

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

WRIT PETITION No.19817 of 2019

Date: 15.10.2019

Between:

MNR Homeopathic Medical College and Hospital

..Appellant

And

State of Telangana & others

..Respondents

Counsel for the Appellant

: Sri D.Prakash Reddy,
learned Sr. counsel
for Mr.Sricharan Telaprolu

Counsel for the Respondents

: Sri A.Prabhakara Rao
for R.1 and R.2
Sri D.Narender
for R.3 and R.5
Sri Raghavender Reddy
for R.4

The Court made the following:

ORDER: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

The present writ petition is filed by the MNR Homeopathic Medical College & Hospital, with the following prayer:

“... to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring:

- a) the action of the 2nd respondent University in allotting 50 students to the petitioner institution, for Bachelor of Homeopathic Medicine and Surgery (BHMS Course, under Competent Authority Quota (Category-A) for making admissions for the academic year 2019-20 ignoring the 15 admissions made by the petitioner institution under Category-A with the students referred by the 5th respondent under All India Quota;
- b) the action of the 2nd respondent in rejecting to approve the admissions made by the petitioner institution under Category-A with the students referred by the 5th respondent All India Quota as the admissions under Competent Authority Quota (Category-A) while suggesting to ratify the said admissions under Category-B (Management Quota) through proceedings Cr.Rc.No.4130/Admissions/KNRUHS/2019, dated 05.09.2019; as illegal, arbitrary and in violative of Articles 14 and 19(1)(g) of the Constitution of India and to set aside the proceedings of the 2nd respondent dt.05.09.2019 and consequently direct the 2nd respondent University to consider the 15 admissions made by the petitioner institution with the students referred by the 5th respondent under All India Quota notify as the admissions under Competent Authority Quota (Category-A) and revise the allotment list of students for making admissions under Competent Authority Quota (Category-A) with 35 students instead of 50 and to allot, 35 seats under Management Quota (B-Category) and 15 seats under NRI Quota (C-Category) as well as to receive the fee for Registration in respect of the 15 admissions made by the petitioner institution referred through the 5th respondent under 15% All India Quota against the Competent Authority Quota Seats and pass...”

2) It is the case of the petitioner-college that it is an approved Homeopathic Institution having been granted permission to run Bachelor

of Homeopathic Medicine and Surgery (BHMS) course by the Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homeopathy (AYUSH), the 4th respondent herein, and affiliation to the said Institution has been granted by the Kaloji Narayana Rao University of Health Sciences, Warangal, the 2nd respondent herein. The College has been given permission for a total intake of 100 seats per academic year. The counseling process and allotment of seats to the BHMS course is done by the 2nd respondent herein after excluding the 15% of the seats meant for All India Quota for which the 5th respondent herein is the competent authority. It is the case of the petitioner that out of 100 seats, 50 seats (A-category) are admitted under the competent authority quota after excluding 15 seats meant for All India Quota and 35 seats are under the Management quota (B-category) and 15 seats are under NRI Quota (C-category). The fee for various categories of the seats i.e. A-category, B-category and C-category is Rs.40,000/-, Rs.3,00,000/- and Rs.6,00,000/- respectively. It is the case of the petitioner-College that for the academic year 2019-2020, the competent authority i.e. respondent No.5 herein has filled up 15 seats under All India quota and the same was communicated to the 2nd respondent herein for approval, but the University is insisting that the 15 seats filled by the 5th respondent under All India Quota was for the B-Category seats, and not for the A-Category seats. For, the fee which was shown against the 15 seats of All India Quota was Rs.3,00,000/-, and not Rs.40,000/-, which is chargeable for the A-Category seats. As a matter of fact, the students who were allotted the seats by the 5th respondent after approaching this Court by way of Writ Petition and this Court by way of an interim direction has restrained the management from collecting the fee of Rs.3,00,000/-. It is the contention of the petitioner-College that out of the 50 students allotted by the 2nd respondent herein in A-Category, only 35 students have joined and the

B-Category of students is yet to be filled. It is the further contention of the petitioner-College that they cannot be put at a disadvantage position and if the Category-B seats are not filled by the 2nd respondent herein, it will cause a huge financial burden and strain to the college and it will jeopardize in running of the college itself if 15 seats under B-Category are not filled up. The case of the petitioner is that at the time of notifying 15 seats under the All India Quota, the fee payable by the students was shown inadvertently as Rs.3,00,000/- instead of Rs.40,000/-.

