

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

CONTEMPT CASE Nos.1860, 1861 and 1912 of 2015

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COMMON JUDGMENT : (Per Justice R.Subhash Reddy)

All these contempt cases are filed under Sections 10 to 12 of the Contempt of Courts Act, 1971, alleging that the respondents have willfully and deliberately violated the directions issued by this Court in the common order, dated 29.09.2015, passed in W.P.Nos.29991, 30320 and 31557 of 2015.

2. The above writ petitions are filed seeking directions by way of Mandamus, to declare the orders issued by the Government in G.O.Ms.No.120, Health, Medical and Family Welfare (E1) Department, dated 23.08.2014, to the extent of denial of local reservation in respect of 85% of available seats in admissions to Sri Padmavathi Medical College for Women, Tirupathi, as illegal and arbitrary and contrary to the Andhra Pradesh Educational Institutions (Regulation of Admissions) Order, 1974 (hereinafter referred to as 'the Presidential Order').

3. This Court, by aforesaid common order, dated 29.09.2015, disposed of the writ petitions by directing the respondents to fill-up the vacant seats available in the 85% quota and also vacant seats in the NRI category by considering the cases of petitioners in the above writ petitions.

4. Sri Padmavathi Medical College for Women, Tirupathi, which is respondent No.4 in W.P.No.29991 of 2015, is an unaided non-minority professional college imparting education in MBBS course and is run by Sri Venkateswara Institute of Medical Sciences, Tirupathi. Admissions into professional colleges in the State of Andhra Pradesh are being made by following the Presidential Order. As per the Presidential Order, for equitable distribution of opportunities in the erstwhile State of Andhra Pradesh, 85% of available seats in every course of study are reserved for candidates belonged to local area. The entire State of erstwhile Andhra Pradesh was divided into three local areas, namely, Sri Venkateswara University, Andhra University and Osmania University local areas. After the Andhra Pradesh Reorganisation Act, 2014 came into force, by which, the State of Telangana is formed, by virtue of provision under Section 95 of the said Act, the Presidential Order is to be continued for a period of Ten years. After bifurcation of the State, the State of Andhra Pradesh has issued orders in G.O.Ms.No.120, Health, Medical and Family Welfare (E1) Department, dated 23.08.2014, in which, instructions are issued to fill-up 85% of available seats in Sri Padmavathi Medical College for Women, by treating the candidates of all the 13 Districts of the residuary State of Andhra Pradesh as single Unit. Sri Padmavathi Medical College for Women is situated in Sri Venkateswara

University local area, which consists of Five districts only. In spite of the same, Government has issued aforesaid orders in G.O.Ms.No.120, dated 23.08.2014, by treating the 13 districts of the residuary State of Andhra Pradesh as single Unit. In the writ petitions, it was the grievance of petitioners that such orders issued by the Government by treating all the 13 districts of residuary State of Andhra Pradesh as one Unit run contrary to the Presidential Order. Earlier, writ petitions were filed in W.P.Nos.25586 and 26125 of 2015 by some of the similarly placed persons and by judgment, dated 19.08.2014, this Court has allowed the writ petitions by quashing the orders of the Government in G.O.Ms.No.120, dated 23.08.2014 and directed the University to make admissions by conducting fresh counseling by following the local area reservation as contemplated under the Presidential Order. As against the said orders passed by this Court, Sri Venkateswara Institute of Medical Sciences has carried the matter by way of Special Leave to Appeal (Civil) Nos.25080 and 25081 of 2015 to the Hon'ble Supreme Court and the same are disposed of by order dated 21.09.2015. In W.P.Nos.25586 and 26125 of 2015, which were allowed by this Court, there were Eight petitioners. When the matter was carried to Hon'ble Supreme Court by the University, they offered to accommodate the said Eight petitioners in NRI quota. In view of such offer, the Hon'ble Supreme Court has disposed of the Special Leave

