

[3418]

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

TUESDAY, THE TWENTY NINTH 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: 28402 OF 2024
AND
WRIT PETITION NO: 29725 OF 2024

WRIT PETITION NO: 28402 OF 2024:

Between:

Minor Ravinutala Lakshmi Ruthvika, Age 17 Years. Being Minor Represented by her father and Natural Guardian, Ravinutala Subramanya Sreekanth S/o Late Rameshwar Rao, aged 49 years, Occ: Business, R/o. 4-7-10/B507, Nacharam Uppal, 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, India.
7. Muktika Sai Thirunagari, D/o, not known, Aged not known, occ Student, Osmania Medical College, Hyderabad
8. Zaheda Zahraa, D/o. not known, Aged not known, occ Student, Osmania Medical College. Hyderabad.
9. Embadi Suhani, D/o. not known, Aged not known, occ Student, Osmania Medical College, Hyderabad.
10. Sreesam Siya Sharanya, D/o not known, Aged not known, occ Student, Osmania Medical College, Hyderabad.

11. Furqaan Mohammed Hashmath, s/o not known, Aged not known, occ Student, Osmania Medical College, Hyderabad
12. Oddem Arun Kumar, s/o not known, Aged not known, occ Student, Osmania Medical College, Hyderabad.
13. Kampati Manideep, s/o, not known, Aged not known, occ Student, Osmania Medical College, Hyderabad.
14. Munagapati Bhanu Prasad, s/o not known, Aged not known, occ Student, Osmania Medical College, Hyderabad
15. Areeba Rameez Fatima, d/o. not known, Aged not known, occ Student, Osmania Medical College, Hyderabad.
16. Gudelli Prathista Poojitha, d/o. not known, Aged not known, occ Student, ESIC Medical College and Hospital, Hyderabad.
17. Katta Manish Kumar, s/o not known, Aged not known, occ Student, ESIC Medical College and Hospital, Hyderabad
18. Darna Poojitha, d/o. not known, Aged not known, occ Student, ESIC Medical College and Hospital, Hyderabad.
19. S.Tarun, S/o, not known, Aged not known, occ Student, ESIC Medical College and Hospital, Hyderabad.

(Respondent Nos 7 to 19 are impleaded, as per Court Order dt 17-10-2024, vide I.A. No. 3 of 2024 in W.P. No. 28402 of 2024)

...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 & BDS courses under Competent Quota for the Academic Year 2024-2025 in contravention of Telangana Medical & Dental Colleges Admission (Admission into MBBS & BDS Courses) Rules, 2017 as being arbitrary, illegal and violative of the Petitioner's fundamental rights under Article 14, 19 & 21 of the Constitution of India. B. Set Aside the Admissions/ Allotment of seats of MRC candidates who got higher rank than the petitioner's rank of AIR 29430 in NEET exam 2024 under OC Category in Respondent No.4 & Respondent No.5 college and consequently reconduct the Petitioner's admission in strict adherence to Telangana Medical & Dental Colleges Admission(Admission into MBBS & BDS Courses) Rules, 2017. C. Direct the Respondents to consider & process Petitioner's web options in strict compliance of Telangana Medical and Dental Colleges Admission(Admission into MBBS & BDS Courses) Rules, 2017 while conducting counselling process for admission into MBBS & BDS Courses under Competent Quota for the Academic Year 2024-2025.

(Prayer is amended as per Court Order dt 17-10-2024, vide I.A. No. 4 of 2024 in W.P. No.28402 of 2024)

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, Respondent No.5 colleges to not to fill up one vacant MBBS seat that may arise out of subsequent counselling phases, pending disposal of the above writ petition.

IA NO: 2 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 stay the operation of Phase 2 MBBS Admission Allotment list declared by the Respondent on 07/10/2024, pending disposal of the above writ petition.

