

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

WRIT PETITION No.32710 of 2015

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ORDER: (Per R. Subhash Reddy, J)

This Writ Petition is filed seeking Mandamus to declare the action of the 2nd respondent-university in rejecting the candidature of the petitioner for admission into I Year MBBS course for the academic year 2015-16 in sports and games quota, further, granting admission to 7th and 8th respondents as illegal and arbitrary and consequently direct the 2nd respondent-university to consider the candidature of the petitioner by giving priority No.10 for the purpose of admission into I Year MBBS course in sports and games quota.

2. Petitioner completed her Intermediate course in Bi.P.C. She appeared for EAMCET-2015 conducted by the 2nd respondent-university and secured 17641 rank and sought admission into MBBS course by claiming reservation under sports and games quota. It is stated in the affidavit filed in support of the Writ Petition that since her childhood, petitioner secured A+ academic record and has also shown deep passion for *Kuchipudi* dance and also the sport of Rollerskating; she represented India twice, i.e. in World Figure Skating Championship 2012 in Junior category, held at Auckland, New Zealand and World Figure Skating Championship 2014 in Senior category held at Reus, Spain. Petitioner, along with her parents, appeared before the 3rd respondent and submitted certificates of her participation in the

World Figure Skating Championship 2014 on 22.08.2015 including other certificates of National, State and District and 3rd respondent, after due verification, assigned priority 10 to her and also obtained authentication of certificates submitted by the petitioner from Roller Skating Federation of India on 19.09.2015.

3. It is the case of the petitioner that on 27.09.2015, 2nd respondent-university has issued notification for counselling and counselling with regard to sports and games category was scheduled on 30.09.2015. It is her grievance that admissions were made without considering her participation in National and International events. She disputes the priority given to the 7th and 8th respondents and it is pleaded that she was denied due priority by not considering her participation in National and International championships, in spite of her submitting certificates to the 3rd respondent on 22.08.2015. It is further pleaded by the petitioner that similarly placed persons who participated in World Championships were assigned priority 10 and they were granted admissions into MBBS course, but she was denied admission though she stands on the same footing as that of others.

4. Respondents have filed separate counter-affidavits. In the counter-affidavit filed by the 2nd respondent-university, while denying the various allegations made by the petitioner, it is stated that university issued notification dated 23.07.2015 for verification of certificates under sports and games category on 22.08.2015 at 9.00 am for admission into MBBS/BDS course

for the academic year 2015-16. It is stated that Sports Authority of A.P., deputed Sri L. Devanandam, Tribal Sports Officer, Visakhapatnam and Sri Durga Prasad Babu, District Sports Development Officer, Prakasam District for verification of sports certificates under sports and games category for admission into MBBS/BDS courses for the academic year 2015-16 and officials of SAAP have collected one set of sports certificates of all the candidates who have attended on 22.08.2015. It is further stated that notification for conducting counselling under sports and games category was issued on 27.09.2015; SAAP authorities have submitted eligible priority list on 29.09.2015 and admissions were made on 30.09.2015. In counter-affidavit, it is further stated that after receipt and re-verification of grievances, claims of four candidates were considered based on genuineness and priorities were informed. The claims, priorities and modified priorities are given in a tabular form which is as under:

S.No.	Name	Discipline	Eligibility	Previous priority	Priority modified
1.	V Niharika	Roller Skating	Eligible	27/54	24/48
2.	S Prathyusha Royal	Wrestling	Eligible	Nil	72/151
3.	R Soma Shekhar	Handball	Eligible	43/86	24/48
4.	S Krishna Sradha	Roller Skating	Eligible	24/47	40/79

5. While pleading that the vacancies were filled based on the priority list prepared by SAAP officials, 2nd respondent prayed for dismissal of the Writ Petition.

6. The 3rd respondent has filed separate counter-affidavit.

While denying the allegation of the petitioner that she was given priority after submission of certificates, it is stated that certification of participation claimed by the petitioner in World Figure Skating Championship 2014 was not authenticated by the Sports Authority of India. It is stated that SAAP has tried its best to get information at the earliest and addressed letter to the Sports Authority of India on 18.09.2015 requesting it to send its remarks in respect of the certificate of the petitioner relating to international events, but the Sports Authority of India did not respond/reply to the said letter. It is further stated that in absence of any confirmation from the Sports Authority of India, by taking into consideration the certificate of the petitioner with regard to her participation in national event, priority

24 was given to her and as the said certificate did not indicate the classification of category, i.e. sub junior/junior/senior corresponding to the age group, same was modified to 40/79. It is clearly stated in the counter-affidavit that the certificates of the petitioner with regard to her participation at the World Artistic Skating Championship 2014 held at Spain and her participation in World Roller Figure Skating Championship 2012 held at New Zealand could not be taken into consideration as it did not get remarks on the said certificates from the Sports Authority of India. In the counter-affidavit, it is further stated that the 7th respondent was wrongly assigned priority 23 instead of priority 39 and letter was addressed to that effect to the 2nd respondent-university on 07.10.2015 as 7th respondent secured medal under junior category. Claiming

that 3rd respondent acted bona fide, prayed for dismissal of the Writ Petition.

