify from the Registrar, KUHS, whether there was any communication from Dr.SMCSI Medical College, regarding the admission of Dr.Chaware Ekta Sanjayrao, in MS (OBG) stream. Hence, the letter dated 19.8.2014, was addressed to the KUHS Registrar.

In reply to the said letter dated 19.8.2014, the Registrar, KUHS, has stated, through his letter dated 29.8.2014 that, Dr.Aravind.S, was registered in the University to MS(OBG) Course of 2014-15, before the cut of date, ie, 10/7/2014. Further, he also has stated that, there is no intimation to the University regarding the replacement of Dr.Chaware Ekta Sanjayrao against Dr.Aravind.S in MS(OBG) stream of 2014-15 Course. The Registrar, therefore, concluded that, Dr.Chaware Ekta Sanjayrao might have been admitted after 10/7/2014.

On close scrutiny of the entire facts pleaded above, it is very clear that, even after cut off date, the admitted name of the student for MS(OBG) stream was that of Dr.Aravind.S. This is established from the letters dated 10.7.2014 and 12.7.2014 of the Principal of Dr.SMCSI Medical College. The committee, therefore, hold that, the inclusion of the name of Dr.Chaware Ekta Sanjayrao, against MS (OBG) stream was after 10.7.2014.

In Lipika Gupta & anr Vs UOI & ors, the Hon'ble Supreme Court of India, through its order dated 19.5.2013 fixed a time schedule for the admissions to the Post Graduate Medical Course for the academic year 2014-15. In it, the last date of the joining of the candidate was fixed as 30.6.2014 under State Quota and 19.6.2014 for the All India quota. The commencement of academic session for the PG Course was fixed as 30.6.2014 in both state and All India Quota.

However, under State Quota, the Court fixed "last date up to which students can be admitted against vacancies arising due to any reasons from the waiting list" was 10.7.2014. The Medical Council of India was directed to notify the above schedule. The Court also

made it clear that, any deviation by any agency will tantamount to contempt of this Court.

The committee, therefore, find that, the letter dated 19.8.2014, stated above, requesting to ratify the admission of Dr.Chaware Ekta Sanjayrao to MS (OBG) stream, substituting Dr.Aravind.S, is done by Dr.SMCSI Medical College in violation of the admission procedure schedule fixed by the Hon'ble Supreme Court of India and therefore, the admission of Dr.Chaware Ekta Sanjayrao cannot be permitted and the request accordingly is rejected.

The Registrar, KUHS is directed not to register the name of Dr.Chaware Ekta Sanjayrao for MS(OBG) stream of 2014-15."

11. On being served with Ext.P6, the College sought a review of Ext.P6 order by Ext.R3(d) dated 5/9/14. In this review petition, for the first time, the college set up a case that a mistake was committed by them in including the name of Dr.Aravind in Ext.P3 dated 10/7/14 and they requested that the mistake be condoned. Relevant part of Ext.R3(d) reads thus;

"The Principal in the letter dated 10/7/14 has stated among other things that Dr.Aravind.S was admitted on 30/6/2014, against M.S(OBG).

The letter was despatched at 5.00 PM on 10/7/14. Dr.Aravind's relative who is a Professor in our own institution had promised that Dr.Aravind would produce his original certificates before 5.00 PM on that day. We waited till the last minute. Having had no sign of Dr.Aravind and having no other go to prevent losing of a PG seat, Dr.Chaware Ekta Sanjayrao first in the waiting list who was available at the spot, was admitted in place of Dr.Aravind on 10/7/2014.

The copy of the receipt of fees paid by Dr.Chaware Ekta Sanjayrao on 10/07/2014, copy of the cash book for 10/07/2014 maintained by the Medical College and the extract of Bank transaction dated 11/07/2014 are enclosed to prove that Dr.Chaware Ekta Sanjayrao was admitted in the college and the fee was collected by cash on 10/07/2014 and the amount was remitted into the bank on the next day i.e. On 11/07/2014.

