

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

**WEDNESDAY, THE THIRTIETH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

WRIT PETITION NO: 29901 OF 2024

Between:

Miss. Riya Maurya, Daughter of Radheshyam Maurya, aged 18 years, Occupation Student, R/o. Residing at present at Quarter no.A-2, Faculty Quarters, University of Hyderabad, Gachibowli, Ranga Reddy District.

...PETITIONER

AND

1. State of Telangana,, Represented by its Principal Secretary, Department of Higher Education, Secretariat, Hyderabad.
2. State of Telangana, Represented by its Principal Secretary, Health Medical and Family Welfare, Secretariat, Hyderabad.
3. Kaloji Narayana Rao University of Health Sciences, Represented by its Registrar, Warangal, Telangana.
4. Osmania Medical College, Represented by its Registrar, Hyderabad.
5. ESIC Medical College and Hospital, Represented by its Registrar, Hyderabad.
6. National Medical Commission of India, Represented by its Secretary, Pocket-14 , Sector - 8, Dwarka Phase -1 New Delhi - 110077, In
7. Muktika Sai Thirunagari, Daughter of not known, Aged not known, Occupation Student, Osmania Medical College, Hyderabad
8. Zaheda Zahraa, Daughter of not known, Aged not known, Occupation Student, Osmania Medical College, Hyderabad
9. Embadi Suhani, Daughter of not known, Aged not known, Occupation Student, Osmania Medical College, Hyderabad.
10. Sreeram Sriya Sharanya, Daughter of not known, Aged not known, Occupation Student, Osmania Medical College, Hyderabad
11. Furqaan Mohammed Hashmath, Daughter of not known, Aged not known, Occupation Student, Osmania Medical College, Hyderabad
12. Oddem Arun Kumar,, Son of not known, Aged not known, Occupation Student, Osmania Medical College, Hyderabad

13. Kampati Manideep,, Son of not known, Aged not known, Occupation Student,Osmania Medical College, Hyderabad.
14. Munagapati. Bhanu prasad,, Son of not known, Aged not known, Occupation Student,Osmania Medical College, Hyderabad.
15. Areeba Rameez Fatima, Daughter of not known,Aged not known, Occupation Student,Osmania Medical College, Hyderabad.
16. Gudelli Prathista Poojitha, Daughter of not known, Aged not known, Occupation Student, ESIC Medical College and Hospital, Hyderabad.
17. Katta Manish kumar,, Son of not known, Aged not known, Occupation Student, ESIC Medical College and Hospital, Hyderabad.
18. Darna Poojitha, Daughter of not known, Aged not known, Occupation Student, ESIC Medical College and Hospital, Hyderabad.
19. S. Tharun, Son of not known, Aged not known,Occupation Student, Osmania Medical College, 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 order, writ or direction more particularly one in the nature of Writ of Mandamus (A) Declare the action of the Respondents in conducting counselling process for admission into MBBS and BDS courses under Competent Quota for the Academic Year 2024-2025 in contravention of Telangana Medical and Dental Colleges Admission (Admission into MBBS and BDS Courses) Rules, 2017 as being arbitrary, illegal and violative of the Petitioner's fundamental rights under Article 14,19 and 21 of the Constitution of India. (B) Consequently Set Aside the Admissions/Allotment of seats of Meritorious Reserved Category quota candidates who got higher rank than the petitioners rank of AIR 25375 in NEET exam 2024 under OC Category in Respondent No.4 and Respondent No.5 college and consequently reconduct the Petitioners admission in strict adherence to Telangana Medical and Dental Colleges Admission (Admission into MBBS and BDS Courses) Rules, 2017. (C) Direct the Respondents to consider and process Petitioners web options in strict compliance of Telangana Medical and Dental Colleges Admission (Admission into MBBS and BDS Courses) Rules, 2017 while conducting counselling process for admission into MBBS and BDS Courses under Competent Quota for the Academic Year 2024-2025.

