

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

MONDAY, THE TWENTY FIRST 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: 29206 OF 2024

Between:

Mohd Sameer, S/o. Mohd Shukur, Age. 22 years Old, Occ. Student, R/o. 6-10-127/10/12, Golden City Colony Pillar No. 248, Rajendra Nagar, Hyderabad - 500052

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Medical and Health Services Dept, Secretariat, Hyderabad.
2. Kaloji Narayana Rao University of Health Sciences, Warangal rep its Registrar

...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 declare the action of the Respondent No. 2 in including the petitioner in the list of not eligible candidates under persons with disability PWD category for Admission into MBBS/BDS courses for the Academic year 2024-25 without assigning any reasons and without considering the Certificate for person with disability issued by the competent authority as being illegal arbitrary violative of Articles 14 and 21 of the Constitution of India besides violative of principles of natural justice and consequently direct the Respondent No 2 to consider the petitioner for Admission into MBBS/BDS course for the Academic Year 2024-25 under PWD category vide Roll No. 4201060908

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 the Respondent No 2 to consider the petitioner for Admission into MBBS/BDS

course for the Academic Year 2024-25 under PWD category vide Roll No. 4201060908 pending disposal of the above writ petition

Counsel for the Petitioner: SRI. HUSSAIN AAMIR

Counsel for the Respondent No.1: SRI T. RAMESH AGP FOR MEDICAL HEALTH FW

Counsel for the Respondent No.2: SRI A. PRABHAKAR RAO SC FOR KNRUHS

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.29206 of 2024 ✓

ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Hussain Aamir, learned counsel for the petitioner.

Mr. T.Ramesh, learned Assistant Government Pleader for Health, Medical and Family Welfare Department appears for respondent No.1.

Mr. A. Prabhakar Rao, learned Standing Counsel for Kaloji Narayana Rao University of Health Sciences (hereinafter referred to as 'the University') appears for respondent No.2.

2. With the consent of the parties, the writ petition is heard finally.

3. In this writ petition, the petitioner is aggrieved by the action of the University in not including him in the list

of candidates under Persons with Disability (PwD) category for admission into MBBS/BDS course for the academic year 2024-25 without assigning any reasons.

4. Facts giving rise to filing of this petition briefly stated are that, according to the petitioner, he is visually impaired and he had appeared in NEET-UG examination seeking admission into MBBS/BDS course for the academic year 2024-25 under PwD category. The petitioner was asked to appear before the medical board and thereafter, on 21.09.2024, the University issued the list of eligible candidates under the PwD category. The name of the petitioner was not included in the said list. Thereupon, the petitioner sent e-mails and representations to the University and thereafter, has filed this writ petition.

5. Learned counsel for the petitioner submitted that the petitioner is visually impaired and therefore, he be



accommodated. He, however, submits that the list of eligible candidates under the PwD category was issued on 21.09.2024.

6. On the other hand, learned Standing Counsel for the University submits that all seats, which were not filled up in the second round of counseling, had been notified for the third phase of counseling and the option has been given to the candidates for exercising web options on 20.10.2024 and the counseling has already commenced and shall be held today and tomorrow *i.e.*, 21.10.2024 and 22.10.2024. It is, therefore, submitted that, at this point of time, no relief can be granted to the petitioner.

7. We have considered the submissions made by the learned counsel for the parties and have perused the record.

8. It is trite law that extraordinary jurisdiction of this Court under Article 226 of the Constitution of India is discretionary in nature. It is also trite law that delay defeats equity and this Court, in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India, would not grant relief to an indolent person, who has slept over his rights (See **S.S.Balu v. State of Kerala**¹, **Vijay Kumar Kaul v. Union of India**² and **U.P.Power Corporation Limited v. Ram Gopal**³).

9. The normal rule is that when a particular set of persons are given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit and not doing so would amount to violation of Article 14 of the Constitution of India. However, the aforesaid principle is subject to well recognized exceptions

¹ (2009) 2 SCC 479

² (2012) 7 SCC 610

³ (2021) 13 SCC 225

in the form of delay and laches as well as acquiescence. The similarly situated persons, who did not challenge the wrongful action and acquiesced to the same, would be treated as fence-sitters and laches and delay would be a valid ground to dismiss their claim (See **State of U.P v. Arvind Kumar Srivastava**⁴).

10. On the touchstone of aforesaid well settled legal principle, we may advert to the facts of the case in hand. Admittedly, the admission to MBBS course is a time-bound process and two rounds of counseling have already been held. The petitioner was declared as ineligible under PwD category on 21.09.2024. However, the petitioner has filed writ petitioner after one month *i.e.*, on 21.10.2024. The petitioner has not explained the delay of a month in approaching this Court by stating that he was submitting e-mails and representations. The third phase of

⁴ (2015) 1 SCC 347

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counseling has already commenced, which is being held today and tomorrow. Therefore, at this point of time, no relief can be granted to the petitioner in this writ petition.

11. The Writ Petition is, accordingly, dismissed. No costs.

As a sequel, miscellaneous petitions, pending if any, stand closed

SD/- L. LAKSHMI BABU
ASSISTANT REGISTRAR
SECTION OFFICER

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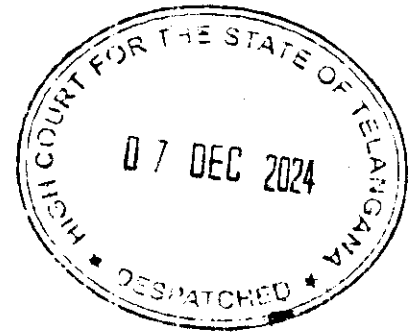
1. One CC to SRI. HUSSAIN AAMIR Advocate [OPUC]
2. One CC to SRI A. PRABHAKAR RAO SC FOR KNRUHS [OPUC]
3. Two CCs to GP FOR MEDICAL HEALTH FW ,High Court for the State of Telangana. [CUT]
4. Two CD Copies

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HIGH COURT

DATED:21/10/2024



ORDER

WP.No.29206 of 2024

**DISMISSING THE WRIT PETITION
WITHOUT COSTS**

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8/11/24
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