

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT: HYDERABAD**

Coram :

*** The Honourable Mr. Justice V.RAMASUBRAMANIAN
and
The Honourable Mr. Justice P. KESHA VA RAO**

+ Writ Petition No.17926 of 2018

% Delivered on: 23-04-2019

Between:

Dr. P. Rajendra Prasad S/o Sri P. Rajamallu,
Aged about 35 years, R/o H.No.3-31,
Padmashali Street, Manthani, Karimnagar 505 184. .. Petitioner

Vs.

\$ 1. The State of Telangana, rep by its Special Chief Secretary,
Health, Medical and Family Welfare Department,
Secretariat Buildings, Hyderabad & others .. Respondents

! For Petitioner : Mr. Sama Sandeep Reddy

^ For Respondent No.1 : Govt. Pleader for Health
Medical and Family
Welfare Department.

< For Respondent No.2 : Mr. A. Prabhakar Rao

For Respondent No.9 : Mr. G. Madhusudhan Reddy

For Respondent No.10 : Mrs. G. Lakshmi

< Gist :

> Head Note :

? Cases referred : Nil

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHA VA RAO

WRIT PETITION No.17926 OF 2018

ORDER: *(Per Hon'ble Sri Justice V. Ramasubramanian)*

The petitioner has come up with the above writ petition challenging the allotment of seats under the Management Quota in Phase – II of the Counselling for admission to Post-Graduate Medical Courses.

2. Heard Mr. Sandeep Reddy Sama, learned counsel for the petitioner, learned Government Pleader for Health, Medical and Family Welfare Department appearing for the 1st respondent, Mr.A. Prabhaka Rao, learned counsel for the 2nd respondent-University, Mr. G. Madhusudan Reddy, learned counsel for the 9th respondent and Mrs. G.Lakshmi, learned counsel for respondent No.10.

3. The case of the petitioner is that he appeared for NEET - 2018-19 for Post-Graduate Medical Courses and secured a rank of 27363. The 2nd respondent University conducted the 1st phase of counselling for admission under the Convenor Quota, during the period from 07.04.2018 to 09.04.2018. The Candidates, who secured a seat in the 1st phase of counselling, had to report to their respective colleges on or before 20.04.2018 and complete the admission process by paying the fee and submitting the original documents.

4. The 1st phase of counselling for admission under the Management Quota was conducted by the University on 02.05.2018 and 03.05.2018. The candidates who were allotted seats in the said

counselling had to report to their respective colleges on or before 08.05.2018 and complete the admission process by paying the fee and submitting the original documents.

5. The 2nd phase of counselling for Convenor Quota was conducted on 08.05.2018 and 09.05.2018 and the candidates who got allotted seats in the same, had to report to their respective colleges on or before 14.05.2018 and complete the process. The 2nd phase of counselling for seats under the Managing Quota was conducted by the University on 13.05.2018 and the candidates who were allotted seats had to join on or before 18.05.2018.

6. A mop-up counselling was held by the 2nd respondent University for admission under the Convenor Quota on 15.05.2018 and 16.05.2018 for the left over seats.

7. The grievance of the petitioner is that in the 2nd phase of counselling held on 13.05.2018 for the seats under the Management Quota, several irregularities took place. According to the petitioner, several candidates, were enticed by the Managements of Private Colleges, obviously for a consideration, to block seats. Since the 2nd phase of counselling for seats under the Management Quota was held on 13.05.2018 and the candidates had time to report to the colleges till 18.05.2018, they also participated in the mop-up counselling for Convenor Quota on 15.05.2018 and 16.05.2018 and vacated the seats blocked by them under the Management Quota in Phase-II counselling. As a result, these seats became available for the Managements to be filled up according to their whims and fancies purportedly for a huge

price. Therefore, the petitioner has come up with the above writ petition seeking a direction to cancel the seats allotted under the Management Quota in the 2nd phase of counselling and for a direction to the University to conduct counselling afresh.

8. Though the grievance of the petitioner appears to be genuine, we do not think that we will be able to undo the damage, if any, already done for the academic year 2018-19. If the damage already done is sought to be undone, lot of candidates, who secured admission, may have to be displaced. They are not before us. Therefore, the admission granted to them cannot be cancelled.

9. We cannot also issue a direction to the 2nd respondent University to accommodate the petitioner in any College. This is due to the fact that the last date for admission is already over. Therefore, the only thing that could be done is to examine whether the malpractices alleged by the petitioner could have happened and if so, the remedial measures that should be taken by the University at least from the forthcoming academic year onwards.