IA NO: 1 OF 2024

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 Respondent No.4/5 to facilitate with a seat for MBBS course, by undoing the injustice meted out to petitioner, through their non-transparent procedures, in the garb of the system generated allotment, during the counselling conducted by the respondents, pending disposal of the above writ petition

Counsel for the Petitioner: SRI SRINIVAS PODICHETI

**Counsel for the Respondent No.1: MS. SUJATHA KURAPATI
GP FOR HIGHER EDUCATION**

**Counsel for the Respondent No.2: SRI T. RAMESH, AGP FOR HEALTH
MEDICAL AND FAMILY WELFARE**

**Counsel for the Respondent No.3: SRI G. RAVI, APPEARS FOR SRI A.
PRABHAKAR RAO, SC FOR KALOJI NARAYANA RAO UNIVERSITY OF
HEALTH SCIENCES**

**Counsel for the Respondent No.4,5, 7 to 19: NATIONAL MEDICAL
COMMISSION OF INDIA**

Counsel for the Respondent No.6: MS. GORANTLA SRIRANGA PUJITHA, SC

The Court made the following: ORDER

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J.SREENIVAS RAO**

WRIT PETITION NO. 29901 OF 2024

ORDER: *(Per the Hon'ble Sri Justice J.Sreenivas Rao)*

This Writ Petition is filed seeking the following relief:

“to issue order, writ or direction more particularly one in the nature of Writ of Mandamus:-

- A) Declare the action of the Respondents in conducting counselling process for admission into MBBS and BDS courses under Competent Quota for the Academic Year 2024-2025 in contravention of Telangana Medical and Dental Colleges Admission (Admission into MBBS and BDS Courses) Rules, 2017 as being arbitrary, illegal and violative of the Petitioner's fundamental rights under Article 14, 19 and 21 of the Constitution of India.
- B) Consequently set aside the Admissions/Allotment of seats of Meritorious Reserved Category quota candidates who got higher rank than the petitioner's rank of AIR 25375 in NEET exam 2024 under OC Category in Respondent No.4 and Respondent No.5 college and consequently reconduct the Petitioner's admission in strict adherence to Telangana Medical and Dental Colleges Admission (Admission into MBBS and BDS Courses) Rules, 2017.
- C) Direct the Respondents to consider and process Petitioner's web options in strict compliance of Telangana Medical and Dental Colleges Admission (Admission into MBBS and BDS Courses) Rules, 2017 while conducting counselling process for admission into MBBS and BDS Courses under Competent Quota for the Academic Year 2024-2025.

and pass such other order(s) as this Hon'ble Court deems fit and proper in the interest of justice.....”

2. Heard Sri Srinivas Podicheti, learned counsel for the petitioner, Ms. Sujatha Kurapati, learned Government Pleader for Higher Education Department appearing for respondent No.1, Sri T.Ramesh,

learned Assistant Government Pleader for Health Medical and Family Welfare appearing for respondent No.2, Sri G.Ravi, learned counsel appears for Sri A.Prabhakar Rao, learned Standing Counsel for respondent No.3-Kaloji Narayana Rao University of Health Sciences (for short 'the University'), and Ms. Gorantla Sriranga Pujitha, learned Standing Counsel appearing for respondent No.6-National Medical Commission of India. No representation on behalf of respondent Nos.4, 5, 7 to 19.

3. Brief facts of case:

3.1 The petitioner in this writ petition averred that she appeared in the National Eligibility Cum Entrance Test (NEET) in the OC Category conducted in 2024 and secured All India Rank (for short 'AIR') of 25,375 and Telangana State merit rank of 302. Respondent No.3 released the seat matrix for Phase-1 counselling on 26.09.2024, wherein it is mentioned that total number of seats in respondent No.4-College were 213 and thereby a total of 94 seats in OC Category (62 OC General and 32 OC Female). Similarly in respondent No.5-College, the total seats were 50 and 22 seats in OC Category (14 OC General and 8 OC Female). On 26.09.2024 web options notification for Phase-1 counselling was issued, wherein it is mentioned that the applicants have to exercise their options between 27.09.2024, 6-00 a.m. to 29.09.2024, 6-00 p.m. Accordingly, the petitioner has exercised her web options.

3.2 It is further averred that on 30.09.2024 the results of allotment were declared and 100% of OC Category seats in Gandhi Medical College and 47 OC Category seats in respondent No.4-Osmania Medical College were filled up with cut off rank of AIR 20237 and state rank of 248. In respondent No.5-College, out of 22 seats in OC Category, only 17 seats in OC Category were filled up with cut off rank of AIR 21829 in Phase-1. The petitioner took admission in Kakatiya Medical College, Warangal anticipating that she will get an admission in respondent Nos.4 and 5 Colleges in Phase-2 counselling, as all the OC seats were yet to be filled up.

