

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

WRIT PETITION Nos.32681, 32971 & 35010 of 2015

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COMMON ORDER : (Per Justice R.Subhash Reddy)

These writ petitions are filed by the students, who have completed intermediate course, seeking directions by way of Mandamus, to declare the action of respondents in not giving proper priorities under sports quota as per the certificates produced by them, for grant of admission into MBBS/BDS course in Dr.NTR University of Health Sciences, Vijayawada, as illegal and arbitrary, with consequential directions to give correct priorities as per their eligibility and to admit them in medical course under sports quota.

2. As common questions arise for consideration on similar set of facts, all these writ petitions are heard together and are disposed of by this common order.

3. Petitioner in W.P.No.32681 of 2015 has passed his intermediate course with Bi.P.C. subjects and appeared for Common Entrance Test to seek entry into Medical/BDS course i.e. EAMCET, 2015 and secured 6111 rank. He participated in the Senior Inter-District Judo Championship-2013 and also claims that he participated in the Senior National Judo Championship, 2013-14, conducted between 9th and 12th February, 2014 at Una, Himachal Pradesh. It is stated that he has also

participated in the National Federation Cup of Judo Championship, 2013-14, conducted in Anantapur of Andhra Pradesh. The Judo game is recognized game for the purpose of grant of admission into Medical course. Admissions to undergraduate medical courses are governed by the Statutory Rules framed under Sections 3 and 15 of the Andhra Pradesh Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983. As per the Rules of admission, ½ % of seats are reserved for medical courses. The 3rd respondent is competent authority under the Rules, to verify the genuineness of the claims and also for giving priorities among the applicants in the quota meant for sports and games. Basing on the same certificates, the petitioner has appeared in EAMCET-2014 and he was given 27th priority and 53rd rank in the reserved category of sports and games, but he could not get seat having regard to his rank and priority. Again, he appeared for EAMCET-2015 and this time, his candidature is considered under sports quota, but he is given 67th priority with merit 141, ignoring his participation in National Level Meet. Had he been considered as a candidate participated in National Level Meet, he is entitled to 27th priority. On the said ground, he is denied seat. It is the case of petitioner that in view of his participation in Judo National Championship during the year 2013-14, he

has already given 27th priority in the previous academic year, but he could not secure seat having regard to his rank and priority. Though this year petitioner would have come up for admission had the priority was given at 27, but wrongly giving priority at 67, he is denied seat illegally.

4. Petitioner in W.P.No.32971 of 2015 claims admission under sports quota, basing on her participation in Wrestling and Chess competitions at National level in BC-B (W) category. At first instance, she was not given any priority but after her representation, she was given priority 72. Her case is that having regard to her participation in the National Level Meet, she is entitled to priority 46. It is also stated in the affidavit filed in support of the writ petition that one student by name T.Brahmani, with priority 46/92, participated in the Handball National Competition, was selected for admission in MBBS course in sports quota. She has filed the certificates showing her participation in National Level as well as State Level Meets, which show that the petitioner has won bronze medal in the State Level Meet.

5. The petitioner in W.P.No.35010 of 2015 claims that having regard to her participation in National Level Judo Championship, she is entitled for priority of 27, but respondents have given priority of 67. Petitioner has also produced the certificate of her participation in Senior National Judo Championship, 2013-14, held during the period from 9th to 12th February, 2014, at Una, Himachal

Pradesh. She has also produced the certificate issued with regard to her participation in the events conducted by Andhra Pradesh Judo Association. In the list prepared by the Sports Authority of Andhra Pradesh for medical stream, the priority of petitioner is shown at 67, whereas, for the purpose of entry into agriculture B.Sc., her priority is shown at 27.