petitions by further recording a finding that no fresh counseling is necessary. The present writ petitions in W.P.Nos.29991, 30320 and 31557 of 2015 are filed, seeking similar relief. As per the admission schedule and the directions issued by the Hon'ble Supreme Court, admissions to the medical colleges were to be closed by 30.09.2015, for the academic year 2015-16. When the matters were called for hearing on 29.09.2015, as it was submitted that after first phase of counseling, 18 seats are available in different categories i.e. Open, SC, BC(B), BC(A), BC(E) and there were two vacant seats in NRI category, this Court has disposed of the above writ petitions directing the respondents to fill-up the seats in 85% quota and also in NRI category by considering the cases of petitioners in the order of merit. In these contempt cases, it is the grievance of petitioners that inspite of such directions, respondents have not considered the claims of petitioners against the 18 vacant seats available after first phase of counseling and two vacant seats in NRI category.

5. Detailed counter affidavits are filed by the respondents in these contempt cases. In the counter affidavits, while denying the various allegations made by the petitioners, it is stated that when the vacancy position was verified by the Standing Counsel on 18.09.2015, it was mentioned as 18 vacancies were available after first phase of counseling, but in view of the communication

from the Special Chief Secretary to Government, 8 students were accommodated out of these 18 vacancies, to leave open the vacancies in NRI quota, in the financial interest of the College. It is further pleaded that by the time this Court has passed orders at 4 p.m. on 29.09.2015, all the NRI sponsored seats were filled up and notification was issued to fill-up 10 seats i.e. OC-1, SC-05, BC(A)-02, BC(B)-01 and BC(E)-01 under 85% quota. It is further pleaded that the students who were admitted in OC category were more meritorious than the present petitioners, and denied that there is deliberate or willful disobedience to the orders passed by this Court, as pleaded by the petitioners.

6. Heard learned counsel for petitioners and Sri P.Venugopal, learned Advocate-General for the State of Andhra Pradesh, appearing for respondents.

7. In this batch of cases, it is to be noticed that though the earlier writ petitions were allowed by quashing the orders issued by the Government in G.O.Ms.No.120, dated 23.08.2014, against the said order, matters were carried to the Hon'ble Supreme Court by way of Special Leave Petitions, by showing the Eight petitioners in the writ petitions, as respondents in the Special Leave Petitions. Before the Hon'ble Supreme Court, the University has offered to accommodate the Eight candidates who were petitioners in the earlier writ petitions, in the NRI category. By recording the said offer

made by the University, the Special Leave Petitions were disposed of by further holding that no fresh counseling was necessary. In view of the orders passed by the Hon'ble Supreme Court, this Court, having regard to the vacancy position indicated on the date of passing of the order, taking it as 18 in 85% category, this Court has directed the respondents to consider the cases of petitioners. But, it appears from the material on record that keeping in mind the financial interest of the College, in view of availability of seats in the categories other than NRI category, in view of the instructions issued by the 1st respondent herein, Eight candidates were accommodated in the vacant seats and further NRI seats were already filled-up by the time this Court has passed orders. The remaining 10 seats were also filled-up by applying social reservations and it is categorically stated in the counter affidavits that all the OC candidates are better rank holders than the petitioners in these cases. Having offered to accommodate Eight candidates who were figured as respondents in the Special Leave Petitions before the Hon'ble Supreme Court, respondents ought to have filled-up such vacancies from NRI category, but it appears, with a bonafide intention by keeping in mind the financial interest of the College, Eight candidates were accommodated in the vacant seats, which were available after first phase of counseling. In any event, from the stand of respondents

in the counter affidavits, it is clear that the remaining seats which were 10 in number, were notified and filled-up by applying social reservations. It is also to be noticed that it is categorically stated in the counter affidavits that the OC candidates who were admitted, were better rank holders than the petitioners in these cases. In that view of the matter, it cannot be said there is willful and deliberate violation of the directions issued by this Court, so as to proceed under Sections 10 to 12 of the Contempt of Courts Act.

8. For the aforesaid reasons, these contempt cases are devoid of merit and are accordingly dismissed.

Pending miscellaneous applications, if any, shall stand closed.

R. SUBHASH REDDY, J

A. SHANKAR NARAYANA, J

19th January 2016
ajr