Sir, we have not violataed the admission procedure schedule fixed by the Hon'ble Supreme Court of India. Dr.Chaware Ekta Sanjayrao was admitted on 10/07/2014 after submission of certificates in original, remitting the fee fixed by the Fee Regulatory Committee and she has occupied the quarters allotted and

also marked her attendance in the register for the same.

The facts reported in the letter dated 10/7/2014 was the correct position till the time of despatch of the letter. The staff who prepared the letter dated 12/7/14 has relied on the letter dated 10/7/14 and due to oversight the name of Dr.Chaware Ekta Sanjayrao who was admitted on 10/7/2014 was omitted to be included for which I am extremely sorry. I humbly request your goodself that the mistake in bringing the up to date position in the letter dated 12/7/2014 may kindly be excused. The registration in the University for PG students is not yet started. Your goodself may kindly appreciate the correct position and the orders dated 29.8.14 may kindly be reviewed."

The committee considered this request and rejected it by Annexure R2(ii) dated 14/10/14.

12. Again, on 20/10/14, the College took up the matter with the committee by Annexure R2(iii) which was also rejected by the Committee by Ext.R3(e) order dated 30/10/14. On 3/11/14 the petitioner herself submitted Annexure R2(iv) to the Committee requesting for a review of the decision. That was considered by the Committee on 5/11/14 and the request was

turned down. That decision of the Committee was communicated to the petitioner by Ext.P8 dated 5/11/14. Subsequently, on 7/11/14, acting upon the communication received from the 2nd respondent, the University issued Ext.P9 requesting the College to discharge the petitioner and to report the matter. Consequently, the Principal issued Ext.P10 dated 13/11/14 informing the petitioner that she stands discharged from the college as directed by the University. It is in this background, the writ petition was filed and at the stage of admission, this Court passed interim order dated 17/11/14 and according to the petitioner, on the strength of that order, she is attending the classes.

13. We heard the learned counsel for the petitioner, respective standing counsel appearing for respondents 1 and 2 and the learned senior counsel who appeared for the 3rd respondent.

14. The thrust of the submissions made by the learned counsel for the petitioner and which was fully supported by the learned senior counsel for the 3rd respondent College was that, on 30/6/14, due to failure to produce the original certificates, Dr.Aravind was provisionally admitted. It is stated that he was

given time till 5 p.m. on 10/7/14, and that, on his failure to produce the certificates even within the extended time, in order to avoid lapsing of seat, the petitioner was granted admission at 5.00 PM on that day. Petitioner relies on Exts.P1 and P2 admission chit and cash receipt to show that admission was granted and fee was remitted on that day. We were also referred to annexures produced along with Annexure R2(i) to the statement filed on behalf of the 2nd respondent, where extract of the cash book for 10/7/14 is annexed. This extract shows that on 10/7/14, ₹15,45,760/- was remitted by the petitioner. A counter foil of cash remittance made in South Indian Bank on 11/7/14 showing deposit of ₹44,97,375/- was also referred to. The statement of account for the period from 1/7/2014 to 12/7/14 obtained from the South Indian Bank, Trivandrum, Corporate Branch was referred to substantiate the case of remittance on 11/7/14. The proceedings dated 10/7/14 of the General Superintendent of the 3rd respondent college allotting accommodation to the petitioner in the Post Graduate Hostel was also referred to. On 19/1/15, learned senior counsel for the third respondent made available for our perusal two documents, viz.,

attendance register and case sheet of a patient, to reinforce his plea that since beginning, petitioner is attending the course.