6. The NTR University of Health Sciences has issued the list of candidates selected under sports and games quota for the academic year 2015-16 in the State of Andhra Pradesh. As per the said list, name of the petitioner in W.P.No.32681 of 2015 is shown at Serial No.67 with priority 67, name of the petitioner in W.P.No.32971 of 2015 is shown at Serial No.43 with priority 72 and the name of the petitioner in W.P.No.35010 of 2015 is shown at Serial No.69 with priority 67. Precisely, the grievance of petitioners is that having regard to their participation in National Meets, though they are entitled to better priorities, by giving wrong priorities, they are denied seats illegally and arbitrarily.

7. The Registrar of Dr.NTR University of Health Sciences has filed counter affidavits. In the counter affidavits, while denying the various allegations made by the petitioners, it is stated that the University has issued notification, dated 23.07.2015, for verification of certificates under Sports and Games category at the University on 22.08.2015 at 9 a.m. for admission into

MBBS/BDS courses for the academic year 2015-16. Basing on the said notification, the University has addressed the Sports Authority of Andhra Pradesh (SAAP), requesting to depute officials for verification of certificates for admission into MBBS/BDS courses for the academic year 2015-16 under Sports and Games Category as per G.O.Ms.Nos.10 and 11, Youth Advancement, Tourism and Cultural (Sports) Department. The SAAP officials have collected one set of sports certificates of all the candidates on 22.08.2015 along with the register for finalizing the eligibility and priority list as per regulations and for sending it to the University, as the Vice-Chairman and Managing Director, Sports Authority of Andhra Pradesh is the final authority for finalizing the eligibility and priority list for Sports and Games category. While pleading that the classes have commenced from 01.09.2015 and admissions were closed on 30.09.2015, it is stated that the SAAP authorities have submitted the eligible priority list/not eligible list on 29.09.2015, wherein, the total applications received were 165, out of which, 125 candidates were found eligible and 40 candidates were not eligible and the same was put on the notice board as well as in the website of the University. It is further stated that after receipt and re-verification of grievances by SAAP officials on 30.09.2015, the names of the following candidates were considered and all the seats were filled on 30.09.2015:

Sl. 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

8. The Vice-Chairman and Managing Director of Sports Authority of Andhra Pradesh has also filed counter affidavit and additional counter affidavit. In the Counter affidavit, while denying the various allegations made by the petitioners, it is stated that after receiving all the certificates from Dr.NTR University of Health Sciences on 07.09.2015, a letter was addressed to the Sports Authority of India, vide Letter No.SAAP/A&SS/2638/2015, dated 18.09.2015, but they did not respond to the said letter. Another letter was also addressed to the Judo Federation of India, vide Letter No.SAAP/A&SS/2638/2015, dated 18.09.2015, but inspite of the same, the Secretary, Judo Federation of India has refused to send remarks on the certificates, as such, priority was assigned to the petitioner in W.P.No.32681 of 2015, taking into consideration his participation in Inter-District Judo Championship-2013. It is further stated that as they have not received any confirmation from either the Sports Authority of India or the Judo Federation of India as required under G.O.Ms.No.11, dated 15.07.2008, the

priority of petitioner in W.P.No.35010 of 2015 was correctly shown as 67, but after counseling was over, as communication was received from Judo Federation of India with regard to her participation at National Level, her priority was shown at 27 for admission into various courses in Agriculture University.

9. In the additional counter affidavit filed by the SAAP, it is stated that the respondents have addressed letter, dated 12.09.2015, to the Roller Skating Federation of India, Roller Skating Association of A.P., A.P.Handball Association, requesting them to verify and clarify the genuineness of the certificates, enclosing the details. Further, a letter, dated 18.09.2015, was addressed to the Judo Federation of India, with regard to the certificates issued by it and an e-mail was also sent to them on 23.09.2015. It is further stated that the Judo Federation of India has confirmed the participation of petitioner in W.P.No.32681 of 2015, in the National Level, vide letter, dated 30.09.2015, directly to the State Federation, which in turn, forwarded it to the SAAP, but by the time they received the said letter, counseling was completed. In the counter, it is further stated that the petitioner in W.P.No.32681 of 2015 did not submit the previous year list of priority record, in which, he was given 27th priority for the academic session 2014-15.