3) Per contra, it is the contention of the University-2nd respondent that the Management of the petitioner-college has uploaded the fee as Rs.3,00,000/- deliberately knowing fully well that the fee for A-category seats (15 seats) is only Rs.40,000/- and it is a deliberate attempt on the part of the petitioner-college to upload the fee as Rs.3,00,000/- for A-category seats so that meritorious students, in spite of getting a good rank, but do not have the financial capacity, will not opt for this college after seeing that the fee uploaded is very high and they cannot afford to pay the same and instead will opt for some other college, which is within their means. On the other hand, the students, who are less meritorious but can afford to pay the higher fee, will opt for this college. Even though, as per merit, these less meritorious students will not be able to get the seat in this college, if the actual fee is shown as Rs.40,000/-. The Management has committed the similar mistake in the past, but was let off with a fine. The College with an oblique motive to see that the poor meritorious students do not opt for a seat in this College has deliberately uploaded the higher fee, and less meritorious students, who will not have the chance of getting the seats with the ranks they have secured in the common entrance test, would get the seat in the College. In view of the

same, 'B-category' seats will have to be filled by the students by merit only and showing the fee as Rs.40,000/- only.

4) Heard Sri D.Prakash Reddy, learned Senior Counsel, appearing for Sri Charan Telaprolu, learned Counsel for the petitioner-college, and the learned Government Pleader for Medical Health and Family Welfare Department, Sri A.Prabhakar Rao, learned Standing Counsel for the 2nd respondent, Sri D.Narender Naik, learned Counsel for respondents 3 and 5, and Sri Raghvender Reddy, learned Counsel for R.4.

5) Perused the record. After going through the contents of the affidavit and hearing the counsel for the petitioner as well as the counsel for the respondents that the writ petition can be disposed of by giving direction to the following effect:

As seen from the record, the petitioner-college has uploaded the fee as Rs.3,00,000/- for the A-category seats under All India quota instead of Rs.40,000/-, the same has been done deliberately.

- a) The ranks of the A-category students who were admitted through the State counseling under the Open Category start from 94900 to 123392 whereas in the All India Quota the rank starts from 127466 and extends up to 593897. This clearly shows that due to the uploading of the wrong fee structure by the petitioner-college, the meritorious students who got better ranks have not opted for the seats as the fee payable was shown as Rs.3,00,000/-, and the students who are less meritorious could secure a seat in the petitioner-college;
- b) The college though fully aware that the fee structure for A-category seats is Rs.40,000/-, for B-category seats is Rs.3,00,000/- and for C-category seats is Rs.6,00,000/-, has

wrongly uploaded the fee structure as Rs.3,00,000/- instead of Rs.40,000/- for A-category seats under the All India Quota. The list of the students, who are admitted through All India quota, clearly shows that most of the students have secured All India rank of 200000 and above. Had the college up-loaded the correct fee of Rs.40,000/-, the meritorious students who got good rank will opt for this college. Many students, while exercising their options not only look at the overall ranking of the college, but also various other factors like proximity to their residence, the fee payable by them, etc. In this particular case, as seen from the record, the college has uploaded the fee as Rs.3,00,000/- for A-category seats under All India Quota when it very well aware that the fee payable is only Rs.40,000/-. As such, an inference can be drawn that they have done so deliberately to see that meritorious candidates who are poor do not opt for this College and less meritorious students can get admission.

6) We have given our anxious thoughts to the facts on hand. We are of the opinion that the ends of justice would be met if the petitioner-college is directed to pay a penalty of Rs.1.00 crore so that the levy of penalty will act as deterrence to the college not to indulge in these kinds of malpractices in future, and the admissions are made purely on the basis of merit. If the admissions already made by the 5th respondent are to be cancelled, it will not only jeopardize the academic career of the students, who have already taken admission under the said category, but may also result in losing of an academic year. On the other hand, if the college were let off scot-free, it will not only embolden them from committing the same mistake in the future, but will also result in other colleges following

the same *modus operandi*. This pernicious practice would result in denial of admission to meritorious students who cannot pay the higher fee. Hence, the above penalty of Rs.1.00 crore is levied on the petitioner-college.

7) The learned Senior Counsel appearing on behalf of the petitioner-college has prayed this Court to take a lenient view, and to reduce the penalty imposed. But we are of the considered opinion that unless and until a substantial penalty of Rs.1.00 crore is levied, the same will not act as deterrence, and the college will keep on indulging in such type of malpractice.

8) We have already directed the 2nd respondent-University to conduct the counseling for admission into BHMS course under B-category quota for 15 seats. It is needless to observe that in case the petitioner-college indulges in these kind of activities in future, the respondent-University should take stringent action against the petitioner-college, and to de-affiliate the petitioner-college, if necessary.

9) For the reasons stated above, the writ petition is disposed of by levying a penalty of Rs.1.00 crore (Rupees One Crore only) on the petitioner-college, and by directing the second respondent-University to conduct the counseling for admission into BHMS Course under B-category for 15 seats. The said penalty shall be paid to the University within a period of one month from the day of receipt of the certified copy of this judgment, failing which, the second respondent-University is free to cancel the admission of these 15 seats, and also to take necessary steps for de-affiliating the petitioner-college.

The miscellaneous petitions pending, if any, shall stand closed.
There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

15th October, 2019
smr

