

IN THE HIGH COURT FOR THE STATE OF TELANGANA

Delivered on: 09.04.2019

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHA RAO

WRIT PETITION Nos.24919, 34219, 39934 AND 24534 OF 2017
Between:

1. Ms. K. Akanksha D/o K.V.L. Rao .. Petitioner
(in W.P. Nos.24919,
34219 & 39934 of 2017)

2. S. Sai Ram Reddy .. Petitioner
(in W.P. No.24534 of 2017)

Vs.

1. The Special Chief Secretary, Higher Education,
rep.by its Spl.Chief Secretary, Higher Education
Dept., Telangana State Secretariat, Hyd.
2. The Telangana State Council of Higher Education,
Masab Tank, Hyderabad, rep.by its Secretary.
3. The Convenor, EAMCET JNTU, Hyderabad.
4. Prof. Jayashankar Telangana State Agricultural
University, Rajendranagar, Hyd., rep.by its Registrar,
5. National Cadet Corps, NCC Group Head Quarter,
A.P. and T.S. State Region, Sec.bad, rep. by its
Deputy Director General. .. Respondents

For petitioner in W.P. Nos.24919, 34219

39934 of 2017

: Mr. Ravilla Gopala Krishna

For petitioner in W.P. No.24534/2017 : Mr. P. Girish Kumar,

For respondent No.1 : Government Pleader

For respondent Nos.2 and 3 : Sri A. Abhishek Reddy

For respondent No.4 : Mr. B. Thimothi
Standing Counsel

For respondent No.5 : Mr. K. Lakshman,
Asst. Solicitor General

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HONOURABLE SRI JUSTICE P. KESHA VA RAO
WRIT PETITION Nos.24919, 34219, 39934 AND 24534 OF 2017
COMMON ORDER: *(Per Hon'ble Sri Justice V. Ramasubramanian)*

While three out of four Writ Petitions on hand are by the same student, who failed to secure admission to the under Graduate Courses in Veterinary Science and Agriculture for the Academic Year 2017-18 under the Quota reserved for National Cadet Corps (NCC), the 4th writ petition is by another student, who failed to secure admission to under Graduate Courses in Veterinary Science and Agriculture, for the academic year 2017-18 under the quota reserved for NCC.

2. Heard Mr. R. Gopala Krishna and Mr. P. Girish Kumar, learned counsel for the petitioners, Mr. K. Lakshman, learned Assistant Solicitor General appearing for the NCC Directorate, the learned Government Pleader for Higher Education and Sri Thimothi, learned Standing Counsel for the Agricultural University.

3. The petitioner in W.P. Nos.24919, 34219 and 39934 of 2017 is a student, by name Ms. K. Akanksha. She passed the Intermediate Course with Biology, Physics and Chemistry as the subjects, during the academic year 2016-17. She also joined the NCC and secured a 'B' Certificate. She claims to have participated in the competition conducted by the Sailing Federation of India at the National Level during August, 2016 and won a Silver Medal. The student claims to

have participated as a NCC Cadet in the Sailing competitions held at Hussain Sagar, Hyderabad.

4. After securing a rank of 29692 in TS-EAMCET-2017, the petitioner applied for various courses including under graduate courses in veterinary science and agriculture. She applied under the quota reserved for NCC Cadets, among whom she claimed a higher priority, on the basis of winning medals in Sailing Competitions. But, by virtue of Note No.5 inserted in G.O.Ms.14 of Higher Education (TE) Department, dated 09.06.2017, the grant of priorities under the NCC quota was restricted only to those who represented through NCC in the competitions.

5. The above note inserted in G.O.Ms.No.14 was similar to note No.5 inserted in the Government Order issued by the State of Andhra Pradesh in G.O.Ms.No.23, dated 19.06.2014.

6. Therefore, the student, by name K. Akanksha, first filed a writ petition in W.P. No.20981 of 2017 challenging the Government Order of the State of Andhra Pradesh. It appears that on 06.07.2017, a learned Judge of this Court granted an interim order in W.P.M.P. No.25796 of 2017 in W.P. No.20981 of 2017, suspending the offending portion of the said Government Order.

7. But, still, the petitioner could not secure admission to under graduate courses in Veterinary Science or Agriculture, since the NCC took up a stand that they were not sponsoring cadets for any sports events. Therefore, the petitioner, K. Akanksha, has come up with the

first of these four writ petitions W.P. No.24919 of 2017 challenging the offending portion of note No.5 in G.O.Ms.No.14, dated 09.06.2017 of the State of Telangana. Thereafter, she came up with the second writ petition, W.P. No.34219 of 2017 seeking a direction to the respondents to prepare the merit list under NCC quota, based on the priorities as fixed under G.O.Ms.No.75, dated 08.09.2015 and not as per G.O.Ms.No.14, dated 09.06.2017. Not satisfied with the second writ petition also, the same petitioner, K. Akanksha, has come up with the third writ petition, W.P. No.39934 of 2017 challenging the selection of respondent Nos.4 to 7 on the ground that they got selected through wrong priorities.

