

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.37423 of 2016

ORDER:

This Writ Petition is filed seeking to declare the action of the respondents in ignoring the merit secured by the petitioners in the common entrance test with regard to admission into MD (Ayurveda) Courses/Specialty under in-service quota being contrary to Section 3 of A.P. Educational Institutions (Regulation of Admissions & Prohibition of Capitation Fee) Act, 1983 and Rule 3 (v) of Rules made thereunder in G.O.Ms.No.442 dated 25.11.2002 and contrary to Regulations 3 and 4 of the prospectus issued for the Academic year 2016-2017 apart from violative of Article 14 of Constitution of India.

2. Heard and perused the material available on record.
3. Case of the petitioners is that they were appointed as Medical Practitioners and put up more than five years in the regular service of A.P. Indian Medicines & Homeopathy Service Rules and they were eligible for admission into MD (Ayurveda) Courses/Specialty under in-service quota; that the selection of candidates will be on merit in the respective categories counted against in-service quota as per Rule 3 (v) of the Rules made thereunder in G.O.Ms.No.442, dated 25.11.2002; that as per the prospectus issued in the Academic year 2016-2017, regulations 3 and 4 also contemplates reservation to in-service candidates; that the petitioners applied for and appeared for the entrance test held on 08.10.2016 and basing on the said test, the merit lists were published by the 3rd respondent university, who is the convener, petitioner No.1 name is shown at Sl.No.41, who is 2nd rank holder

and petitioner No.2 name is shown at Sl.No.56, who is 4th rank holder in the category of in-service candidates; though the petitioners got ranks in the category of in-service candidates and they are entitled to admission into the course of MD for the Academic year 2016-17, the respondents contrary to the provisions of the Act and the Rules, are filling up the seats in respect of in-service candidates quota. Hence, the Writ Petition.

4. Merely on the apprehension of the petitioners that the respondents might not follow G.O.Ms.442, dated 25.11.2002 at the time of selection, which does not give rise to any cause of action, this Court is not inclined to entertain the writ petition.

5. Learned counsel for the petitioners submits that on an earlier occasion when some of the persons approached this Court apprehending that the respondents might not follow the due procedure, the same was rejected on the ground that it is premature in nature, but during the selection process, the respondents therein failed to follow the Rules, which necessitated the petitioners herein to approach this Court on the ground of apprehension.

6. Learned counsel for the 3rd respondent vehemently contended that the petition should not be entertained in anticipation of any failure on the part of the 3rd respondent.

7. Considering the rival submissions and without going into the merits of the case, the Writ Petition is disposed of with the following direction:

The respondents, while selecting the candidates as per G.O.Ms.No.442, Health, Medical and Family Welfare (I.2) Department, dated 25.11.2002, shall adhere to the procedure laid down under the Rules, in letter and spirit. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

RAJA ELANGO, J

NOVEMBER 03, 2016

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Date: 03.11.2016

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