

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WRIT PETITION No.23381 of 2015

Between:

Devatha pranav Kumar

... Petitioner

And

1. The State of Andhra Pradesh, rep. by its Principal Secretary,
Medical & Health Family Welfare (C-1) Department, Secretariat
Buildings, Hyderabad, and others.

... Respondents

DATE OF JUDGEMENT PRONOUNCED: 11-08-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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|---|--------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals? | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment | Yes/No |

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

W.P.No.23381 of 2015

ORDER:

The petitioner passed intermediate examination in the year 2014 and secured 840 marks out of 1000 marks. He submitted an application seeking admission into B-Category seats in MBBS and BDS courses pursuant to the notification issued by the 4th respondent. She appeared in the MCET-AC-2015 examination held on 03.06.2015 and secured 115 marks in the said examination. The admissions into private unaided non-minority Medical and Dental Colleges are governed by the Rules known as A.P. Unaided Non-minority Professional Institutions (Regulations of Admissions into Undergraduate Medical and Dental Professional Courses) Rules, 2007 issued vide G.O.Ms.No.136, Health, Medical and Family Welfare (E.1) Department dated 30.04.2007. The said G.O. was amended vide G.O.Ms.No.39, Health Medical & Family Welfare (C-1) Department, dated 20.05.2015.

According to the said rules Category-A seats (50% of sanctioned intake of seats are called Competent Authority seats) shall be filled by the Convener, who conducts EAMCET-AC-2015 examination following the rule of reservation. B-Category seats (35% of sanctioned intake of seats) are called MCET-AC Ranking Based Management seats and shall be filled through counselling by the Committee constituted by the Telangana Private Medical Dental Colleges Management Association as per merit in the examination conducted. C-Category seats (15% of the sanctioned intake of seats)

shall be filled by the management of the individual Medical and Dental colleges.

Rule 6 of the Rules provides for constitution of Committee by the Association of colleges of Telangana. The Committee shall consist of three members, one from the University, one from the State Government and another from the Telangana Private Medical Colleges Association. The Rules provide for procedure for filling up of B-Category seats by the Committee. The 4th respondent prepared merit list by taking 25% of the weightage marks in the optional subjects in the qualifying examination along with 75% weightage marks secured in MCET-AC-2015. The present writ petition is filed challenging the said procedure.

This Court issued notice before admission on 28.07.2008. Today after hearing the learned counsel for the petitioner and learned Standing Counsel for 2nd and 4th respondents, the writ petition itself is taken up for disposal.

The learned counsel for the petitioner submitted that in the case of B-Category seats, they should be filled up on the basis of the ranks secured in the entrance test conducted by the 4th respondent alone and 25% marks in the qualifying examination should not be taken into account. The learned counsel for the petitioner relied on the Regulations For Admission Into B-Category Seats and Private Unaided Dental and Medical Colleges in Telangana for the Academic year 2015-16 and more particularly Clause XV, which reads as follows.

1. Evaluation: Candidates will be evaluated through online examination only and will be given ranking.
2. Ranking:
 - a. Candidates shall be ranked in the order of merit, the candidates who have secured qualifying marks in MCET-AC-, shall be assigned ranking in the order of merit on the basis of marks secured in MCET-AC-2015.
 - b. For the preparation of merit list, in case of more than one student securing the same combined score obtained as mentioned above, the tie

shall be resolved to decide the relative ranking by successively considering the following.

- i) The total marks secured in MCET-AC-2015
 - ii) The Marks secured in Biology in MCET-AC-2015.
 - iii) The marks secured in Physics in MCET-AC-2015-08-13 The Percentage of Aggregate marks secured in the qualifying examination.
 - iv) If the tie still persists the date of birth of the concerned candidates, the older being given preference over the younger.
- b) Rank obtained in MCET-AC-2015 is valid for admission to the courses mentioned in the application form for the academic year 2015-16 only.
 - c) Rank card shall be downloaded from the website www.tgmedco.com.

Based on the above Regulations relating to evaluation of ranking, the learned counsel for the petitioner submits that the rank alone should be taken into consideration for admission.

The learned Standing Counsel appearing for the respondents, on the other hand, submitted that the said regulations were made pursuant to the Rules issued in G.O.Ms.No.136, dated 30.04.2007 as amended in G.O.Ms.No.39, dated 20.05.2015. The Regulations should be read along with the Rules for the purpose of admission of candidates under B-Category. The learned Standing Counsel relied on the amended Rule 6-B

G.O.Ms.No.136, Health Medical and Family Welfare (E1), dated 30.04.2007 was issued framing Rules called 'A.P. Un-Aided Non-Minority Professional Institutions (Regulations of Admissions into under graduate Medical And Dental Professional Courses) Rules, 2007'. In respect of admission into B-Category seats Rule 4 states as follows:

"4. Allotment of seats:- The seats to be allotted in each Un-aided Non-Minority Professional Institution under these rules, for admission of Candidates shall be classified as –

Category-B (20% of the sanctioned intake of the seats) – “EAMCET ranking based Management Seats”:- These seats shall be filled through counselling by the Committee for Admissions constituted by the Competent Authority as per merit from the candidates who are qualified at the common entrance test, EAMCET held by the State for that year and following the rules of reservation as agreed to by the A.P. Private Medical and Dental Colleges Managements Association, Hyderabad.”

