

**HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD**

WRIT PETITION No.18217 of 2018

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

Heard Sri N.Mukund Reddy, learned counsel for the petitioner, and Sri G.V.S.Meher Kumar, learned counsel representing Sri Taddi Nageswara Rao, learned Standing Counsel for Dr.NTR University of Health Sciences, the second respondent. With their consent, the writ petition is disposed of at the stage of admission, as it is squarely covered by the earlier decision of this Court in W.P.No.18185 of 2018.

In the first instance, the petitioner was selected for admission under State quota in DCH Course in Andhra Medical College, Visakhapatnam, under the control of the second respondent University. Pursuant thereto, she joined the course in Andhra Medical College, Visakhapatnam, on 12.05.2018. While so, the National Board of Examinations allotted her a seat under National quota in DNB (Post MBBS) Pediatrics at Rainbow Children Hospital and Perinatal Centre, Hyderabad. As per the communication dated 27.05.2018 issued by the National Board of Examinations, the petitioner is required to report at the said Institute/Hospital by 02.06.2018, duly submitting her original documents. As the original documents were already deposited by her with the second respondent University at the time of her admission in Andhra Medical College, Visakhapatnam, she addressed the

second respondent University requesting permission to allow her to resign from DCH Course and to return her original certificates upon payment of Rs.3,00,000/- and subject to the condition that she would be ineligible to seek admission in the colleges under the administrative control of the second respondent University for the next three years. As the second respondent University remained unmoved, she filed the present writ petition.

Reliance is placed by the petitioner upon the decision of this Court in W.P.No.18185 of 2018. A copy of the order dated 31.05.2018 passed in the said writ petition is placed on record. In like circumstances as are obtaining presently, a Division Bench of this Court granted relief to the petitioner therein, who was selected for admission in a Post Graduate Medical course in Siddhartha Medical College, Vijayawada, under the control of the second respondent University but was thereafter selected for admission in a course in the All India Institute of Medical Sciences, New Delhi. As in the case on hand, the second respondent University did not part with the original certificates of the petitioner therein, constraining him to file the writ petition. Taking note of the conditions prescribed in G.O.Ms.No.67 dated 21.04.2017, the Division Bench opined that as the petitioner therein was willing to pay Rs.3,00,000/- and abide by the condition that he would not be entitled to seek admission in PG Courses in any college under the control of the second respondent University for

three years, he was entitled to relief. The writ petition was accordingly disposed of directing the petitioner therein to deposit the sum of Rs.3,00,000/- with the second respondent University, if not already done, and thereupon, the second respondent University was directed to return all the original certificates deposited by him forthwith.

Though Sri G.V.S.Meher Kumar, learned counsel, would place reliance upon the recent decision of the Supreme Court in **U.P.Unaided Medical Colleges Welfare Association (Regd) Vs. Union of India**¹, we find that the aforestated decision was rendered in the context of the peculiar situation prevailing in the State of Uttar Pradesh, where 41.95% of post graduate medical seats in private unaided medical colleges remained vacant in the academic year 2018-19 and as the cut-off date was already over on 18.05.2018. Therefore, the observation made by the Supreme Court that candidates who already secured admission elsewhere could not be permitted to resign from the concerned college to avail themselves of the opportunity granted in terms of the order of the Supreme Court, would have no application to the case on hand.

As the petitioner in the case on hand is identically situated with the petitioner in W.P.No.18185 of 2018, the writ petition is allowed for reasons alike as were mentioned in the aforestated order dated 31.05.2018 passed in W.P.No.18185 of 2018 with the following directions:

¹ W.P.(Civil).No.556 of 2018 dated 25.05.2018

The petitioner shall deposit Rs.3,00,000/- (Rupees Three Lakhs only) with the second respondent University, if not already done, immediately. Upon such deposit, the second respondent University and the Andhra Medical College, Visakhapatnam, the third respondent, shall return her original certificates deposited with them forthwith.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE T. AMARNATH GOUD

02.06.2018.
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