10. In the counter affidavit filed by the SAAP in W.P.No.32971 of 2015, it is stated that the petitioner has

produced the certificates showing her participation in 18th Girls Cadet National Wrestling Championship and in 29th National Junior (U-19) Girls Chess Championship. It is stated that the genuineness of the certificate produced by the petitioner with regard to her participation in 18th Girls Cadet National Wrestling Championship is not confirmed by the Wrestling Federation of India though they have addressed Lr.No.SAAP/A&SS/2638/2015, dated 18.09.2015. Therefore, they have not considered such certificate. But, in view of petitioner's participation in National Championship at junior level, she is allotted priority of 72.

11. Heard Sri P.Nagendra Reddy, Sri V.Maheswar Reddy and Sri A.Abhishek Reddy, learned counsel appearing for petitioners in these writ petitions and Sri Taddi Nageswara Rao, learned Standing Counsel for Dr.NTR University of Health Sciences and the learned Advocate-General for the State of Andhra Pradesh, appearing for the Sports Authority of Andhra Pradesh.

12. Admissions into Under-graduate Medical courses in the State of Andhra Pradesh are governed by the Rules, namely, A.P. Un-aided Non-Minority Professional Institutions (Regulation of Admissions into Under-graduate Medical and Dental Professional Courses) Rules, 2007, issued vide G.O.Ms.No.136, Health, Medical and Family Welfare (E1) Department, dated 30.04.2007, which was

issued in exercise of powers conferred by Sections 3 and 15 of the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983. Rule 9(3) of the said Rules provides reservation for special categories, which reads as under :

“9 (3) : Reservation for Special Categories :

- (a) Seats shall be reserved in each course for the following categories, to the extent indicated against them:
 - (i)
 - (ii)
 - (iii) Games and Sports ... ½% (0.50%)

Note : The candidates claiming reservation benefits under the above categories shall produce original documents in support of their claim to the Committee for Admissions and he shall be entitled to refer the original documents of the candidates claiming reservation for scrutiny and confirmation to the following authorities :

- (i) NCC - To the Director of NCC,
Andhra Pradesh
- (ii) Sports & Games - To the Vice-Chairman and Managing Director, Sports Authority of Andhra Pradesh
(SAAP)".

13. In this case, it is not in dispute that the petitioners are students qualified and eligible for admission into MBBS course. They appeared in EAMCET, 2015

examination and have made a claim for admission under sports quota. As evident from the counter affidavit filed by Dr.NTR University of Health Sciences, the University has issued notification on 23.07.2015 for verification of certificates under sports and games category, notifying the date as 22.08.2015 at 9 a.m. for admission into MBBS/BDS course for the academic year 2015-16. They have also addressed the concerned authorities including the Sports Authority of Andhra Pradesh, as it is the authority under the Rules to verify the genuineness of the claims for grant of priorities. It is clearly stated in the counter that the SAAP officials have collected one set of sports certificates of all the candidates on 22.08.2015 along with the register for finalizing the eligibility and priority list as per regulations and for sending it to the University, as the Vice-Chairman and Managing Director, Sports Authority of Andhra Pradesh is the authority for finalizing the eligibility and priority list under Sports and Games category. The NTR University of Health Sciences has also addressed a letter, dated 02.09.2015 to the Vice-Chairman and Managing Director of Sports Authority of Andhra Pradesh, requesting the Sports Authority to fix the priority/gradation as per Rules and send the same to the University by 18.09.2015, so that the University can complete the counseling for the seats under sports and games category. The said letter reads as under :

“Dr.NTR UNIVERSITY OF HEALTH

SCIENCES :: AP :: VIJAYAWADA-008

Lr.No.7089/EA1/MBBS/BDS/2015

Dt.02.09.2015

To

The Vice Chairman & Managing Director,
Sports authority of A.P.,
State of Andhra Pradesh,
Lal Bhadhur Tennis complex
LB Stadium,
Hyderabad.

