

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.20578 OF 2011

ORDER: (Per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

This Writ Petition stands instituted for the benefit of one I.Dharani, then a minor. The matter relates to Admission to BDS., Course.

2. We have heard learned Senior Counsel Sri G.Vidya Sagar appearing for the petitioner, learned standing counsel Sri T.Nageswara Rao appearing for the second respondent - Dr N.T.R.University of Health Sciences, Vijayawada and learned Government Pleader for Medical and Health (AP).

3. I.Dharani secured 963 marks out of 1000 marks in the Intermediate Examinations for the academic year 2008-10. She appeared for the Engineering, Agricultural and Medical Common Entrance Test, 2011 (EAMCET, 2011) and secured 79 marks though she ought to have scored 80 marks out of 160 marks; that is, one-half of 160 marks. Thereafter, one question was deleted as erroneous bringing the total marks to 159. The proportionate one-half of 159, would be 79.5 marks. The question before us is as to whether the fraction after 79 is to be rounded off to the next and thereby fixing the marks scored by the petitioner at 80 or whether it could be rounded off to be 79 on the totality of the fact situation in hand.

4. When one among the questions was found to be bad or wrong, its deletion led the total marks becoming 159 instead of

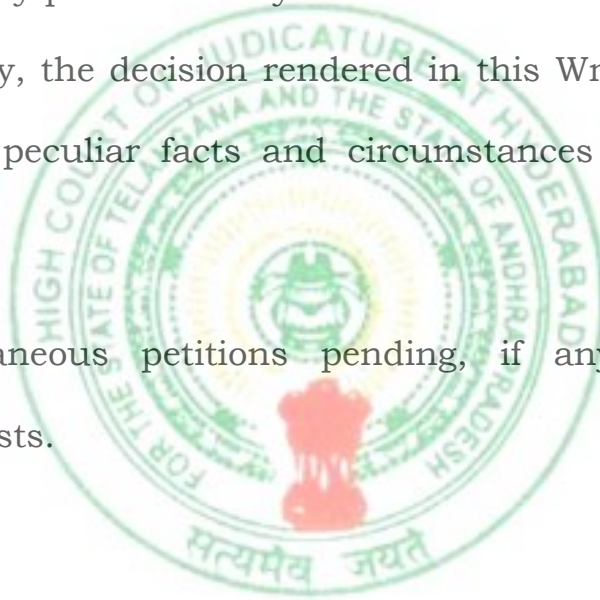
160 and one-half of the total marks becoming 79 instead of 80. That appears to indicate that there would be no opportunity for a candidate to score a fraction of one mark. Balance of probabilities ought to go in favour of petitioner on the facts and the circumstances which we note hereinafter.

5. Much water has flown under the bridge after the petitioner came to this Court and was given an interlocutory order to participate and enter into the stream of education leading to the issuance of BDS., Degree. She underwent that course of study by attending the classes in the batch to which she was admitted. She has now come out with fairly high rating even in the Final Examinations of BDS Course. We see that she had been supported through interlocutory orders at various stages by this Court from time to time to go forward from year to year and also to participate in different examinations though all those were perennial orders. At this distance of time, we are of the view that though there may be a debatable issue as to whether 79.5 marks should be read as 79 marks or 80 marks, having regard to the totality of the facts and circumstances, particularly that a girl student is involved in this litigation, scales of justice tilts in her favour to end this litigation by ensuring that she enjoys the fruit of the education availed by her for BDS Course and possibly contribute her might in the field of Dentistry. Bestowing our anxious consideration to all aspects of the facts and circumstances of this case, we do not see that such equitable considerations in favour of the petitioner before us would be misplaced.

In the result, this writ petition is ordered directing that all actions taken pursuant to the interim orders issued by this Court in this case shall be regularized and the petitioner I.Dharani shall be treated as having completed the BDS Course and eligible for grant of BDS Degree if the University is satisfied that she is so entitled without reference to any deficit in the marks obtained in the Entrance Examination, 2011. All consequential actions in this regard shall be taken by the University.

As rightly pointed out by the learned Standing Counsel for the University, the decision rendered in this Writ Petition rests on the very peculiar facts and circumstances of the case in hand.

Miscellaneous petitions pending, if any, shall stand closed. No costs.



THOTTATHIL B. RADHAKRISHNAN, CJ

RAMESH RANGANATHAN, J

12.07.2018
Pln/vs