15. Therefore, according to the petitioner and the College, petitioner was granted admission on 10/7/14. It is stated that, however, a mistake was committed, when Ext.P3 was sent to the University on 10/7/14, where Dr.Aravind was shown to have been admitted to the course on 30/6/14. This alleged mistake is sought to be explained in Ext.R2(d) by stating that 10/7/14 was the last date for furnishing the details of the students to the University and that the letter was despatched at 4 p.m., before the expiry of the time allowed to Dr.Aravind to produce the certificates. It is stated that it was in such circumstances that the name of Dr.Aravind happened to be included in the list sent to the University. It is also stated that the same mistake was inadvertently repeated in Ext.P4 sent to the Committee on 19/8/14. In sum and substance, therefore, the case of the College and the petitioner is that it was a bonafide mistake committed by the College and that therefore the admission validly granted to her on 10/7/14 should not have been invalidated by

the Committee on the ground that it was in violation of the schedule fixed by the Apex Court.

16. However, the contention of the Committee is that the case of mistake belatedly set up by the College is absolutely untenable and they relied mainly on Ext.P4 dated 12/7/14 to conclude that if admission was granted to the petitioner on 10/7/14, the name of Dr.Aravind, whom she replaced, would not have figured in Ext.P4. They also pointed out that even in Ext.P5 sent by the College to the committee as late as on 19/8/14, the college did not have a case that in Ext.P4, there was a mistake and therefore the said mistake should be corrected. According to the committee, there is nothing to believe that the college had granted admission to the petitioner on 10/7/14 as claimed by them.

17. In so far as the University is concerned, University states that though they received Ext.P3 dated 10/7/14 with the name of Dr.Aravind, they have not so far received any communication from the college explaining the alleged mistake committed by them. They also contend that there is nothing called provisional admission as contended by the College and that

if Dr.Aravind was not granted admission in accordance with the prospectus and complete in all respects on 30/6/14, they could not have admitted any student thereafter. According to the University, the story of provisional admission of Dr.Aravind is projected by the College only to escape from the rigour of the schedule fixed by the Apex Court. It is stated that, therefore, for that reason itself, the admission of the petitioner, which again is described provisional, even if it was granted on 10/7/14, is illegal.

18. We have considered the submissions made.

19. In this case, the factual issue whether the petitioner was actually granted admission as claimed on 10/7/14, was the issue considered by the Committee and this question is raised for our consideration also. But, according to us, before considering that question, it is necessary to examine whether, as contended by the University, the College could have granted admission to the petitioner on 10/7/14. Though this contention was not considered by the Committee, considering that it is a legal issue, we heard counsel for the parties on this question.

20. We have already referred to Ext.R3(a) order passed by the Apex Court. That order contains the schedule for admission to

the Post Graduate Medical Course 2014-15 and this schedule reads thus;

SCHEDULE FOR ADMISSION	<i>POST GRADUATE COURSES (BROAD SPECIALITY)</i>	
	<i>STATE QUOTA</i>	<i>ALL INDIA QUOTA</i>
1 st round of counselling	To be over by 30 th March	Between 4 th April and 16 th April
Last date for joining the allotted college and course	7 th April	26 th April
2 nd round of counselling for allotment of seats from waiting list	27 th April to 3 rd May	9 th May to 13 th May
Last date for joining for candidates allotted seats in 2 nd round of counselling	10 th May	24 th May
3 rd round of counselling (Round for filling up seats reverted from AIQ/other vacant State Quota Seats)	20 th June to 25 th June	25 th May to 19 th June
Last date for joining for candidates allotted seats in 3 rd round of counselling	30 th June	19 th June
Commencement of academic session	30 th June	30 th June
Last date up to which students can be admitted against vacancies arising due to any reason from the waiting list	10 th July	Not applicable

21. Reading of the above schedule would show that the last date for the candidates to join the allotted seats in the third round of counselling in the State Quota is fixed as 30th of June and the All India Quota is fixed as 19th of June. The Supreme Court has also fixed 30th of June as the date for commencement of the academic session. This, therefore, means that after completing the admission in all respects, the students who were allotted seats in the State quota and all India quota in the third round of counselling, the last one, should have joined the college and course on 30th of June and 19th of June, 2014 respectively and the academic session should have commenced on 30th June, 2014. It was therefore that, as stated in paragraph 6 of its statement, on receipt of Exts.P3 and P4, the Committee declared that admissions are closed and called for the details of the students from the College for scrutiny. If that be so, vacancies that could have been filled up by the College during the period from 1/7/2014 to 10/7/14 are only those subsequent vacancies that arose during the period from 1/7/2014 to 10/7/14, out of the seats that were filled up on or before 30/6/14. Therefore, 10th of July, the last date up to which students can be admitted against