Counsel for the Petitioner: SRI VIMAL VARMA VASI REDDY

Counsel for the Respondent No.1: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.2: GP FOR MEDICAL & HEALTH

Counsel for the Respondent No.3: SRI A. PRABHAKAR RAO, SC FOR KNRUHS

Counsel for the Respondent No.5: SRI RAVINDER REDDY MUPPU

**Counsel for the Respondent No.6: Ms. GORANTLA SRIRANGA PUJITHA,
SC FOR NMC**

Counsel for the Respondent No.4 & 7 to 19: - - - -

WRIT PETITION NO: 29725 OF 2024:

Between:

Minor Saranya Varahalakshmi Puligandla, Aged about 17 years, Being Minor Represented by her father and Natural Guardian, Chandrasekharam Puligandla S/o Late.P.Chengal Rao, aged 50 years, Occupation . Private service, R/o. Flat no. G-1704, Lansum Etania Apartments, Puppalguda, Ranga Reddy District-500089. Nacharam Uppal, 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, India.
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 26277 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: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.2: GP FOR MEDICAL & HEALTH

Counsel for the Respondent No.3: SRI A. PRABHAKAR RAO, SC FOR KNRUHS

Counsel for the Respondent No.5: SRI RAVINDER REDDY MUPPU

**Counsel for the Respondent No.6: Ms. GORANTLA SRIRANGA PUJITHA,
SC FOR NMC**

Counsel for the Respondent No.4 & 7 to 19: - - - -

The Court made the following: COMMON ORDER

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

**WRIT PETITION NO. 28402 OF 2024 ✓
AND
WRIT PETITION NO. 29725 OF 2024 ✓**

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

The Writ Petition No.28402 of 2024 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) Set aside the Admissions/Allotment of seats of MRC candidates who got higher rank than the petitioner's rank of AIR 29430 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 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.
- D) and pass such other order(s) as this Hon'ble Court deems fit and proper in the interest of justice.....”

2. The Writ Petition No.29725 of 2024 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 26277 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 orders as this Honourable Court deems fit and proper in the interests of justice

3. The relief sought by the petitioner in both the writ petitions is one and the same and therefore, both the cases are disposed of by this common order with the consent of the respective parties.

4. Heard Sri J.Prabhakar, learned Senior Counsel appears for Sri Vimal Varma Vasireddy, learned counsel for the petitioner in W.P.No.28402 of 2024, Sri Srinivas Podicheti, learned counsel for the petitioner in W.P.No.29725 of 2024, Ms. Sujatha Kurapati, learned Government Pleader for Higher Education Department appearing for respondent No.1, Sri A.Prabhakar Rao, learned Standing Counsel appearing for respondent No.3-Kaloji Narayana Rao University of Health Sciences (for short 'the University'), Sri Muppu Ravinder Reddy, learned counsel for respondent No.5 and Ms. Gorantla Sriranga Pujitha, learned Standing Counsel appearing for respondent No.6-National Medical Commission of India, in both the writ petitions. No representation on behalf of respondent Nos.2, 4, 7 to 19.

5. **Brief facts of case:**

5.1 The petitioners in both the writ petitions averred that they appeared in the National Eligibility Cum Entrance Test (NEET) in the OC Category conducted in 2024 and the petitioner in Writ Petition No.28402 of 2024 secured All India Rank (for short 'AIR') of 29430 and Telangana State merit rank of 348 and the petitioner in Writ Petition No.29725 of 2024 secured AIR of 26277 and Telangana State merit rank of 314. 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 petitioners have exercised their web options.

5.2 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 petitioners took admission in Kakatiya Medical College, Warangal anticipating that they will get an admission in respondent Nos.4 and 5 Colleges in Phase-2 counselling, as all the OC Category seats were yet to be filled up.

