

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

THURSDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

**THE HON'BLE SRI JUSTICE M. S. RAMACHANDRA RAO
AND
THE HON'BLE SRI JUSTICE T. AMARNATH GOUD
I.A NO. 2 OF 2020
IN/AND
WRIT PETITION NO: 23953 OF 2020**

Between:

Srikeerti Reddi Pingle, D/o V.R.Reddi Pingle Occ. Student rep by her father V.R.Reddy Pingle S/o Venkat Reddy Pingle, aged about 60 years Occ. IT Professional and Business Manager Permanent R/o 20-Deer Run Drive, West Hartford, CT-06107, presently at R/o 9-22, Bhupalpalli Road Parkal, Warangal Rural District.

...PETITIONER

AND

1. The State of Telangana, rep by its Principal Secretary, Medical and Health Family Welfare Department, Secretariat Buildings, Hyderabad
2. Kaloji Nararayana Rao University of Health Sciences, represented by its Registrar, Warangal.
3. Telangana State Board of Intermediate Education, Rep by its Secretary, Nampally, Hyderabad

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent No.2 in treating the petitioner as not eligible for admission into MBBS Course for academic year 2020-21 under Management Quota Category-C NRI on the ground that 'no proof of study of Biological Science subject in qualifying examination' even though the petitioner produced all the relevant documents including Equivalent Certificate issued by the respondent No.3 dated 23/12/2020 which was issued on the basis of Certificate issued by the Consulate General of India, New York is arbitrary, illegal and in violation of their own Guidelines issued by the respondent No.2 in Notification dated 30/11/2020 and in violation of the rights guaranteed under the Constitution of India and consequently direct the respondent No.2 to provide admission into MBBS under Management Quota C Category NRI in the interest of justice

IA NO: 3 OF 2020

Between:

Kaloji Nararayana Rao University of Health Sciences, represented by its Registrar, Warangal.

...PETITIONER/RESPONDENT NO.2

AND

1. Srikeerti Reddi Pingle, D/o V.R.Reddi Pingle Occ. Student rep by her father V.R.Reddy Pingle S/o Venkat Reddy Pingle, aged about 60 years Occ. IT Professional and Business Manager Permanent R/o 20-Deer Run Drive, West

Hartford, CT-06107, presently at R/o 9-22, Bhupalpalli Road Parkal, Warangal Rural District.

....RESPONDENT/WRIT PETITION

2. The State of Telangana, rep by its Principal Secretary, Medical and Health Family Welfare Department, Secretariat Buildings, Hyderabad
3. Telangana State Board of Intermediate Education, Rep by its Secretary, Nampally, Hyderabad

...RESPONDENTS/RESPONDENT

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim order dated 24/12/2020 passed in IA 1/2020 in W.P. No 23953 of 2020

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to consider the petitioner under Management Quota Category 'C' NRI for admission into MBBS course for the academic year 2020-21 in the second phase of counseling or any consequent date pending disposal of writ petition in the interest of justice

IA NO: 2 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents No.2 to reserve one seat under under Management Quota Category 'C' NRI for admission into MBBS course for the academic year 2020-21 in the pending disposal of writ petition in the interest of justice

Counsel for the Petitioner: SRI VEDULA SRINIVAS FOR SRI P. MEHAR SRINIVASA RAO

Counsel for Respondent No. 1 & 2: ADDITIONAL ADVOCATE GENERAL

Counsel for Respondent No.3: SRI D.L. PANDU, STANDING COUNSEL FOR TSBIE

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

IA.No.2 of 2020

in/and

WP.No.23953 of 2020

ORDER:

Heard Sri Vedula Srinivas, counsel for the petitioner and the Additional Advocate General for respondents 1 & 2.

2. The petitioner herein is a foreign national, whose father is of Indian origin and who is residing in the USA.

3. The petitioner completed Class-XII at Conard High School under West Hartford Board of Education, Connecticut, USA.

4. She applied for National Eligibility cum Entrance Test(NEET) Under Graduate exam with Hall Ticket No.4205004360 in the Foreign National Category and secured All India Rank 482207 and Category Rank No.159648.

5. However, the 2nd respondent-University published on 12.12.2020 a list stating that petitioner is not eligible for admission to the MBBS Course on the ground that there is no proof of study of Biological Sciences subject in the qualifying examination.

6. The instant writ petition has been filed challenging the action of the said 2nd respondent in treating her as ineligible for

admission into MBBS Course for academic year 2020-21 under Management Quota Category 'C'(NRI) and for a direction to the 2nd respondent to provide her admission in the said category and course.

