

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

WRIT PETITION No.32684 of 2015

ORDER: (Per R. Subhash Reddy, J)

This Writ Petition is filed seeking Mandamus to declare the action of respondents 2 to 4 in assigning priority No.23 to the 5th respondent instead of priority No.39 for considering admission into MBBS course under sports quota for the academic year 2015-16 as illegal and arbitrary and consequently direct respondents 2 and 3 to grant admission to the petitioner in 1st year MBBS course for the said academic year.

2. Petitioner completed her Intermediate course with Biology, Physics, Chemistry by appearing in the examinations in the month of March, 2014. It is her case that along with her studies, she pursued the sport Roller Skating, participated in Visakhapatnam District Roller Skating Championship 2014 held in November, 2014 and stood first in Rink-I (quad). She also participated in 26th Andhra Pradesh

Inter-District Roller Skating Championship 2014 at Visakhapatnam in November, 2014 and won Silver Medal; further, she represented the State of Andhra Pradesh in the age group of 16 years in 52nd National Roller Sports Championship held at Maharashtra from 21st to 25th

January, 2015 and bagged Bronze medal. Petitioner appeared for

AP EAMCET 2015 to get admission into MBBS Course claiming reservation in sports category and was assigned priority No.25.

3. It is the grievance of the petitioner that 5th respondent who won Gold Medal in Artistic Roller Skating in junior category was to be given priority No.39, but she was wrongly assigned priority No.23 and as a result, petitioner was denied admission in open category; otherwise she would have got admission in place of the 5th respondent. It is alleged that assigning of the aforesaid priority is deliberate and intentional and it is stated in the affidavit filed in support of the Writ Petition that though petitioner made representation to the respondents-authorities, there was no response.

4. Counter-affidavit and additional counter-affidavit are filed by the 2nd respondent-NTR University of Health Sciences. Separate counter-affidavit is filed on behalf of 3rd respondent-Sports Authority of Andhra Pradesh. 5th respondent has also filed counter-affidavit and additional counter-affidavit.

5. In the counter-affidavit filed by the 2nd respondent-University, it is stated that notification dated 23.07.2015 was issued for verification of certificates under sports and

games category on 22.08.2015, certificates were verified and admissions were made based on the priorities finalized by the Sports Authority of Andhra Pradesh. In the additional counter-affidavit, it is stated that Vice Chancellor and Managing Director of SAAP, i.e. the 3rd respondent herein has informed vide letter dated 07.10.2015 that priority that was given to

Ms. Padala Sri Sai Kamala Harika, i.e., the 5th respondent herein, was incorrect and it has to be changed from 23/45 to 39/77; but by the time said letter was received, process of admissions was completed on 30.09.2015 as per the date fixed in the Medical Council of India Regulations and the judgment of the Hon'ble Supreme Court.

6. In the additional counter-affidavit filed by Vice Chancellor and Managing Director of 3rd respondent-SAAP, while denying the various allegations made by the petitioner, it is stated that Roller Skating Federation of India conducted various competitions of various categories for various age groups and the certificate does not indicate the classifications of ages except mentioning "50th Sub-Junior, Junior and Senior National Roller Skating Championships for Boys/men/girls/women" and the certificate of the petitioner or the

5th respondent does not indicate the age group. While pleading that priorities are given based on the certificate and the action of the

5th respondent is bona fide, it is prayed for dismissal of the Writ Petition.

7. In the counter-affidavit filed by the 5th respondent-student, while denying the allegations made by the petitioner, it is stated that 5th respondent has participated in the 13th World Roller In-line Figure Skating Championships held in Taipei, Chinese Taipei from 4th to 9th November 2013 wherein she stood in 7th position. It is stated that in view of the said participation, 5th respondent ought to have been given priority No.10 but she was wrongly assigned priority No.23. It is further submitted that priority list was finalized on the intervening night of 29/30.09.2015 and there was no opportunity to put forth her grievances claiming priority No.10. In the additional counter-affidavit, it is pleaded that though the petitioner is claiming admission in open category under sports quota, she is not entitled for the same as she did not secure 50% marks in AP EAMCET 2015.

8. Heard Sri P. Girish Kumar, learned counsel for the petitioner, learned Advocate General for the State of A.P., on behalf of the Sports Authority of A.P., Sri C.V. Mohan Reddy, learned senior counsel appearing for the 5th respondent and perused the material on record.

