

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

W.P.No.17715 of 2018

Date: 05-07-2018

#Between:

Hemanth Kalakuntla, S/o K. Jaganmohan Rao,
Aged 25 years, Occ: Student, Street No.8,
Habsiguda, Hyderabad

... Petitioner

And

Kaloji Narayana Rao University of Health Sciences,
Warangal, Telangana, represented by its
Registrar and 5 others

... Respondents

! Counsel for the Petitioner : Mr. Tarun G. Reddy

^ Counsel for Respondents : Mr. A. Prabhakar Rao, Standing
counsel
G.P. for Medical & Health

**HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI**

W.P.No.17715 of 2018

ORDER: (per V. Ramasubramanian,J)

The petitioner has come up with the above writ petition, seeking the issue of a writ of *mandamus*, challenging the action of the 1st respondent-University in permitting the 4th respondent to change his seat from B.C.-E minority category to Open General Category and allotting him a seat in M.D. General Medicine in the 3rd respondent college under the Open Category as illegal.

2. Heard Mr. Tarun G. Reddy, learned counsel for the petitioner, learned Government Pleader appearing for the respondents 2, 3 and 6 and Mr. A. Prabhakar Rao, learned standing counsel appearing for the 1st respondent-University.

3. The petitioner as well as respondents 4 and 5 applied for admission to Post Graduate Medical Courses for the Academic Year 2018-19. On 06-04-2018, the first phase of counseling was notified by the University. The petitioner was allotted a seat in M.D. General Medicine in Kakatiya Medical College, the 2nd respondent herein. The 4th respondent was allotted a seat in M.D. General Medicine in Gandhi Medical College, which is the 3rd respondent herein. The 5th respondent was allotted a seat in Deccan College of Medical Sciences.

4. Admittedly, the 4th respondent herein was more meritorious than the writ petitioner herein and the writ petitioner was more

meritorious than the 5th respondent herein. This can be seen from the ranks secured by the petitioner and the respondents 4 and 5 in comparison, which is presented in a tabular column as follows:

	NEET Rank	State Rank
Petitioner	1937	50
4 th respondent	1819	47
5 th respondent	3560	121

5. In the first round of counseling, seats are filled up first under the Open Category, and even the reserved category candidates are entitled to participate under the Open Category. But if a meritorious reserved category candidate is not satisfied with the seat offered to him under the Open Category, for a particular course and/or in a particular college, he is granted the liberty to stake a claim for a course or college of his choice, under the reserved category. The 3rd respondent herein is a meritorious reserved category candidate. He belongs to B.C.-E category. He applied for admission to M.D. General Medicine in Osmania Medical College. But in the first round of counseling he was allotted a seat in M.D. General Medicine in Gandhi Medical College. This was under the Open Category.

6. In the second round of counseling also, the 4th respondent tried to secure a seat in Osmania Medical College at least under the reserved category. But in the second round of counseling, the 4th respondent could be fit only into M.D. General Medicine in Gandhi Medical College, under the reserved category. As a consequence, the 5th respondent, who originally gained admission to Deccan Institute of Medical Sciences, was granted admission to M.D. General Medicine in Gandhi Medical College.

7. The grievance of the petitioner is that the option available to meritorious reserved category candidate is only to switch over from one course to a better course or from one college to a better college, by sliding. What has happened in this case is, the 4th respondent, who was allotted a seat in M.D. General Medicine in Gandhi Medical College, first under the open category, has now been allotted the very same course in the very same college under the reserved Category. Such a switching over is not possible. A more meritorious reserved category candidate may be entitled to switch over from open category to reserved category, if he did not like the course or college that was allotted to him under any one of these two categories. The change of category, in other words, may be permissible if the course or college allotted in the first instance was not to the liking of the candidate. But when there is no change in the course and there is no change in the college, the seat vacated by him should go only by the next meritorious candidate in the open category.

8. Notices were ordered to the respondents 4 and 5 and they were directed to be served through the Dean of the Gandhi Medical College. The Dean of the Gandhi Medical College has filed a report that he has served notices on respondents 4 and 5. But the respondents 4 and 5 have not chosen to appear. Though the 4th respondent may not have any stake in this litigation, the 5th respondent certainly has. But he has not chosen to oppose this writ petition.

9. Therefore, the writ petition is allowed directing the respondents to accommodate the petitioner in M.D. General Medicine in Gandhi Medical College and accommodate the 5th respondent in Kakatiya Medical College in M.D. General Medicine, which seat will become vacant by the petitioner getting shifted.

10. As a sequel thereto, miscellaneous petitions, if any pending, shall stand closed. No order as to costs.

V. RAMASUBRAMANIAN, J

K. VIJAYA LAKSHMI, J

Date: 05-07-2018

Ksn