7. The 8th respondent has filed separate counter-affidavit. Even in the said counter, while denying the various allegations made by the petitioner, it is stated that priorities are given based on the certificates which are authenticated by the Roller Skating Federation. It is further stated that she was offered seat in sports category, admitted into MBBS course and started attending classes from 01.10.2015.

8. Heard Sri D.V. Sitharam Murthy, learned senior counsel assisted by Sri N. Ashwini Kumar, learned counsel for the petitioner on record, learned standing counsel for the 2nd respondent-university, learned Advocate General for the 3rd respondent and Sri P. Gangaiah Naidu, learned counsel for the 8th respondent and perused the material on record.

9. It is submitted by the learned senior counsel appearing for the petitioner that in spite of petitioner participating in World Championship, she was denied due priority, i.e. priority 10 as per the notified norms and denied seat in MBBS course; though certificates in proof of participation were given to the authorities on 22.08.2015, immediate steps were not taken for verification of the certificates and due priority was not given to her, only on the ground that Sports Authority of India had not responded to the letter addressed to it. It is further submitted that when priority lists are to be prepared by the 3rd respondent as per the rules, for consideration, there is no reason for denying priority due to the petitioner only on the

ground that there is no response from the Sports Authority of India, more so when participation of the petitioner in World Championship is not in dispute. It is lastly submitted that as the list was furnished in the late hours on 29.09.2015, petitioner has lost opportunity to put forth her grievance and such an action on the part of the 3rd respondent is illegal and arbitrary. In support thereof, learned senior counsel appearing for the petitioner relies on the decisions of the Hon'ble Supreme Court in **Asha v. Pt.B.D. Sharma University of Health Sciences and ors.**^[1], **Chandigarh Administration and another v. Jasmine Kaur and others**^[2] and **Union of India and another v. Major Bahadur Singh**^[3].

10. On the other hand, it is submitted by the learned standing counsel for the 2nd respondent, learned Advocate General for the 3rd respondent and the learned senior counsel appearing for the 8th respondent that in the absence of any response from the Sports Authority of India, on the claim made by the petitioner with regard to her participation in World Championship, she was given priority only based on her participation in National and State levels. It is further submitted that in spite of letter dated 18.09.2015 addressed by the 3rd respondent-SAAP to the Sports Authority of India, it has not responded to the same and accordingly petitioner was given due priority.

11. From the counter-affidavit filed on behalf of the 2nd respondent-university, it is clear that 2nd respondent

issued notification for verifying the certificates of applicants who claimed reservation under sports and games category for admission into MBBS/BDS course on 23.07.2015. It is clearly stated in the counter-affidavit that officials of the 3rd respondent-SAAP were present on 22.08.2015 and collected one set of certificates of candidates. It is the specific case of the petitioner that she has also submitted certificate of her participation in the World Figure Skating Championship 2014 on 22.08.2015. When certificates of various applicants who claimed reservation under sports and games category were collected on 22.08.2015, there is no reason for not taking immediate steps to seek clarification, if necessary, from the concerned Federation or Sports Authority of India. As per the Rules, it is the duty of the

3rd respondent-SAAP to prepare priority list and send it to the 2nd respondent-university. It is the case of the 3rd respondent that it has addressed letter dated 18.09.2015 to the Sports Authority of India. From the material placed before this Court, it is clear that petitioner participated in World Artistic Skating Championship, 2014 held at Reus, Spain under senior division from 28th September to 12th October, 2014 and certification to that effect is made by no other than Roller Skating Federation of India. When there is such certification on record, there is no reason to deny priority due to the petitioner on the ground that there was no response from the Sports Authority of India. It is relevant to mention here that 3rd respondent-SAAP has not taken immediate steps after collecting documents from the 2nd respondent-university on 22.08.2015. From the averments

made in the counter-affidavit filed by the 2nd respondent-university, it is clear that academic session for the year 2015-16 started from 01.09.2015 and, further, 8th respondent was admitted into the course based on the admission given as per the priority furnished by the 3rd respondent. It is stated that 8th respondent started attending classes from 01.10.2015.

12. In the decision in *Asha* (1 supra), the Hon'ble Supreme Court has held as under:

“Now, we shall proceed to answer the questions posed by us in the opening part of this judgment.