7. Petitioner contends that the School Counselor of Conard High School had issued a Certificate dt.11.12.2020 stating that in the 10th Grade itself the petitioner had taken the Advanced Placement Biology course where topics in Bio-chemistry, Cellular Biology, Organismal Biology, Population Biology, Evolution, Genetics and Ecology are taught in depth and that it is a rigorous course of study in Biology. She has also filed (1) letter dt.14.12.2020 of the West Hartford Science Department Supervisor to the same effect; (2) Certificate dt.22.12.2020 issued by the Consulate General of India, New York that the 12 year High School Diploma obtained by the petitioner in the USA is recognized in India as equivalent to pre-University(2 year course) new Intermediate Course; and (3) also a Certificate dt.23.12.2020 issued by the Telangana State Board of Intermediate Education, Hyderabad that the 12th Class/Senior Secondary Examination of West Hartford Board of Education, Connecticut, USA, is equivalent to Intermediate Examination conducted by the said Board.

8. In view of these documents, the petitioner asserts that the view of the 2nd respondent that petitioner did not study Biological Sciences is not correct.

9. On the basis of this submission, a Division Bench presided over by the Hon'ble Chief Justice had granted an interim direction on 24.12.2020 to the respondents to permit her to participate in the counseling to be conducted for the leftover seats without raising any objection with regard to the proof of study of Biological Science subject in the qualifying examination.

10. IA.No.3 of 2020 is filed by the respondents in the Writ Petition to vacate the said order.

11. The counsel for the petitioner contended that the very basis of holding the petitioner ineligible for admission by the 2nd respondent-University has no basis in view of the documentary evidence available on record; and that once the Board of Intermediate Education has certified on 23.12.2020 that the 12th Class High School Diploma secured by the petitioner is equivalent to the Intermediate Examination conducted by the Telangana State Board of Intermediate Education, it is not open to the 2nd respondent to prevent the petitioner from securing admission.

12. Attention of the Court is also drawn to the Notification issued by the 2nd respondent-University for Admission into Management Quota(B Category, C Category/NRI) seats in Private Unaided Non-minority/Minority Medical Colleges,

Private Unaided Non-Minority Dental colleges and Army dental college for MBBS/BDS Courses for the academic year 2020-21.

13. In the above notification under the head "Eligibility", it is stated in clause (c) that foreign students/NRI candidates/OCI card holders are eligible for admissions into MBBS and BDS courses under Management Quota Category-C seats; and candidates should specifically put the option for NRI Category in the online application to be considered for the NRI/C Category. Clause(c) states that candidates should have passed Intermediate (10+2 pattern) or its equivalent examination with Physics, Chemistry, Biology(Botany, Zoology)/Bio-technology and English. Under the head "V" which deals with *"procedure of filling online application, scanning/uploading of original certificates and online payment for registration"*, it is stated in clause(h)-*"equivalence certificate from Board of Intermediate Education, Government of Telangana(if passed qualifying exam other than AP/TS/CBSE/ICSE)"* should be uploaded along with other documents referred to therein.

14. Admittedly, the petitioner has complied with the same by making available equivalence certificate dt.23.12.2020 from the Board of Intermediate Education certifying that her study of Class-XII at Conard High School under West Hartford Board of Education, Connecticut, USA, is equivalent to the Intermediate Examination conducted by the Telangana State Board of Intermediate Education.

15. The Additional Advocate General appearing for the respondents 1 and 2 however contends that notwithstanding the same, the petitioner cannot be treated as eligible and refers to Medical Council of India regulations on Graduate Medical Education, 1997(amended up to May, 2018) to contend that a candidate has to study Biological Sciences, Physics, Chemistry in English as compulsory subjects in 11th and 12th standards or intermediate or equivalent course; that petitioner had studied the subject of Biological Sciences in 10th Grade(10th class) and she has not studied the subject of Biological Sciences in 11th and 12th Grades though she had studied Physics, Chemistry and English in 11th and 12th Grades.

16. He further contends that the Equivalence Certificate dt.23.12.2020 issued by the Telangana State Board of Intermediate Education, Hyderabad, does not specify that the petitioner had studied Biological Sciences, Physics and Chemistry in 11th and 12th Standards which equal to Intermediate and which is a pre-requisite for admission into MBBS Course as per the above regulations of the MCI.

17. Firstly, we wish to point out that this was not the reason assigned in the Ineligibility List dt.12.12.2020 by the 2nd respondent-University. Its remark was "no proof of study of Biological Sciences subject in qualifying examinations".

18. There was no mention at all about the validity of the equivalence certificate dt.23.12.2020 issued by the Telangana State Board of Intermediate Education, Hyderabad, to the petitioner therein.