The Authority for admission was mentioned as Committee for Admissions constituted by the Competent Authority.

Later on the Government of A.P. issued G.O.Ms.No.73 Higher Education (EC-2) Department, dated 28.07.2011 making rules called the Andhra Pradesh Common Entrance Test for Entry into Engineering, Pharmacy, Agriculture, Medical, Dental and Pharm. D Course Rules, 2011. Rule 5 of the said Rules reads as follows:

5 . Preparation of the Merit List and assigning ranking:

The Convener of EAMCET shall follow the following rules in preparing the merit list and assigning the ranking:-

- 1) The candidates who have secured qualifying marks in EAMCET and candidates belonging to the category of Scheduled Caste and Scheduled Tribe, for whom qualifying marks have not been prescribed, shall be assigned ranking in the order of merit on the basis of combined score obtained by giving 75% weightage to the marks secured in EAMCET and 25% weightage to the marks secured in the relevant group subjects namely, Mathematics, Physics, Chemistry or Biology, Physics, Chemistry, as the case may be, in the qualifying examination.”
- 2) For the preparation of merit list, in case of more than one student securing the same combined score obtained as per sub-rule (1) above, the tie shall be resolved to decide the relative ranking by successively considering the following:
 - i) The total marks secured in EAMCET;
 - ii) The marks secured in Mathematics or Biology, as the case may be, in EAMCET;
 - iii) The marks scored in Physics in EAMCET;
 - iv) The percentage of aggregate marks secured in the qualifying examination;
 - v) If the tie still persists, the date of birth of the concerned candidates, the older being given

preference over the younger.”

As per Rule 12(7) of the said Rules merit list shall be prepared by the Committee by following the same procedure as prescribed in EAMCET – AC.

The said rules were amended by the Government of Telangana by issuing G.O.Ms.No.39, dated 20.05.2015 and the allotment of seats according to Rule 4 of G.O.Ms.No.136, dated 30.04.2007 was substituted as follows:

“Category-B seats (35% of the sanctioned intake of the seats)

MCET-AC ranking based management seats:- The seats shall be filled through the counselling by the committee for admission constituted by TPMDCMA as per the merit from the candidates who are qualified at MCET held by a third party employed for the purpose by the management association for that year as per the procedure that may be prescribed in this regard.”

6. (B) to fill up MCET-AC ranking based management seats:

(Category B-35% of the sanctioned intake of seats.)

- i) Committee for MCET-AC Admission into institutions which opted for MCET-AC shall be constituted by the Association of Unaided, Privately managed, Non-minority Medical and Dental Colleges of Telangana. The said committee shall appoint one among them as Convener. Admission and Fee Regulatory Committee shall supervise / oversee the conduct of M-CET-AC and ensure strict compliance to the directions of the Hon'ble Apex Court.
- ii) The TPMDCMA will also issue the guidelines for selection and allotment of candidates against the above seats **basing upon the rules as applicable.**
- iii) The Convener shall issue notification in at least two leading news papers calling for a single common application for admissions into the above seats in all the private medical and dental colleges informing the dates, venue and time of MCET examination.
- iv) The MCET will be conducted in all the important centres of Telangana and also in certain centres that may be identified in other states as well.
- v) Category B seats shall be filled by the committee constituted for admissions by the TPMDCMA based on the merit obtained in MCET-AC and

following rules framed for this purpose. There shall be three nominees one each from Government, Association and the University.”

A conjoint reading of G.O.Ms.No.136 dated 30.04.2007 and G.O.Ms.No.39, dated 20.05.2015 provides that admission of Category-B seats shall be through merit obtained in MCET-AC. Though the regulations issued by the 4th respondent are silent with regard to the weightage of 25% in the qualifying examination, the said weightage is being taken in respect of all students, who are admitted under A-Category and B-Category seats as pr Rule 5 of G.O.Ms.No.73, dated 20.07.2011. Therefore, it cannot be held that the 4th respondent is prevented from taking the weightage of 25% after conducting the entrance test. In view of the same, the contention of the petitioner had no basis and the writ petition is liable to be dismissed.

The writ petition is accordingly dismissed. Pending miscellaneous petitions, if any, shall stand closed.

A. RAMALINGESWARA RAO, J.

11th August, 2015
Js.