

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE MRS JUSTICE ANIS

Writ Petition Nos.31337, 11718, 22572,
31895, 31973 and 32025 of 2016

Common Order: (per V.Ramasubramanian, J.)

The petitioners in all these cases are the unfortunate victims of their date of conception or at least their date of delivery. Since all these petitioners have not completed 17 years of age as on 31-12-2016, they have been denied the opportunity of securing admission into under-graduate medical courses, despite all of them having secured very high marks in the Intermediate examination and also in EAMCET-3 (competitive examination). Therefore, some of these petitioners have come up with a prayer for the issue of a Writ of *mandamus* to direct the respondents to allow them to attend the counselling. The others, finding a huge impediment in the form of the regulations of MCI, have chosen the brave option of challenging Regulation 4(1) of the Medical Council of India Regulations on Graduate Medical Education, 1997.

2. We have heard Mr. G.Vidyasagar, learned Senior Counsel, representing Mr. S.M. Subhan, learned counsel for the petitioners in W.P.Nos.31337 and 11718 of 2016, Mr. P.Kamlakar, learned counsel for the petitioner in W.P.No.22572 of 2016, Mr. Nagaraju Naguru, learned counsel for the petitioner in W.P.No.31895 of 2016, Mr. N.Hari

Prasad, learned counsel for the petitioner in W.P.No.31973 of 2016 and Mr. D.Balakishan Rao, learned counsel for the petitioner in W.P.No.32025 of 2016, Mr. Vivek Chandra Sekhar S., learned Standing Counsel for the Medical Council of India, Mr. Taddi Nageswara Rao, learned Standing Counsel for Dr. NTR University of Medical Sciences, Mr. A.Abhishek Reddy, learned Standing Counsel for the Convenor, A.P. EAMCET-2016, Mr. A.Prabhakar Rao, learned Standing Counsel for the Convenor, T.S. EAMCET-2016 and the learned Government Pleader for Medical Health and Family Welfare (Telangana).

3. It appears that Regulation 4 of Medical Council of India Regulations on Graduate Medical Education, 1997, which prescribes the completion of 17 years of age as on the 31st December of the calendar year, for admission to undergraduate medical courses came under challenge before a Division Bench of this Court in **Master Alli Sai Deepak Vs. Government of Andhra Pradesh** (W.P.No.17162 of 2009). The petitioner in the said case fell short only by two months and 23 days. As a matter of fact, the Government issued an order granting exemption to the petitioner therein. But this Court not only upheld Regulation 4 but also frowned upon the State Government for granting exemption. Therefore, the petitioners in these cases, are not entitled to the reliefs that they seek, in view of the said decision of another coordinate bench of this Court. It is true that in two

or three cases on hand, the petitioners fall short by the required age, only by a few days. One of the petitioners has secured more than 982 marks out of 1000 and he has fallen short only by three days.

4. But hard cases cannot make bad law. Therefore, in view of the decision in **Master Alli Sai Deepak** (*supra*), these writ petitions are dismissed. But before parting, we would like to record our concern that the Medical Council of India (MCI) should take a call on such cases, as cases of persons whose age falls short by a few days, cannot really be considered as under-aged. The concept of considering a person as under-aged, may apply to persons who could not have completed SSLC at a particular time or who could not have completed Intermediate at a particular time and it cannot be applied to cases where the candidates have broadly entered into the required age but had not completed the same due to the shortage of a few days. The MCI may have to look at the concern of such candidates and address itself to the problems. The miscellaneous petitions, if any, pending in these writ petitions shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

ANIS, J.

21st September, 2016.
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(per VRS, J.)



21st September, 2016.
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