

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT. JUSTICE T.RAJANI

+ Writ Petition No.27014 of 2017

% Date: 06-9-2017

Tadi SVNS Rama Sameer, D.No.5-5-12/2,
Ibrahim Street, Suryaraopeta, Kakinada, E.G. Dist., A.P.,
Rep. by his father and natural guardian T.G. Subba Rao;
and 5 others

... Petitioners

Vs.

\$ 1. The State of A.P., Rep. by its Prl. Secy to Govt.,
Health, Medical & Family Welfare (C1) Dept.,
Velagapudi, Guntur District

2. Dr. NTR University of Health Sciences,
Vijayawada, Rep. by its Registrar

3. Director of Medical Education, Vijayawada, A.P.,

4. National Cadet Corps (AP&T), Gen Chaudari Road,
Secunderabad, Rep. by its Deputy Director General

... Respondents

! Counsel for Petitioners: Mr. L.Ravi Chander, Senior Counsel,
representing Mr. Ch.Samson Babu

Counsel for Respondents 1&3: Government Pleader for
Medical Health and Family Welfare (AP)

Counsel for Respondent No.2: Mr. Taddi Nageswara Rao,
Standing Counsel

Counsel for Respondent No.4: Mr. K.Lakshman,
Asst. Solicitor General of India

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> Head Note:

? Cases referred:
Nil.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT. JUSTICE T.RAJANI

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Order: (per V.Ramasubramanian, J.)

The petitioners who are aspirants for MBBS/BDS Courses have come up with the above writ petition challenging an amendment brought forth by the Government of Andhra Pradesh under G.O.Ms.No.129, Health, Medical and Family Welfare Department, dated 25-7-2017, to the list of priorities for NCC candidates originally fixed under G.O.Ms.No.109, dated 18-8-2016.

2. Heard Mr. L.Ravi Chander, learned Senior Counsel appearing for the petitioners, the learned Government Pleader for Medical Health and Family Welfare (Andhra Pradesh) appearing for the respondents 1 and 3, Mr. Taddi Nageswara Rao, learned Standing Counsel for the 2nd respondent/ University and Mr. K.Lakshman, learned Assistant Solicitor General of India for the 4th respondent.

3. By G.O.Ms.No.109, dated 18-8-2016, the Government of Andhra Pradesh prescribed the priorities to be adopted for admission to MBBS and BDS Courses under 1% quota reserved for NCC candidates. Priority II(f) prescribed at G.O.Ms.No.109 reads as follows:

“f) Participants of Para Jumps/Skydiving/Mountaineering/
Sailing/Para Sailing/Rafting/Canoeing & Kayaking/
Shooting Competitions/Equestrian conducted by the

respective Federations/Associations at National Level/NCC Games at National Level.”

4. But by another order in G.O.Ms.No.129, dated 25-7-2017, the wording of Priority II(f) was changed. The amended Priority II(f) reads as follows:

“Participants of Para Jumping/Skydiving/Mountaineering/Sailing/Para Sailing/Rafting/Canoeing & Kayaking/Shooting/Equestrian Competitions conducted by the respective Federations/Associations in which HQ DGNCC fielded a team representing NCC as an organisation and whose cadets have been selected after a due selection/screening process: (Cadets participating in these events in the individual capacity are not eligible for claiming any reservation under this clause).”

5. The grievance of the petitioners is two-fold, namely, (a) that half way through the process of counselling and admission, the respondents are not entitled to change the rules of the game and (b) that there cannot be different priorities for admission to MBBS and BDS Courses in the States of Telangana and Andhra Pradesh which formed a combined State until their bifurcation.

6. We have carefully considered the contentions of the learned Senior Counsel for the petitioners.

7. There is a brief background to what happened to G.O.Ms.No.109, dated 18-8-2016. The Government of Andhra Pradesh originally prescribed the list of priorities under G.O.Ms.No.111, dated 03-9-2015. The said Government Order was set aside by this Court in a batch of writ petitions in W.P.Nos.26478 of 2016 batch by an order dated

13-7-2016. A direction was issued to the State of Andhra Pradesh to adopt the policy as indicated in the communication of the NCC Directorate dated 23-4-2015 so that the policy is in tune with the Government Order issued by the State of Telanganana in G.O.Ms.No.75, dated 08-9-2015.

8. It was in pursuance of the said order of this Court that the Government issued G.O.Ms.No.109, dated 18-8-2016. Since the candidates who claimed under NCC quota, were at different stages of their training, all candidates were grouped under three different priorities by the said Government Order.

