

**THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY**

**WRIT PETITION No.22000 of 2016**

**ORDER:**

This writ petition is filed under Article 226 of Constitution of India seeking a writ of mandamus declaring the inaction of the second respondent in transferring the petitioner from Government Medical College, Guntur to Andhra Medical College, Visakhapatnam for pursuing M.D. (General Medicine) Course despite the seat in the said course falling vacant as arbitrary, illegal and violative of Articles 14 and 16 of the Constitution of India.

2. Heard the learned counsel for the petitioner and learned Standing Counsel for second respondent–The N.T.R. University of Health Sciences, Vijayawada.

3. The petitioner appeared for Post Graduate Medical Entrance Examination conducted by the second respondent for the academic years 2016–2019 on 28.2.2016. The results were declared by the second respondent on 07.3.2016. The petitioner, who belongs to Backward Class 'D' category, has secured State 13<sup>th</sup> rank. As per the allotment in the counseling, the petitioner got seat in Government Medical College, Guntur though he also opted for Andhra Medical College, Visakhapatnam.

4. The learned counsel for the petitioner submitted that a BC 'D' category student, who secured State 9<sup>th</sup> rank, joined in Andhra Medical College, Visakhapatnam, and now that student left Andhra Medical College; therefore, that vacant seat shall be allotted to the petitioner, who is next in the rank to that student in BC 'D' category.

5. The contention of learned Standing Counsel for the second respondent is that as per the Post Graduate Medical Education Regulations issued by the Medical Council of India (MCI), there is no procedure for transfer of a student from one Medical College to another Medical College. He further submitted that one more counselling will be conducted to fill up the vacancies in pursuance of the interim orders of a Division Bench of this court in W.A. No.405 of 2016 and batch, dated 13.7.2016. The relevant portion reads as follows:

“In view of the above, an interim direction is issued to the respondents to open up one last counseling to be conducted on 23.7.2016 for filling up of seats that are remaining vacant, either due to non-allotment or due to allotment not being taken by the allotted candidate or due to the allotted candidate taking the seat and not reporting or due to the allotted candidate

joining and leaving by this time for better prospects or better course. There shall be one counseling conducted by Dr.NTR University of Health Science for filling up these seats. An advertisement, in this regard, shall be published in the same manner as they have done in the past in Newspapers and also in the web sites of the Universities.”

6. As per the interim orders, one last counseling to be conducted on 23.7.2016. Having regard to the facts and circumstances of the case, the petitioner is granted liberty to participate in the counseling to be conducted by the second respondent on 23.7.2016. The second respondent may consider the case of the petitioner along with other students participated in the counseling, in the light of the observations made in W.A. No.405 of 2016 and batch.

7. With the above observation, the writ petition is disposed of. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

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**T.SUNIL CHOWDARY, J.**

Date: 19.7.2016.

NOTE:

Dispatch order copy by

20.7.2016.

(By order)

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