8. The petitioner in W.P. No.24534 of 2017 has come up with a prayer identical to the prayer made in the first of these four writ petitions, viz., challenging the offending portion of Note No.5 of the G.O.Ms.No.14 dated 09.06.2017. Therefore, in a sense, one student, who is the petitioner in three writ petitions, is seeking; (i) to set aside a portion of note No.5 in G.O.Ms.No.14, dated 09.06.2017; (ii) to set aside the admissions made for the academic year 2017-18 to undergraduate courses in veterinary science and agriculture; and (iii) to compensate her for the loss of the seat. The other student, who has come up with one writ petition, is also challenging the same portion of the Note No.5 of G.O.Ms.No.14, dated 09.06.2017.

9. Though, Mr. R. Gopala Krishna, learned counsel appearing for the petitioner in the three writ petitions, made elaborate

submissions on the validity of note No.5 of G.O.Ms.No.14, dated 09.06.2017 and pleaded that the petitioners, who are meritorious students, have been wronged by the respondents, we do not think that the adjudication of the issues raised by the petitioners in these writ petitions could be anything more than a futile exercise. It is needless to point out that a Writ Court, exercising jurisdiction under Article 226 of the Constitution of India would not undertake an academic exercise, when the reliefs sought for by the petitioner could not be granted.

10. The fact that the petitioners cannot be granted any relief, can be well appreciated by the following reasons:

- i. The petitioners in these writ petitions sought admission to professional courses including courses in Agriculture and Veterinary Science, for the academic year 2017-18. Though one of the two students, who are before us, secured the some interim direction and an interim suspension of Note No.5, she could not secure any admission. Both the students, who are petitioners in all these writ petitions, could not secure admission either in the academic year 2017-18 or in the academic year 2018-19, either to the courses of their choice or to the Colleges of their choice. The admissions for both the academic years 2017-18 and 2018-19 are over and hence the question of granting any relief in the form of a direction to admit them does not arise at this stage.

- ii. As an alternative to admission, this Court, in a few cases, had awarded compensation. But, the question as to whether compensation is an adequate remedy or not, is now pending before a Larger Bench in the Supreme Court. In any case, it is only those students who have open and shut cases and who were denied admission for wrongful reasons, can be granted compensation. Insofar as the petitioners are concerned, they were denied admission on the basis of note No.5 of the Government Order. But, this note No.5 was already upheld by this Court in another batch of writ petitions. Though an application for review of the said judgment is pending, that would not enable this Court to place the blame entirely at the door step of the respondents. Unless the entire blame can be placed upon the respondents, the question of compensation would also not arise.
- iii. In two out of the four writ petitions on hand, the prayer is to set aside one portion of note No.5 of G.O.Ms.No.14, dated 09.06.2017. But by a judgment, dated 17.07.2018, passed in W.P.Nos.23930 and 23973 of 2018, note No.5 of G.O.Ms.No.75, which related to admissions to M.B.B.S., and B.D.S., Courses, was upheld by this Court. Note No.5 of G.O.Ms.No.75, dated 08.09.2015 relating to admission to Medical Courses is exactly the same as note No.5 of G.O.Ms.No.14, dated 09.06.2017 in relation to other

professional courses, such as Engineering etc. It is true that an application for review of the said judgment is pending in I.A. No.6 of 2018. But, the mere pendency of an application for review cannot entitle the petitioners to argue upon the validity of note No.5 of G.O.Ms.No.14, dated 09.06.2017. As on date, the decision of this Court, dated 17.07.2018 in W.P.Nos.23930 and 23973 of 2018 holds the field. Therefore, the prayer for setting aside one portion of note No.5 of G.O.Ms.No.14, dated 09.06.2017 cannot be granted.

11. Therefore, in a fine, the petitioners cannot be granted any relief. However, Mr. R. Gopala Krishna, learned counsel appearing for the petitioners, submitted that after upholding the validity of note No.5 of G.O.Ms.No.75, by the order, dated 17.07.218, this Court had an occasion to consider the validity of the admissions made under the quota reserved for NCC. After finding that the quota was being misused and that the Ministerial Staff in the local NCC Directorate were manipulating the results, this Court ordered an investigation. After the results of the investigation were declared, this Court disposed of a batch of writ petitions in W.P. No.28822 of 2018 and batch, by an order, dated 09.11.2018, granting compensation to a few candidates whose claims were found to be justified. Therefore, it is contended by Mr. R. Gopala Krishna, the learned counsel for the petitioners that the investigation which formed the basis for judgment,

dated 09.11.2018 in W.P. No.28822 of 2018 and batch, if applied, would make note No.5 of the Government Order clearly illegal. Hence, the learned counsel prayed that the petitioners may be granted a seat in B.Sc., Agriculture or at least compensation, in the light of the report of the investigation made available in the batch of cases.

12. But, as we have pointed out earlier, the validity of note No.5 has already been upheld by this Court by judgment, dated 17.07.2018. Therefore, the same cannot be gone into except in the review application now pending. Once the validity of note No.5 on account of which the petitioners were denied admission, has been upheld by this Court, the question of granting any relief to the petitioners would not arise. In any case, the academic years 2017-18 and 2018-19 have gone.

13. Therefore, no relief can be granted to the petitioners and hence the Writ Petitions are dismissed. However, in the circumstances, there shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petitions, shall stand closed.

V. RAMASUBRAMANIAN, J

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P. KESHA VA RAO, J

April 09, 2019
Mgr