19. The 2nd respondent therefore cannot improve and add new grounds to support its inclusion of the petitioner in the ineligibility list dt.12.12.2020 by filing a counter affidavit in the Writ Petition.

20. In **Mohinder Singh Gill v.Chief Election Commr.**¹, the Supreme Court held that a statutory order passed by a public authority cannot be defended by new reasons furnished by way of separate affidavits subsequently and they must be construed only on the basis of their contents and nothing else. It held:

*"8.....when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in **Gordhandas Bhanji**²:*

"Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct

¹ 1978(1) SCC 405

² AIR 1952 SC 16

of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

*Orders are not like old wine becoming better as they grow older.**

21. Secondly, the doubt about the petitioner studying Biology has already been clarified by the Certificate dt.11.12.2020 of the Conard High School Counselor and also Certificate dt.14.12.2020 of the West Hartford Science Department Supervisor.

22. Moreover, the expert body i.e. the Telangana State Board of Intermediate Education, Hyderabad, had certified that the 12th Class examination petitioner passed in West Hartford Board of Education, Connecticut, USA, is equivalent to Intermediate examination conducted by the said Board.

23. Once such expert body has accepted the equivalence of the 12th Class examination passed by petitioner in West Hartford Board of Education, Connecticut, USA, as equivalent to Intermediate examination conducted by the said Board, it is not open to the 2nd respondent-University to doubt it on any ground.

24. In ***Tariq Islam v. Aligarh Muslim University***³ the Supreme Court held that in academic matters which fall within

³ 2001(8) SCC 546

domain of experts, Courts should not normally interfere. It held:

"7. In *University of Mysore v. C.D. Govinda Rao*⁴ the appointment of one Anniah Gowda was set aside by the High Court on the basis that he did not satisfy the qualification that he "must possess either a first or a high second class Master's degree of an Indian university". This Court stated that normally, it is wise and safe for the courts to leave the decision of academic matters to experts who are more familiar with the problems they face than the courts generally are. Area of interference by courts would be limited to whether the appointment made by the academic body had contravened any statutory or binding rule and while doing so, the court should show due regard to the opinion expressed by the experts and on whose recommendations the academic body had acted and not to treat such expert body as a quasi-judicial tribunal, deciding disputes referred to it for decision. *Equivalence of a qualification pertains purely to an academic matter and courts would naturally hesitate to express a definite opinion, particularly, when it appears that the experts were satisfied that the equivalence has already been considered and declared by it.* This view has been reiterated by this Court in several decisions on the question of equivalence of qualifications including the one in *Rajendra Prasad Mathur v. Karnataka University*⁵."

25. Admittedly, the petitioner had appeared for the NEET Examination and has qualified therein, thereby dispelling any doubt about her knowledge of Biology, Physics and Chemistry.

⁴ AIR 1965 SC 491

⁵ 1986 Supp SCC 740

26. We therefore, reject the contention of the Additional Advocate General appearing for respondents 1 and 2 that petitioner is not eligible for admission to the MBBS Course.

27. Accordingly, the Writ Petition is allowed and a Writ of Mandamus is issued declaring the action of the 2nd respondent-University in treating the petitioner as ineligible for admission into MBBS Course for academic year 2020-21 under Management Quota Category-C(NRI) as illegal, arbitrary and violative of Article 14 of the Constitution of India and a direction is issued to the 2nd respondent to provide the petitioner admission into the MBBS Course under Management Quota C(NRI) Category forthwith without raising any objection with regard to the proof of study of Biological Science subject in the qualifying examination. No order as to costs.

28. IA.No.2 of 2020 is dismissed. Miscellaneous petitions pending if any, shall stand closed.

//TRUE COPY//

SD/- K. VENKAIAH
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Principal Secretary, Medical and Health Family Welfare Department, State of Telangana Secretariat Buildings, Hyderabad
2. The Registrar, Kaloji Nararayana Rao University of Health Sciences, Warangal.
3. The Secretary, Telangana State Board of Intermediate Education, Nampally, Hyderabad
4. One CC to Sri P Mehar Srinivasa Rao Advocate [OPUC]
5. One CC to Sri D.L. PANDU S.C FOR TSBIE [OPUC]
6. Two CCs to ADDITIONAL ADVOCATE GENERAL, High Court for the State of Telangana (OUT)
7. Two CD Copies

Avs



HIGH COURT

MSR,.J

&

TA,J

DATED: 31/12/2020



ORDER

I.A. NO. 2 OF 2020

IN/AND

WP.No.23953 of 2020

ALLOWING OF THE WRIT PETITION
AND DISMISSING THE I.A NO. 2 OF 2020
WITHOUT COSTS

9
HMA
31/12/2020