

THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

FRIDAY THIS THE SEVENTEENTH DAY OF JULY
TWO THOUSAND AND FIFTEEN

PRESENT

**THE HON'BLE MR JUSTICE A.RAMALINGESWARA
RAO**

-
WRIT PETITION No.35109 of 2014

Between:

B.Jagan Ravi Kumar Naidu and 2 others

.....
PETITIONERS

AND

The State of Andhra Pradesh,
Rep.by Principal Secretary (Medical and Health)
Department, Secretariat,
Hyderabad and 2 others

.....RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: 17.07.2015

SUBMITTED FOR APPROVAL:

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**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA
RAO**

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

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA
RAO**

WRIT PETITION No.35109 of 2014

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ORDER:

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Heard the learned counsel for the petitioners, the learned standing counsel for the 2nd respondent and the learned Government Pleader for Medical & Health.

2. The petitioners are seeking admission in PG Ayush courses. The petitioners 1 and 2 belong to BC-A category whereas 3rd petitioner belongs to SC category. The 2nd respondent conducted an entrance test for admission to PG Ayush courses for the academic year 2014-15. The petitioners appeared for the entrance test held on 26.10.2014. The petitioners herein did not qualify in the entrance test. After having appeared for the entrance test and not qualified, now the petitioners turn around and submit that as per the Indian Medicine Central Council (Post-Graduate Unani Education) Regulations 2007, as notified on 21.02.2007, admission had to be made as per the merit, following the procedure under G.O.Ms.No.603 Health, Medical and

Family Welfare Department dated 28.12.2004.

3. The 2nd respondent filed counter affidavit stating that a common admission notification was issued on 10.10.2014 calling the applications through online to appear for entrance test for admission into MD (Ayurveda), MD (Homeo) and MD (Unani) for the academic year 2014. The prospective candidates are advised to go through the Regulations carefully before filling the online applications. The Regulations indicate that the candidates shall be considered to be qualified for PG courses if they secure 40% marks in respect of SC and ST candidates and 50% marks for other candidates in the entrance examination. The petitioners failed to secure the minimum percentage of marks.

4. The entrance test for admission into MD courses Ayurveda, Unani and Homeopathy in the colleges of Indian System of Medicine and Homeopathy in the State of Andhra Pradesh is conducted as per Rules issued in G.O.Ms.No.603, Health, Medical and Family Welfare Department dated 28.12.2004 in exercise of powers conferred under sections 3 and 15 of A.P.Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983. Rule 10(iv) of the Rules provides minimum marks. It is further stated that the fixation of minimum percentage of marks in the Rules is not in derogation of the Regulations issued by the Central Council of Indian Medicine.

5. The Regulation made by the Central Council of Indian Medicine, New Delhi, which is the criteria for admission into PG courses, reads as follows:

“The selection of candidates shall be made strictly on the basis of merit through the entrance test comprising of 100 marks. The entrance test paper shall be objective type and questions covering all the subjects of Bachelor of Unani medicine and surgery course. The

details of which shall be decided by the Admission Committee.”

“The admission shall be given on the basis of marks secured in the entrance test in the order of merit”

6. This Court while admitting the writ petition directed the 2nd respondent to consider the petitioners for admission into MD (Unani) courses without insisting on the minimum marks to be obtained in the entrance test. When the matter was carried in appeal by the 2nd respondent in W.A.No.1486/2014, it was modified by allowing the petitioners to participate in the selection process and if they are successful, three seats shall be kept vacant and should not be filled up.

7. It is the submission of the learned counsel for the petitioners that the merit of the candidate should be considered at the time of admission of the candidates into the PG courses but not the merit obtained at the entrance test or in other words, the 2nd respondent cannot fix the minimum percentage of marks in the entrance test. Such a contention cannot be countenanced on two grounds. The first ground is that the petitioners being well aware of the Regulations appeared for the entrance examination and after becoming unsuccessful in the entrance examination now raised the present contention. The second ground on which the contention can be rejected is that it is well settled by the provisions of A.P.Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983, the 2nd respondent can conduct an entrance examination.

8. The learned standing counsel for the 2nd respondent also submits that the Supreme Court in ***Dr.Ambesh Kumar v Principal, LLRM Medical College, Meerut***^[1] upheld the power of the State

Government to lay down the eligibility criteria for admission to postgraduate courses in medical colleges. The learned counsel further submits that G.O.Ms.No.603 dated 28.12.2004 was issued in exercise of those powers only. Rule 10(iv) prescribes the minimum marks for admission into postgraduate courses and since the petitioners did not qualify in the entrance examination, this writ petition is liable to be dismissed.

9. Accordingly, the Writ Petition is dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

A.RAMALINGESWARA RAO,J

Date: 17.07.2015
Dsr

[\[1\]](#) AIR 1987 SC 400