vacancies arising due to any reason from the waiting list, can have relevance, only if a subsequent vacancy had arisen between 1.7.2014 to 10.7.14 from out of the seats earlier duly filled on or before 30.6.2014. In other words, this provision cannot be made use of to fill up any seats that remained unfilled as on 30/6/14. A reading of para 6 of Ext.P4 letter of the College shows that according to them, Dr.Aravind was provisionally admitted in a seat that was vacant as on 28/6/2014.

22. The belated version of the management is that the admission granted to Dr.Aravind was only “provisional” for the reason that he could not produce the certificates or remit fee on 30th of June, 2014. It is stated that therefore he was given time till 10th of July, 2014 and that as he could not produce the certificates even at 4.30 p.m., though it is so stated in paragraphs 7 and 8 of the counter affidavit, as per Ext.P5, he was granted time till 5.00 p.m, on 10/7/2014 itself, admission was granted to the petitioner, who was next in the waiting list at 5 p.m. In our view, such a procedure adopted by the management is totally irregular and is in violation of the schedule fixed by the Apex Court.

23. First of all, there is nothing called provisional admission either in the prospectus or elsewhere. Secondly, when a schedule has been fixed by the Apex Court, the Colleges cannot avoid compliance with the schedule, by adopting the dubious method of granting provisional admission to the applicants on the last day fixed and grant further time beyond the cut off dates for producing certificates proving their eligibility. That apart, if the colleges are allowed to grant admissions provisionally and in violation of the prospectus conditions requiring production of certificates and payment of the prescribed fee and allow students time to produce the documents on dates beyond the cut off date prescribed and again thereafter to grant admissions in case of failure of the students to produce the documents, that will totally nullify and defeat the purpose and object of the schedule fixed by the Apex Court. This necessarily means that the alleged provisional admission of Dr.Aravind on 30/6/2014 was illegal and therefore on 30/6/2014 when the admissions were closed, one seat in MS (OBG) remained unfilled and should be treated as lapsed. If that be so, there was no vacant seat to again provisionally admit the petitioner on 10/7/2014. Therefore, we

cannot accept that, consequent on Dr.Aravind's failure to produce his certificates, even at 5.00 p.m on 10/7/14, a vacant seat was available on 10/7/14 to grant admission to the petitioner.

24. Bearing in mind the limits of the jurisdiction of this Court under Article 226 of the Constitution of India, we shall proceed to examine the surviving question whether the conclusion of the 2nd respondent that the contention of the petitioner and the college that she was granted admission on 10/7/14 cannot be accepted is a perverse one justifying interference. It is true that the petitioner has relied on Exts.P1 and P2 admission ticket and cash receipt, which show that these documents were issued on 10/7/14 and according to her, all that she had to substantiate her admission on 10/7/14, are these documents. Along with Ext.R3(d) filed by the college, they had also produced photocopies of Ext.P2, extract of the cash book of 10/7/14, remittance slip of the South Indian Bank dated 11/7/14, computer print out containing statement of account for the period from 1/7/14 to 12/7/14 and the proceedings dated 10/7/14 allotting accommodation of the PG hostel to the petitioner. As far as the remittance slip and computer print out of the statement of

accounts are concerned, the amount seen to have been received by the College on 10/7/14 as per the extract of the cash book is much more and the amount remitted in the Bank on 11/7/14 is short by more than ₹30 lakhs and there is no explanation regarding this shortage. As far as the attendance register that was made available to us on 19/1/15 for perusal is concerned, since it is written for a considerable period with the same pen and same ink and in the absence of any daily or weekly counter signature by any responsible official of the college, we are not persuaded to place any reliance on this document. Further, we also notice that, in this register, in several places, while holidays were marked by officials of the College, in the case of the petitioner, she herself has marked the holidays. For similar reasons, we also decline to rest our conclusions on the case sheet of a patient, that was made available.

