

**HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA**

WRIT PETITION No.34045 of 2015

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ORDER : (per Hon'ble Sri Justice R.Subhash Reddy)

This writ petition is filed by the petitioner seeking *Mandamus* declaring the action of respondent Nos.2 to 4 in granting admission to the 5th respondent in the MBBS Course pursuant to the EAMCET examination held in the month of May, 2015 and the counseling that took place on 30.09.2015, even though the 5th respondent is not eligible, while illegally ignoring the case of the petitioner, who is fully eligible for admission into the said course, as the same is contrary to the list prepared by the 2nd respondent and put on the Notice Board on 30.09.2015, as arbitrary, illegal and violative of principles of natural justice and consequently sought to set aside the admission of the 5th respondent and direct the respondents to admit the petitioner in his place, or in the alternative, direct the respondents to accommodate the petitioner in one of the seats out of 100 additional seats recently sanctioned or against any one of the vacant seats.

2. The petitioner has appeared for EAMCET Examination, 2015 conducted by the 3rd respondent-N.T.R. Health University, seeking admission into M.B.B.S. Course and secured 24,997 rank. Admission into the Under Graduate Professional Courses in Medical and Dental in Government Professional Institutions in the State are covered by the

Statutory Rules framed in G.O.Ms.No.183, Health, Medical and Family Welfare (E.1) Department, dated 30.06.2004, in exercise of powers conferred by Sections 3 and 15 of the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983 (A.P. Act No. 5 of 1983). As per the said Rules, half a percent ($\frac{1}{2}\%$) of the available seats are reserved for the category of Sports and Games personnel.

3. The petitioner, who is said to have participated in National level in the sport of Fencing, claims seat in the said quota. Similarly, the 5th respondent also claims seat in sports quota. While the petitioner has participated in the Sport of Fencing, the claim of the 5th respondent is based on his participation in National level in the game of Hand Ball. Basing on the material placed before it, including the certificates of the respective candidates, the 3rd respondent-University has referred the said certificates for consideration on priority basis to the 2nd respondent-Sports Authority of Andhra Pradesh (SAAP). At the first instance, the 2nd respondent-Sports Authority has fixed the priority of the petitioner at Sl.No.27/53 and the priority of the 5th respondent was fixed at Sl.No.43/86. However, again on the date of admission, such priority of the 5th respondent is changed to 24/48. It is the grievance of the petitioner that the priority of the 5th respondent is changed without any valid reason, only at the instance of the 7th respondent, who is known to 5th respondent.

4. Counter affidavits are filed by the 2nd respondent-

Sports Authority of Andhra Pradesh and the 3rd respondent-NTR University of Health Sciences.

5. In the counter affidavit filed by the 3rd respondent-University, while furnishing the details of verification of certificates of the candidates, who are seeking admission into MBBS/BDS courses, it is stated that originally the 5th respondent was given priority as 43/86, but the said priority was modified to 24/48 after receipt and re-verification of grievances conducted by SAAP officials on 30.09.2015.

6. In the counter affidavit filed by the 2nd respondent-Sports Authority also, while denying various allegations made by the petitioner, it is stated that the petitioner won Gold Medal in Fencing Sport at State Level competition, whereas the 5th respondent won Silver Medal in Handball in Inter-Zonal (National Level) competition and the petitioner is only a participant in the National Level competition, therefore, the 5th respondent stand merit than the petitioner and hence, there is no illegality in modifying the priority.

7. Heard learned counsel for the petitioner as well as the learned Standing Counsel for NTR University of Health Sciences and the learned Standing Counsel for the Sports Authority of Andhra Pradesh and also perused the material available on record.

8. In view of the stand taken by the respondents in the respective counter affidavits, it is argued by the learned counsel for the petitioner that the 5th respondent has not participated in the Handball game in the State Level competition and, as such, the question of allowing his

participation in National Level does not arise and such participation is contrary to the instructions notified by the Government.

9. It is true that, at the first instance, because of his participation in Fencing Sport, the petitioner was given priority as 27/53 and the 5th respondent was given priority as 43/86. However, it appears that after the priority list is prepared and put up, there were some representations made and after receipt of such representations/grievances of the candidates, re-verification was made by the 2nd respondent-Sports Authority officials and in view of the fact that the 5th respondent has won Silver Medal in National Level Meet, his priority is modified from 43/86 to 24/48. Further, as the participation and certification of the 5th respondent at National Level is not in dispute, the argument advanced on behalf of the petitioner that the 5th respondent is not eligible for participation in National Level as he has not participated in the State Level Meet cannot be gone into, at this stage.

10. Therefore, having regard to the merit and the Sports Certificates produced by the 5th respondent, the respondent authorities have considered and appropriately fixed his priority. While it is true that the priority of the 5th respondent is changed, but in view of the explanation offered by the respondent authorities in the counter affidavits, the action of the respondent authorities is convincing and justifiable. It is relevant to mention that as the academic year for MBBS course is commenced from 01.09.2015, we do not find any merit so as to grant the relief sought for by the petitioner.

11. Accordingly, this writ petition is dismissed. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

21.12.2015.

Msr

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