9. For the current academic year, the Deputy Director General of NCC Directorate appears to have sent two communications, dated 07-7-2017 and 12-7-2017 requesting the change of wordings in Priority II(f). Pursuant to the said letter, the Government of Andhra Pradesh issued G.O.Ms. No.129, dated 25-7-2017.

10. A careful look at the wordings of Priority II(f) under G.O.Ms.No.109 and G.O.Ms.No.129 would show that what is now sought to be included under Priority II(f) is a condition that cadets participating in the events listed in Priority II(f), should have been fielded as a team representing NCC as an organisation and whose cadets have been selected after a due selection process.

11. We do not think that there is anything wrong with the NCC Directorate prescribing that only those who

represent the organisation and whose cadets have been selected after a screening process, will be eligible under Priority II(f).

12. Once the rationale behind the amendment is understood, it will be easy to address the first contention as to whether an amendment can take retrospective effect or not.

13. In our considered view, the amendment cannot be said to take away the vested rights created in favour of individuals. An amendment which is retrospective in nature will be found fault with by Courts, if it takes away vested rights of individuals but no vested right is created in favour of individuals by G.O.Ms.No.109. G.O.Ms.No.109, dated 18-8-2016, which merely listed the priorities. The persons who have participated in events organised by NCC, would have already attained a particular status. It is not as though their status got altered by Priority II(f). The admission process for the current academic year ran up to 31-8-2017. Therefore, the change of priority cannot be said to have taken away any vested right conferred upon the individual students. Therefore, the first contention of the petitioners cannot be accepted.

14. The second contention perhaps, has some force. The State of Telangana cannot adopt a different priority from a priority adopted by the State of Andhra Pradesh. But it is pointed out by the learned Assistant Solicitor General of India that the Directorate of NCC also addressed a letter to the

Government of Telangana on 23-9-2015 for the revision of priorities. But the Government of Telangana did not issue any order for some time. However, a draft G.O. was sent to the Directorate of NCC on 31-5-2017 for comments. The NCC Directorate forwarded a draft G.O. on 07-6-2017. Pursuant to the same, the Government of Telangana seems to have issued G.O.Ms.No.14, dated 09-6-2017. It is not known whether this G.O.Ms.No.14, dated 09-6-2017, relates to admission to MBBS/BDS Courses in the State of Telangana. According to the learned Senior Counsel for the petitioners, G.O.Ms.No.14 is only for Engineering Courses. If this is true, then there is disparity between the State of Telangana and the State of Andhra Pradesh.

15. But unfortunately, the admission to all medical courses is already over for the current academic year. Therefore, merely on the ground that Priority II(f) has been adopted differently in both the States, no relief can be granted to the petitioners herein.

16. Though the learned Senior Counsel contended that the petitioners came to this Court way back on 11-8-2017 and that this Court also passed an order directing that any selection will be subject to further orders to be passed in the writ petition, we do not think that any relief can be granted to the petitioners.

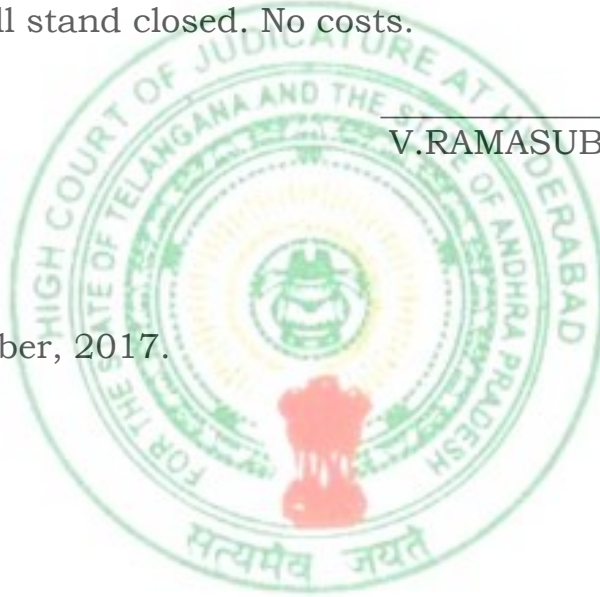
17. If the petitioners are to be allotted seats in medical colleges, either we have to cross the deadline prescribed by

the Supreme Court, which the Supreme Court repeatedly frowns upon or we have to throw out candidates who are already admitted pursuant to the amended Government Order. Those students are not parties before us. Therefore, at this stage no relief can be granted to the petitioners merely on the ground that there is a disparity between the State of Telangana and the State of Andhra Pradesh in the matter of priorities. Hence, the writ petition is dismissed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

T.RAJANI, J.

06th September, 2017.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT. JUSTICE T.RAJANI

Writ Petition No.27014 of 2017
(per VRS, J.)



06th September, 2017.
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