10. The University has filed a counter affidavit stating that the Designated Authority for conducting counselling for 50% All India Quota Seats of the contributing States is the Director General of Health Sciences, Ministry of Health and Family Welfare, Government of India; that the Government of Telangana has contributed 50% of the Post-Graduate Medical Seats (323) in Government Medical Colleges and Post-Graduate Dental Seats (7) in Government Dental Colleges to All India Quota; that the Director General of Health Sciences, Government

of India, fixed the first round of allotment of seats as per web-options on 27.03.2018 and the second round of allotment on 13.04.2018; that after completion of the two rounds of allotments, the Designated Authority was to surrender the vacant seats on 23.04.2018 to the respective States; that the Designated Authority could not surrender the vacant seats after the second round of allotment, due to a stay order issued by the Supreme Court; that eventually the Supreme Court directed those unfilled seats to be filled up by the respective States, by 10.05.2018; that as a result, the mop-up counselling scheduled to be held on 08.05.2018 was extended to 15.05.2018; that the University did not find any irregularities in the conduct of 2nd phase of counselling for seats under the Management Quota; that if the candidates take an allotment, but did not join and choose to participate in the mop-up counselling, the University cannot be blamed, as the candidates are entitled to opt for the colleges of their choice; that a number of seats remained vacant in clinical and non-clinical subjects even after the conduct of mop-up counselling; and that therefore the writ petition is liable to be rejected.

11. Though the counter affidavit of the University proceeds on the basis that they have done their best in the given circumstances, they have not come up with a solution as to how the artificial blocking of seats by candidates at the instance of Private Medical Colleges, could be stopped. In fact, the counter affidavit filed by the University has come up with an interesting statistics about the seats that have gone vacant. In paragraph No.11 of the counter affidavit, the University has stated that 28 seats in Post-Graduate Medical Courses and three seats in Post-

Graduate Dental Courses under the Convenor Quota have gone vacant even after allotment in the mop-up counselling. Similarly, there were no takers for 111 seats in Post-Graduate Medical Courses and ten seats in Post-Graduate Dental Courses, during the mop-up counselling.

12. But, it is quite strange that no seats in any Private Medical Colleges have gone vacant. It may be true that Private Medical Colleges retain only those courses for which there is market. But, their market should not get improved by any contribution from the candidates and the University, knowingly or unknowingly.

13. What appears to have gone wrong in the academic year 2018-19 is that the last date for reporting of candidates before the respective colleges, allotted under the Management Quota in the 2nd phase of counselling fell beyond the dates of mop-up counselling for Convenor Quota. As we have stated elsewhere, the 2nd phase of counselling for seats under the Managing Quota was conducted by the University on 13.05.2018 and the candidates who were allotted seats had to join on or before 18.05.2018. But the mop-up counselling for admission under the Convenor Quota was held on 15.05.2018 and 16.05.2018 for the left over seats. Therefore, candidates who appeared for the second phase of counselling for management quota seats, appears to have blocked the seats in the second phase of counselling on 13-05-2018 and then appeared for mop-up counselling on 15-05-20198 and 16-05-2018, without joining in the college to which they were allotted in the second phase under the management quota (they had time till 18-05-2018). This

is how the loophole appears to have been exploited by the Colleges, effectively aided and abetted by some unscrupulous students.

14. It is a pity that in public perception, the Private Colleges alone are to take the entire blame. But, the fact that students who are at the receiving end and whose cause is sought to be projected as that of victims, also play an active role in what the Managements of Private Colleges do. If only the students had not lent their names to enable the Private Medical Colleges to block certain seats to convert them into money spinning machines, the Managements of Private Colleges could not have done anything on their own.

15. But, the remedy for this malady lies in the manner in which the counselling is to be held by the University. Therefore, though the petitioner is not granted any relief, the writ petition is disposed of with the following directions:

- (i) The University shall fix the schedule for counselling in the first phase, the second phase and mop-up round, both for the Convenor Quota and the Management Quota in such a manner that the last date for reporting to the Colleges, upon allotment of seats under every category and counselling, shall be fixed much before the next category in the next round of the counselling begins;
- (ii) for instance, if the first phase of counselling for allotment of seats under the Convenor Quota is held on the first and second day of April and the last date for reporting of candidates allotted in the first phase of counselling under the

Convenor Quota is fixed as 8th or 9th day of April, then the date for first phase of counselling for admission under the Management Quota shall be fixed on or after the 10th day of April, so that only those who failed to join are allowed to participate. Similarly, if the date for second phase of counselling for Convenor Quota is fixed as 20th April and 21st April and the last date for admission is fixed as 30th April, then the second phase of counselling under the Management Quota shall be fixed on or after the 1st of May. The mop-up counselling shall be conducted only after the expiry of the last date for reporting of students allotted under the Management Quota in the second phase of counselling;

- (iii) mop-up counselling should be conducted for Management Quota Seats also, but it shall be only after the last date for reporting of candidates allotted under the Convenor Quota in the mop-up counselling;
- (iv) the University may examine the option of taking the original certificates of all candidates and retaining the same with them even at the time of certificate verification so that the candidates are not used as pawns by the Private Colleges. Immediately after allotment, the University itself may forward the certificates to the College to which the candidate is allotted, so that the candidates are prevented from blocking of seats; and

- (v) the University may also come up with further solutions so that the commercialization of Medical Education could be curbed, if not completely eradicated.

However, in the circumstances of the case, there shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.

V. RAMASUBRAMANIAN, J

P. KESHA RAO, J

April 23, 2019

Note:

L.R. copy to be marked.

B.O. Mgr