Sir,

Sub: Dr.NTRUHS – UG Admissions –
MBBS/BDS admission 2015-16 – Sports and
Games category – Sending of one more set of
the Sports and Games Certificates along with
statements and CD for fixation of
priority/gradation under Sports and Games
category – Request – Regarding.

Ref: 1. This office Notification dated 23.07.2015
2. This office letter even no.dt.23.07.2015
3. Orders of the Vice-Chancellor
dt.02.09.2015

* * * * *

With reference to the above, I am by direction
to inform that as per the schedule, Verification of
certificates from the candidates claiming reservation
under Sports and Games category was conducted on
22.08.2015 by officers of SAAP at Dr.NTR UHS,
Vijayawada.

The SAAP officials have collected one set of
certificates of all the candidates attended on
22.08.2015 along with the Register for finalizing the
eligibility & Priority list as per the regulations and
send it to the University.

However, I am once again herewith enclosing
the certificates under Sports and Games category
along with statement of eligible and not eligible
candidates (as per the direction of officers of SAAP)
with CD verification of genuinity of the certificates

and fixation of Priority/GRADATION as per rules.

I am to inform you that as per the Medical Council of India and Dental Council of India and Supreme Court orders the closure of admissions into MBBS/BDS courses for the year 2015-16 is 30.09.2015.

Hence, I am by direction to request you to fix the Priority/ Gradation as per rules and send the same to the University **by 18.09.2015** so that the University can complete the counseling for the seats under Sport and Games category within the schedule of MCI/DCI/Supreme Court orders.

Treat the matter as **MOST URGENT.**"

It is clear from the aforesaid letter that by issuing notification to consider the claims of candidates for reservation under Sports and Games category, SAAP officials have participated in verification of certificates and collected one set of certificates on 22.08.2015. Though the certificates are collected by the Sports Authority of Andhra Pradesh on 22.08.2015, they have not addressed letter either to the Sports Authority of India or the Judo Federation of India, till 18.09.2015. In the letter, dated 02.09.2015, Dr.NTR University has clearly stated that as per the directions of Hon'ble Supreme Court and instructions issued by the Medical Council of India, admissions are to be closed by 30.09.2015 and requested the 3rd respondent-authority to fix the priority/gradation and send the list to the University by 18.09.2015. In spite of the same, no steps were taken and list was sent ultimately one day before the last date fixed

for admissions i.e. on 28/29.09.2015 and without giving any opportunity to protest against the rank priority given, based on the list furnished by the Sports Authority of Andhra Pradesh, admissions were completed by Dr.NTR University of Health Sciences, by 30.09.2015. In the additional counter affidavit filed by the SAAP, it is clearly stated that Judo Federation of India has confirmed the participation of petitioners in National Championships, but by that time, admissions are over.

14. In these cases, it is not in dispute that had the correct priorities are given to the petitioners, they would have been admitted into MBBS course. Only on account of delay on the part of respondents, they are denied seats illegally. The learned counsel for petitioners seek directions for their admission in the vacant seats, and in this connection, reliance is placed on the judgment of Hon'ble Supreme Court in **Asha v. PT.B.D.Sharma University of Health Sciences & others**^[1]. In the said judgment, the Hon'ble Supreme Court, while holding that Rule of Merit should not be defeated by inaccurate, inefficient and improper admission process, granted directions to admit the petitioner therein to MBBS course in the academic year in which the case was decided, on the condition that the petitioner should pursue MBBS course right from the beginning. However, the subsequent judgment of the Hon'ble Supreme Court in

Chandigarh Administration & another v. Jasmine Kaur

& others ^[2], is also brought to the notice of this Court, wherein, 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-forwarding of seats cannot be permitted how much ever meritorious a candidate is and deserved admission. In the very same judgment, it is held that if it is not possible for grant of relief within the time schedule, in such cases, no direction can be granted for admission, but relief can be granted by awarding compensation etc.