3.3 It is further averred that on 03.10.2024, Phase-2 web options notification was issued wherein it is stated that the applicants have to exercise their option between 04.10.2024, 1-00 p.m. to 06.10.2024, 6-00 p.m. Accordingly, the petitioner has exercised her web option. On 07.10.2024, Phase-2 counselling results were declared and the cut off rank for respondent No.4-College was AIR 31737 and cut off rank for respondent No.5-College was AIR 32661, which is lesser than the petitioners' rank of 25375. Pursuant to the Phase-2 counselling, the petitioner was allocated to Kakatiya Medical College, which was her 4th option when she could have been allotted her 2nd and 3rd preference of college based on her rank.

3.4 It is also averred that the petitioner sent e-mail on 18.10.2024 to the respondent authorities pointing out the anomalies and sought

their interventions, but there was no response and the action of respondents in denying the admission to the petitioners is contrary to the Telangana Medical & Dental Colleges Admission (Admission into MBBS & BDS Courses) Rules, 2017 (hereinafter referred to as 'the Rules').

3.5 It is further averred that as per Rule 4(x) of the Rules, all the OC seats in MBBS/BDS in all the colleges shall be filled and then the reserved category seats shall be filled and as per Rule 4(xi), a reserved category candidate selected under OC in a college in a course (MBBS/BDS) shall be permitted to slide into the same course to another college. The seat vacated shall be filled with the candidate of the same reserved category. Without following the mandatory procedure prescribed under the Rules, respondent No.4 college and seat Nos.86 to 94 were allocated to the individuals who secured a lesser rank than the petitioner and her cut off was AIR of 31717 and State rank of 377. Similarly in respondent No.5 College, seat Nos.18 to 22 were allocated to the individuals who secured lesser rank than the petitioner and their cut off AIR was 32661 and State rank was 391.

3.6 It is further averred that against the actual seat matrix of 99 seats of OC Category including 4 PWD quota and 1 CAP/PMC quota, the total seats filled up in OC Category in respondent No.4 College is 55 seats including 4 PWD quota and 1CAP/PMC quota. Despite

respondent No.6 not mandating Economically Weaker Section Quota for respondent No 4 College, the said college has set aside 4 seats for the same. It is further stated that against the actual seat matrix of 23 seats in OC Category including 1 PWD seat, the total seats filled up in OC Category in respondent No.5-College is 17 only. Respondents without following the mandatory procedure prescribed under the Rules have allocated the seats.

4. **Submissions of the learned Counsel for petitioner:**

4.1 Learned counsel contended that respondent authorities have not followed the Rule 4 (x) to (xv) of the Rules and in Phase-1 counselling, first all the OC Category seats in MBBS/BDS in all the colleges shall be filled and then the reserved category seats shall be filled, whereas respondent Nos.4 and 5 Colleges have not filled up OC Category seats. It is further contended that respondent No.3 has not given particulars of the students who slid from OMC to other colleges and as to the category in which the said students took admission in other college.

4.2 He vehemently contended that in respondent Nos.4 and 5 colleges, allocated seats to the candidates who secured lesser ranks than the petitioner, which is contrary to the Rule 4, sub-rule (xi) to (xv) of the Rules.

5. Submissions of the learned Standing Counsel appearing on behalf of respondent No.3:

5.1 Learned Standing Counsel contended that respondent No.3 University strictly followed the Rules issued under G.O.Ms.No.114 and no less merit candidates were allotted seats in respondent Nos.4 and 5 colleges in OC Category. He also submits that the last rank of candidate allotted in OC Category at Osmania Medical College-respondent No.4 is 20797 and the last rank of candidate allotted in OC Category at ESI Medical College-respondent No.5 is 24501, who are meritorious candidates than the petitioner.