25. Despite these documents, fact remains that, on 10/7/14, when the college sent Ext.P3, among the details of the candidates admitted to MD/MS Course 2014-15, the name of Dr.Aravind was mentioned and the date of admission was shown as 30/6/14. Not only that on 12/7/14, when the college submitted

Ext.P4 containing the details of the admission to MD/MS Course 2014-15, in the appendix thereto also, under the paragraph spot admission for lapsed seats, name of Dr.Aravind was again shown. Thereafter, it was only in Ext.P5 dated 19/8/14 submitted to the 2nd respondent, the name of the petitioner was shown with the date of provisional admission as 10/7/14. It is here that, for the first time, the College took the stand that Dr.Aravind who was provisionally admitted to MS(OBG) did not submit the original certificates before 5 p.m on 10/7/14 and hence the petitioner, who attended the spot interview on 30/6/14 and the first candidate in the waiting list was admitted provisionally to MS (OBG) at 5.00 p.m on 10/7/14 to avoid lapsing of seat. On this basis, the College requested that the provisional admission of the petitioner may kindly be ratified.

26. First of all, even in this letter, the College did not have a case that the person who prepared Ext.P3 had committed a mistake. On the other hand, in Ext.R2(d), what is stated is Ext.P3 reflected the actual position as at the time it was despatched. Secondly, it is too improbable and unnatural a story that such an important document would have been finalised at 4 p.m. on

10/7/14, when the 5 p.m. time limit allowed to Dr.Aravind had not expired and the alleged provisional admission of Dr.Aravind was not regularised for the reason that he had not submitted his original certificates or remitted his fees. It was submitted by the learned counsel for the University that as per the instructions of the University, the duty of the college was to upload the details contained in Ext.P3 in the website of the University on 10/7/14, it being the last day and that, the College had time till midnight to complete that process. According to the counsel, if there was any difficulty in uploading the details as above, the Colleges had the freedom to furnish hard copy on the next day. This makes the version of the College that Ext.P3 was finalised at 4 p.m. and that it contained a mistake improbable.

27. Further, in Ext.P5, the admission of the petitioner is also stated to be provisional and the reason thereof is not forthcoming and again demolishes the theory that after completing all procedural formalities, she was granted admission at 5 p.m on 10/7/14. In such a situation, we cannot just swallow the contention now urged by the counsel for the College that when Ext.P3 was finalised, the name of Dr.Aravind was included in

Ext.P3 by a mistake and that the petitioner was granted admission on 10/7/14.

28. Even if it is assumed that a mistake had happened in Ext.P3, such mistake would certainly have been noticed by the college on that day itself or on the next day and immediate corrective measures would have been taken. Not only that such corrective measure was not taken, even on 12/7/14, when the college sent Ext.P4 to the 2nd respondent, that also contained the name of Dr.Aravind. Thereafter, it was only on 19/8/14 that the College informed the 2nd respondent committee that Dr.Aravind was replaced by the petitioner. Added to all this is the fact that the University has in categorical terms submitted before the Court that, till date, the University has not received any communication from the college informing that Dr.Aravind has been substituted by the petitioner. It is true that referring to the despatch register and extract of which is Ext.R3(h) to (i), an attempt was made by the College to impress upon us that a copy of Ext.P5 was also sent to the University. However, learned counsel for the University reconfirmed before Court that a copy of Ext.P5 was not received in the University.

29. The factual situation being as above, we are unable to find fault with the conclusion of the Committee in refusing to place reliance on the documents produced by the College and in concluding that the admission granted to the petitioner was irregular. In such circumstances, we decline to grant any relief to the petitioner.

For all the aforesaid reasons, this writ petition deserves only to be dismissed. It is ordered accordingly.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge