

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

WRIT PETITION No.22839 OF 2015

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

Petitioner, who is a student aspiring to get admission into medical course, filed this Writ Petition to declare the action of respondents in preparing the merit list for the purpose of assigning ranks to the candidates who appeared for MCET – AC, 2015 on the basis of combined score obtained by giving 75% weightage to the marks secured in MCET – AC, 2015 and 25% weightage to the marks secured in group subjects, namely Biology, Physics and Chemistry, of the qualifying examination, as illegal, arbitrary and contrary to the Rules framed in G.O.Ms.No.39, Health, Medical and Family Welfare (C1) Department, dated 20.05.2015.

Admissions into un-aided non-minority professional institutions in medical courses are regulated by the Rules framed under Sections 3 and 15 of the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983. The Rules are titled as “Andhra Pradesh Un-aided Non-minority Professional Institutions (Regulations of Admissions into Under Graduate Medical and Dental Professional

Courses) Rules, 2007” issued in G.O.Ms.No.136, Health, Medical and Family Welfare (E1) Department, dated 30.04.2007. The said Rules are amended from time to time and the latest amendment, in the series of amendments, is by way of G.O.Ms.No.39, dated 20.05.2015. As per the latest amendment, there are three categories of seats in private unaided medical colleges, namely Category – A - 50% of the sanctioned intake of the seats, Category – B - 35% of the sanctioned intake of the seats and Category – C - 15% NRI quota. As per the amended Rules, Category – B seats i.e., 35% of the sanctioned intake of the seats shall be filled through counselling conducted by the Committee for admission constituted by Telangana Private Medical and Dental Colleges Management Association (TPMDCMA) as per the merit of the candidates, who are qualified at MCET, held by a third party employed for the purpose by the managements association for that year as per the procedure that may be prescribed in this regard. As per amended Rule 6 (B), Category – B seats shall be filled by the committee constituted by TPMDCMA based on the merit obtained in MCET-AC and following the Rules framed for that purpose.

Earlier also, separate set of Rules are framed titled as “Andhra Pradesh Common Entrance Test for Entry into

Engineering, Pharmacy, Agriculture, Medical and Dental Courses Rules, 2011”, in G.O.Ms.No.73, Higher Education (EC.2) Department, dated 28.07.2011. The said Rules prescribe the procedure for conduct of Common Entrance Test (EAMCET / EAMCET – AC). Rule 12 (7) of such Rules deals with the preparation of merit list and assigning ranks with regard to EAMCET – AC. The said Rule reads as under:

“(7) Preparation of the Merit List and assigning ranking:

The Committee of EAMCET – AC shall follow the same procedure as prescribed for EAMCET in rule 5 of these rules in preparing the merit list and assigning Merit Ranks for the candidates who have secured qualifying marks in EAMCET – AC and for candidates belonging to the category of SC and ST for whom qualifying marks have not been prescribed.”

In this Writ Petition, it is contended by Sri A. Sudershan Reddy, learned Senior Counsel appearing for the petitioner, that in terms of the amendment made to the Rules framed in G.O.Ms.No.136, dated 30.04.2007, by way of G.O.Ms.No.39, dated 20.05.2015, Category – B seats have to be filled as per the merit obtained in MCET – AC only. It is further contended that in the absence of any provision for giving 25% weightage to the marks obtained in the qualifying examination, it is not open to

prepare the merit list for Category – B seats by taking into account such 25% weightage. It is also contended that even as per the Regulations prepared by TPMDCMA, there is no such provision and as such, preparing the merit list by clubbing the merit in MCET – AC as well as marks in the qualifying examination at the ratio of 75:25 is illegal and contrary to the Regulations.

We are not convinced with such submission made by the learned Senior Counsel for petitioner, since, in the Rules framed in G.O.Ms.No.73, dated 28.07.2011, which are in force, there is a specific provision for preparation of merit list and assigning ranks with regard to EAMCET – AC examination. From a reading of Rule 12 (7) of such Rules, it is clear that merit list shall be prepared by following the same procedure as prescribed for EAMCET in Rule 5 of such Rules. From a perusal of said Rule 5, it is clear that the merit list is to be prepared 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 of the qualifying examination. It is true that there is no such provision in the Regulations framed by TPMDCMA, but in view of the statutory Rules framed in G.O.Ms.No.73, dated 28.07.2011, MCET - AC merit list is to be prepared by clubbing the marks in MCET – AC as well as qualifying

examination at the ratio of 75:25. Further, it is to be noticed that the Regulations are framed only by the association and we do not find any contrary procedure. In any event, having regard to the statutory Rules framed in G.O.Ms.No.73, dated 28.07.2011, the merit list shall be prepared by clubbing the marks in MCET – AC as well as qualifying examination at the ratio of 75:25. Hence, we do find any merit in this Writ Petition.

Accordingly, the Writ Petition is dismissed. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. No costs.

R. SUBHASH

REDDY, J

A. SHANKAR

NARAYANA, J
August 18, 2015
MD