15. As it is evident from the counter affidavit filed by Dr.NTR University of Health Sciences that the classes have commenced from 01.09.2015 and nearly four months of course is already completed, we are of the view that no direction can be given for admitting the petitioners in this academic year. Though we find that for no fault of them, the petitioners are denied seats in an important professional course in this academic year, in view of the ratio laid down by the Hon'ble Supreme Court in the case of **Chandigarh Administration** (2 supra), no direction can be granted for admission. Even for next academic year, no direction can be granted for admission of petitioners, in view of the observations made by the Hon'ble Supreme Court in the aforesaid judgment holding that there cannot be telescoping of unfilled seats of one year with permitted seats of the subsequent year i.e. carry-forwarding of seats

cannot be permitted how much ever meritorious a candidate is and deserves admission.

16. In the case on hand, we are fully satisfied that in view of the delay on the part of respondents, petitioners, who are eligible for admission, are illegally deprived of seats in medical course. Dr.NTR University has issued notification for considering the claims for admission under sports quota on 23.07.2015 by fixing the date for verification of certificates as 22.08.2015 and the officials of the 3rd respondent-Authority have participated and collected one set of certificates on 22.08.2015. When such certificates were collected on 22.08.2015, there is no reason or valid explanation for not acting quickly for verification of such certificates. It is evident from the additional counter affidavit filed by the SAAP, that they have addressed the Sports Authority of India and Judo Federation of India, only on 18.09.2015. Even in the letter, dated 02.09.2015, addressed by the University to the SAAP, it is clearly stated that one set of certificates were already given on 22.08.2015 and by the said letter, the SAAP is requested to fix the priority/gradation and send the same by 18.09.2015. In spite of the same, the authorities concerned were not pursued properly by the SAAP officials and sent the list only on 28/29.09.2015, by ignoring the participation of petitioners in National Level Meets and given wrong priorities. It is also clear from the record that the Judo Federation of India has confirmed the

participation of petitioners in National level Meets, but by that time, admissions were already made under sports quota on 30.09.2015. The petitioners were also deprived of questioning the priorities given to them, by not displaying the list in advance as the list was sent only on 28/29.09.2015 and it is stated that on the late night of 30.09.2015, admissions were completed under sports quota. Such a procedure adopted by the respondents is illegal and arbitrary, denying the meritorious sports persons of their reserved priority for admission into medical course. Though reservation is provided for meritorious candidates in the sports and games quota, by such callous and negligent attitude of respondents, deserving candidates are denied admissions, and at last minute, admission process is completed by keeping the candidates in dark. As our hands are tied for issuing directions for admission either in the current or the next academic year in view of the judgment of Hon'ble Supreme Court in the case of **Chandigarh Administration** (2 supra), we are of the view that it is a fit case to compensate the petitioners by awarding compensation of Rs.5,00,000/- (Rupees Five Lakhs) each to the petitioners in these writ petitions for denying admission into MBBS/BDS course in the academic year 2015-16. As this kind of claims have become routine in every academic year while making admissions into various professional courses, more so to the medical

courses, we direct Dr.NTR University of Health Sciences and the Sports Authority of Andhra Pradesh, to start the process much in advance to the last date notified by the University i.e. 30th of September of each year for making admissions under reservation categories i.e. sports, NCC etc. On receipt of lists from the University, the authorities concerned shall grant priority/gradation and such lists have to be displayed in notice board of the University and Sports Authority, apart from uploading such lists in the website of the University. After the list is displayed, if there are any representations by the students, disputing the priority given to them, such representations also shall be addressed immediately without any delay and appropriate final priorities shall be given and such revised list shall also be displayed in the notice board of the University as well as in the website.

17. Accordingly, the writ petitions are disposed of, directing the Sports Authority of Andhra Pradesh to pay compensation of Rs.5,00,000/- (Rupees Five Lakhs) each to the petitioners in these writ petitions.

Pending miscellaneous applications, if any, shall stand closed.

R. SUBHASH REDDY, J

A. SHANKAR NARAYANA, J

25th January 2016

ajr

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

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