ANSWERS

a) The rule of merit for preference of courses and colleges admits no exception. It is an absolute rule and all stakeholders and concerned authorities are required to follow this rule strictly and without demur.

b) 30th September is undoubtedly the last date by which the admitted students should report to their respective colleges without fail. In the normal course, the admissions must close by holding of second counseling by 15th September of the relevant academic year [in terms of the decision of this Court in *Priya Gupta* (supra)]. Thereafter, only in very rare and exceptional cases of unequivocal discrimination or arbitrariness or pressing emergency, admission may be permissible but such power may preferably be exercised by the courts. Further, it will be in the rarest of rare cases and where the ends of justice would be subverted or the process of law would stand frustrated that the courts would exercise their extra-ordinary jurisdiction of admitting candidates to the courses after the deadline of 30th September of the current academic year. This, however, can only be done if the conditions stated by this Court in the case of *Priya Gupta* (supra) and this judgment are found to be unexceptionally satisfied and the reasons therefor are

recorded by the court of competent jurisdiction.

c) & d) Wherever the court finds that action of the authorities has been arbitrary, contrary to the judgments of this Court and violative of the Rules, regulations and conditions of the prospectus, causing prejudice to the rights of the students, the Court shall award compensation to such students as well as direct initiation of disciplinary action against the erring officers/officials. The court shall also ensure that the proceedings under the Contempt of Courts Act, 1971 are initiated against the erring authorities irrespective of their stature and empowerment.

Where the admissions given by the concerned authorities are found by the courts to be legally unsustainable and where there is no reason to permit the students to continue with the course, the mere fact that such students have put in a year or so into the academic course is not by itself a ground to permit them to continue with the course.”

13. Further, in the case of *Chandigarh Administration* (2 supra), the Hon'ble Supreme Court has held that there cannot be telescoping of unfilled seats of one year with permitted seats of the subsequent year i.e., carry forward of seats cannot be permitted how much ever meritorious a candidate is and deserved admission. In the case of *Union Bank of India* (3 supra), it is held by the Supreme Court that Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed.

14. In the case on hand, it is clear that in spite of submitting the necessary material in support of the claim of the petitioner for reservation under sports and games category for admission into MBBS course, she was denied due priority and

admission into MBBS course. Had the participation of the petitioner in World Championship been considered as per the norms notified by the Government, she was entitled for priority 10, in which event she was also entitled for admission into MBBS course. In spite of the fact that certificates were collected by the authorities of the 3rd respondent-SAAP on 22.08.2015, they have not acted quickly and diligently, if at all confirmation was required from the Sports Authority of India. As per the rules framed by the Government, confirmation is to be given only by the 3rd respondent, but not by another body. When there is statutory obligation on the 3rd respondent for confirmation of certificates, it cannot shirk its responsibility only on the ground that Sports Authority of India has not responded to letter dated 18.09.2015. In the absence of any dispute with regard to participation of petitioner in World Championship, which is supported by the certificate issued by the Roller Skating Federation of India, only on the ground that there was no response to the letter dated 18.09.2015 addressed by the 3rd respondent, petitioner ought not to have been denied due priority. At the same time, having collected certificates on 22.08.2015, there is no reason for the 3rd respondent-SAAP in addressing to the concerned authority only on 18.09.2015. By forwarding the priority lists at the fag end, i.e. 28-29.09.2015, petitioner was deprived of opportunity to put forth her grievance. At the same time, it is evident from the counter-affidavit filed by the 2nd respondent-university that academic session for the year 2015-16 commenced from 01.09.2015, candidates under sports and games quota have started

attending classes from 01.10.2015. As such, no direction can be issued at this point of time for grant of admission to the petitioner for the academic session 2015-16.

15. Further, in view of the decision of the Hon'ble Supreme Court in *Chandigarh Administration* (2 supra), in which it is clearly held that there cannot be telescoping of unfilled seats of one year with permitted seats of subsequent year, no direction can also be issued for grant of admission to the petitioner in the next academic year, i.e. 2016-17. At the same time, as the petitioner is denied seat in MBBS course illegally and arbitrarily, we are of the view that, relying on the decision of the Hon'ble Supreme Court in *Asha* (1 supra), we are of the view that it is a fit case to grant compensation to the petitioner.

16. For the aforesaid reasons, while declining to grant the relief as prayed for, we dispose of the Writ Petition directing the

3rd respondent-SAAP to pay a sum of Rs.5,00,000/- (Rupees Five Lakh only) as compensation to the petitioner within a period of two (2) months from the date of receipt of this order. 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

25th January, 2016

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

[\[2\]](#) (2014) 10 SCC 521

[\[3\]](#) (2006) 1 SCC 368