9. It is contended by the learned counsel for the

petitioner that the 5th respondent was wrongly assigned priority No.23 instead of priority No.39 and as a result, petitioner was deprived of admission into MBBS Course and such action is deliberate and designed so as to benefit the 5th respondent. It is further contended that had the

5th respondent been assigned priority No.39 as per her credentials in the sport, petitioner would have got admission in MBBS Course in place of the 5th respondent. It is further submitted that on making representation by the petitioner, SAAP has addressed letter to the 2nd respondent-university, but only on the ground that such letter was received on 07.10.2015 and admissions were completed by 30.09.2015, no action was taken. Learned counsel for the petitioner, alleging that admissions were made arbitrarily and illegally, relied on a judgment of the Hon'ble Supreme Court in **Asha V. PT. B.D. Sharma University of Health Sciences and others**^[1] and **Priya Gupta v. State of Chhattisgarh and others**^[2].

10. On the other hand, it is contended by the learned Advocate General appearing for 3rd respondent-SAAP that in the absence of quota and age in the certificates issued to various participants, such mistake has occurred and the same was not intentional to deprive the petitioner of her admission. It is submitted that, by the time 2nd

respondent-university passed order on the representation of the petitioner, admission process had been completed.

11. It is submitted by Sri C.V. Mohan Reddy, learned senior counsel appearing for the 5th respondent that even priority No.23 as given to the 5th respondent is incorrect and having regard to her participation in World Championship; as per the G.O., issued by the Government, she is entitled for priority No.10. It is further submitted that there is no basis for the petitioner to claim priority over the 5th respondent who participated in World Championship.

12. The priority given to the petitioner, i.e., priority No.25 is not disputed. The only grievance of the petitioner is that the 5th respondent was wrongly assigned priority No.23 instead of priority No.39. It is true that 2nd respondent-university has filed counter and additional counter-affidavits, in which it is stated that based on the representation made by the petitioner, communication was made by 3rd respondent-SAAP stating that priority No.23 was assigned to the 5th respondent instead of priority No.39. At the same time, it is to be noticed that 5th respondent claims that she has participated in an international event and as such she is entitled for priority No.10.

13. In the decision in *Asha* (1 supra), the Hon'ble Supreme Court has deprecated the practice of inaccurate, inefficient and improper admissions defeating the rule of merit. In the decision in *Priya Gupta* (2 supra), the Hon'ble Supreme Court has held that, for making admission to medical courses, every effort has to be made by all the concerned to ensure that admissions are given on merit and not in a manner which is ex facie arbitrary and casts the shadow of favouritism.

14. It is to be noticed that while reviewing the earlier priorities, Government issued G.O.Ms.No.10 Youth Advancement, Tourism & Culture (Sports) Department dated 15.07.2008, notifying priorities in Sports and Games for the purpose of admission to professional courses. In the annexure to the said G.O., at S.No.19, it is clearly mentioned that for participation in Olympic Games – World Championship/Cup – Wimbledon – U.S. Open – French Open – Australian Open, priority is “10” and Merit Order is No.19. In the case on hand, 5th respondent claims that she participated in the 13th World Roller In-line Figure Skating Championships held in Taipei, Chinese Taipei from 4th to 9th November 2013. From the letter dated 19.09.2015 addressed by the General Secretary, Roller Skating Federation of India, to the Assistant Director (Tech.) of Sports Authority of A.P., it is clear that 5th respondent has participated in the Senior Women's World

Artistic Championship held at Taipei City, Chinese Taipei, Taiwan. It is true that basing on the representation made by the petitioner disputing the priority assigned to the 5th respondent, 3rd respondent-SAAP addressed the 2nd respondent-university stating that 5th respondent was wrongly assigned priority No.23 instead of priority No.39, but, at the same time, we cannot ignore the claim of the 5th respondent that she too was denied appropriate priority. Though she was assigned priority No.23, it is her case that she is entitled to priority No.10 in view of her participation in a World Championship. It is fairly well settled that in exercise of jurisdiction under Article 226 of the Constitution of India, this Court is slow in interfering and granting relief if such interference restores any illegality committed by authorities. In the case on hand, participation of 5th respondent in Senior Women's World Artistic Championship held at Taipei City, Chinese Taipei, Taiwan, is not disputed and as per the orders issued in G.O.Ms.No.10 dated 15.07.2008, she is entitled for priority No.10. Further, it is to be noticed that as per Medical Council of India Regulations and the judgments of the Hon'ble Supreme Court, admissions are closed on 30.09.2015. Having regard to the stand taken by the 5th respondent and the material placed before us, we are of the view that no case is made out for interference at this stage. In view of the foregoing reasons, the decisions 1

and 2 supra relied on by the learned counsel for the petitioner would not render any assistance in support of the case of the petitioner.

15. The Writ Petition is accordingly dismissed. No order as to costs.

As a sequel, miscellaneous petitions if any pending in the Writ Petition stand closed.

R. SUBHASH REDDY, J

A. SHANKAR NARAYANA, J

January 2016
MRR

[\[1\]](#) (2012) 7 SCC 389

[\[2\]](#) (2012) 7 SCC 433