5.2 He further contended that the MRC candidates are candidates who are allotted to reserved category seats after sliding from OC Category for their better option of college. The open category seats vacated by the MRC candidates have been converted to the respective reserved category seats and allotted to candidates of that reserved category in the second phase of counselling and the petitioner is not entitled to compare with reserved category candidates and the respondent No.3-University strictly followed the admission Rules. In support of his contention, he relied upon the common order passed by the Division Bench of this Court in **“Nottenki Bhavana and others vs. State of Telangana”** (Writ Petition No.16637 of 2019 and batch dated 19.08.2019).

Analysis:

6. This Court considered the rival submissions made by the respective parties and perused the material available on record. It is an undisputed fact that Respondent No.2-Government issued G.O.Ms.No.114, Health, Medical & Family Welfare (C1) Department, dated 05.07.2017 framing Rules for Medical Education – Telangana Medical & Dental Colleges Admission (Admission into MBBS & BDS Courses) Rules, 2017. Rule 4 of the said Rules deals with selection procedure. In pursuance of the above said Rules, respondent No.3-University conducting counselling for MBBS/BDS from 2017-18 onwards following the Government orders issued in G.O.Ms.No.114, dated 05.07.2017 and subsequent amendments issued in G.O.Ms.No.125, Health, Medical and Family Welfare (C1) Department, dated 22.09.2022, G.O.Ms.No.75, Health, Medical and Family Welfare (C1) Department, dated 04.07.2023, G.O.Ms.No.33, Health, Medical and Family Welfare (C1) Department, dated 19.07.2024.

7. It is very much relevant to extract Rule 4, sub-rule (x) to (xv), of G.O.Ms.No.114, which reads as follows:

- “4. x. First all the OC seats in MBBS/BDS in all the colleges shall be filled and then the reserved category seats shall be filled.
- xi. A reserved category candidate selected under OC in a college in a course (MBBS/BDS) shall be permitted to slide into the same course to another college. The seat

vacated shall be filled with the candidate of the same reserved category.

- xii. A reserved category candidate selected under OC in a college in a course shall be permitted to slide into another course (BDS to MBBS or MBBS to BDS). The seat vacated shall be filled with the OC candidate in the subsequent counselling treating the seat as OC.
- xiii. A reserved category candidate selected under OC and does not join the course, the said vacancy shall be treated as OC and shall be filled in the subsequent counselling.
- xiv. A reserved category candidate selected under OC and slides into a category seat in another college and does not join in the course, the seat vacant under OC category shall be treated as OC and the category into which he has slid not joined shall be treated as respective category seat in the subsequent counselling.
- xv. Where a reserved category candidate slides to another college such seat vacated shall be filled by another reserved candidate of the same category."

8. Rule 4, sub-rule (x) clearly reveals that first all the OC seats in MBBS/BDS in all the colleges shall be filled and then the reserved category seats shall be filled. It is an undisputed fact that a reserved category candidate is also entitled to be selected under OC Category basing upon his merit. Rule 4, sub-rule (xi) to (xv) clearly reveals that a reserved category candidate selected under OC in a college, shall be permitted to slide into similar course in another college and the seat vacated shall be filled with another candidate of the same reserved category.

9. The record reveals that admittedly, petitioner belongs to OC Category and she secured AIR of 25375. The core contention of the

petitioner is that respondent Nos.4 and 5 colleges, allotted seats in OC Category who secured lesser rank than that of the petitioner and the same is contrary to Rule 4, sub-rule (x) of Rules, whereas learned counsel for respondent No.3 specifically contended that the last rank of candidate allotted under open category in respondent No.4-Osmania Medical College is 20797 and the last rank of candidate allotted under open category in respondent No.5-ESI Medical College is 24501, whereas the petitioner has secured the AIR of 25375. MRC candidates are the candidates who are allotted reserved category seats after sliding from open category for their better option of college. The open category seats vacated by the MRC candidates have been converted to the respective reserved category seats and allotted to candidates of that reserved category in Phase-2 counselling.

10. The main ground raised by the petitioner is that in respondent Nos.4 and 5 colleges, the candidates who secured lesser ranks i.e., 31717 and 32661 than that of the petitioner were allocated seats, is not tenable under law, on the ground that the said candidates are belonging to reserved category and the reserved category seats in open category seats vacated by the MRC candidates have been converted to the respective reserved category candidates and allotted to the candidates belonging to the reserved category only and the petitioner is not entitled to compare with the reserved category

candidates, as the petitioner is belonging to open category candidates.

11. The Division Bench of this Court in **Nottenki Bhavana** (supra) rejected the similar contention raised by the petitioners therein. The relevant para Nos.24 and 25 of the said order reads as follows:

"24. For example, if a ST MRC candidate who is allotted an open category seat in the I Phase of counselling chooses to slide into a ST reservation category seat and joins the same, the open category seat vacated by him would have to be allotted to a ST reservation category candidate on merit and the ST reservation seat that he chose to slide into would be treated as an open category seat. Thereafter, if the said ST MRC candidate chooses to opt for an open category seat in the next counselling on his merit ranking, it would not have the effect of allowing another ST reservation category candidate to aspire for the seat vacated by him. However, if the said ST MRC candidate chooses to opt for another ST reservation category seat on merit, there would be no difficulty, as the seat vacated by him would then have to be given to another ST reservation category candidate on merit.

25. The contention of the petitioners is that if the open category non-joining seats are filled up on merit basis again, such MRC candidates, who have already joined in reservation category seats that they chose to slide into, could opt for such open category seats on the strength of their own merit and again, the University would have to allot the seats vacated by them to other respective reservation category candidates. We are not persuaded to agree. This argument does not stand to reason in the light of the example cited supra. If such a MRC candidate, who joined in the reservation category seat that he chose to slide into, opts for a change of seat in the II Phase counselling and chooses an open category seat on merit, it would not mean that the University again has to follow the 16 procedure adopted in the I Phase counselling and substitute such a MRC candidate with the next meritorious candidate in that reservation category. That would invariably lead to increasing the reservations beyond the prescribed and permissible limit."

12. It is already stated *supra* that the petitioner is belonging to open category and the last rank of candidate allotted under open category at respondent No.4-College is 20797 and the last rank of candidates allotted under open category at respondent No.5 College is 24501, whereas the petitioner secured AIR rank 25375. The MRC candidates are the candidates who are allotted reserved category seats after sliding from open category for their better option college. The open category seats vacated by the MRC candidates has been converted to the respective reserved category seats allotted of that reserved category in the second phase of counselling as per Rules and the petitioner is not entitled to compare her with reserved category candidates. No candidate who has secured lesser marks than the petitioners has been admitted to Osmania College or ESI Medical College in open category.

13. It is also pertinent to mention that the petitioner has already got admission as per her merit in Kakatiya Medical College and the entire counselling including admissions are completed. The petitioner has filed this writ petition after completion of the entire selection/admission process, without explaining any reasons for the delay.

14. It also relevant to mention here that similarly situated students have filed two writ petitions i.e. W.P.Nos. 28402 and 29725

of 2024 by raising same contentions/prayer. The Division Bench of this Court after hearing the parties dismissed the above writ petitions by its common order dated 29.10.2024.

15. For the foregoing reasons, this Court does not find any merit in the writ petition.

16. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

**SD/- MOHD. ISMAIL
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

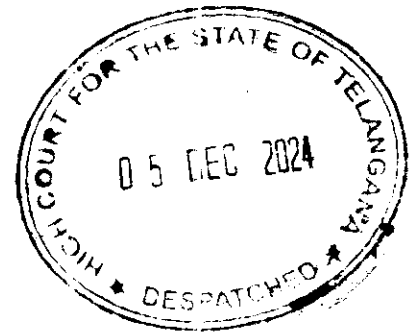
1. One CC to Sri Srinivas Podicheti, Advocate [OPUC]
2. One CC to Ms. Gorantla Sriranga Pujitha, SC[OPUC]
3. One CC to Sri A. Prabhakar Rao, SC for Kaloji Narayana Rao University of Health[OPUC]
4. One CC to National Medical Commission of India[OPUC]
5. Two CCs to GP for Higher Education, High Court for the State of Telangana, at Hyderabad [OUT]
6. Two CCs to The GP for Health Medical and Family Welfare, High Court for the State of Telangana, at Hyderabad[OPUC]
7. Two CD Copies

TJ
LS

Kop'

HIGH COURT

DATED:30/10/2024



ORDER

WP.No.29901 of 2024

**DISMISSING THE WRIT PETITION
WITHOUT COSTS**

11 Copies
[Signature]
29/11/24.