5.3 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 petitioners have exercised their 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 higher than the petitioners' rank of 29430 and 26277 respectively. Pursuant to the Phase-2 counselling, the petitioner in Writ Petition No.28402 of 2024 was allocated to Apollo Medical College, and the petitioner in Writ Petition No.29725 of 2024 was allocated very same Kakatiya Medical College, which was their 4th option when they could have been allotted their 2nd and 3rd preference of college based on their rank.

5.4 It is also averred that the petitioner in Writ Petition No.28402 of 2024 obtained 86th seat in respondent No.4-College and 19th seat in respondent No.5-College based on her rank and the petitioner in Writ Petition No.29725 of 2024 obtained 75th seat in respondent No.4-College based on her rank. The petitioners sent e-mail dated 07.10.2024 and 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').

5.5 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 petitioners and their 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 petitioners and their cut off AIR was 32661 and State rank was 391.

5.6 It is further averred that against the actual seat matrix of 99 seats of OC Category including 4 PWD quota and 2

0

CAP/PMC quota, the total seats filled up in OC Category in respondent No.4 College is 55 seats including 4 PWD quota and 2 CAP/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 were filled up in OC Category in respondent No.5-College is 19 only. Respondents without following the mandatory procedure prescribed under the Rules have allocated the seats.

6.1 Respondent No.3 filed counter affidavit denying the averments made by the petitioners *inter alia* contending that respondent No.3-University has been conducting counselling for MBBS/BDS admission from 2017-18 onwards following the Government Orders issued in G.O.Ms.No.114, Health, Medical & Family Welfare (C1) Department, dated 05.07.2017 and subsequent amendments. The entire counselling procedure is web basis and digitalized without any manual intervention in the allotment procedure.

6.2 It is further stated that respondent No.3 University notified the provisional final merit list after verification of uploaded certificates on 26.09.2024 on University web site. In

Phase-1 counselling, the seat matrix has displayed a total of 5,328 seats in Government and private, non-minority medical colleges under the competent authority quota. In Phase-1 counselling, 2,257 allotments were made under open category. In the category rounds, 2,842 allotments have been made and 1,133 candidates have been slided as per their priority of web option to reserved category seats. In total 3,966 seats were allotted in respective medical colleges in Phase-1 counselling. A total of 1,133 seats in Open Category were vacated by Meritorious Reserved Candidates (MRC), who were slided by the software in accordance with their priority of web options to reserved category seats.

6.3 It is further averred that respondent No.3-University has issued notification for exercising web options for Phase-2 counselling on 03.10.2024. The vacant seats matrix was notified in respondent No.3-University showing 1,379 vacant seats excluding 14 vacant seats in minority medical colleges. The matrix included 1,130 seats under various reserved category as vacant seats to be allotted, as 3 seats of the MRC candidates have not joined in accordance with G.O.Ms.No.114. Pursuant to the above said notification, all the candidates were permitted to exercise their web options from 04.10.2024 to

06.10.2024 for Phase-2 counselling. At the end of Phase-2 counselling, total 5,323 seats were allotted including 1,130 open seats vacated by MRC candidates in Phase-1 counselling, which were converted to respective reserved category seats in accordance with the G.O.Ms.No.114.

6.4 It is further averred that the counselling has been conducted strictly in accordance with the Rules of admission notified by the Government in G.O.Ms.No.114 and subsequent amendments. It is further stated that the last rank of candidate allotted under Open Category at Osmania Medical College is 20797 and the last rank of candidate allotted under Open Category at ESI Medical College is 24501 rank, whereas the petitioners got 29430 and 26277. MRC candidates who are allotted reserved category seats after sliding from Open Category for their better option of colleges and the open category seats were vacated by the MRC candidates have been converted to the respective reserved category seats and allotted to candidates of that reserved category in the Phase-2 counselling and the petitioners are not entitled for any relief in these writ petitions.

7. Submissions of the learned Senior Counsel for petitioners:

7.1 Learned Senior 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.

7.2 He vehemently contended that in respondent Nos.4 and 5 colleges, allocated seats to the candidates who secured lesser ranks than the petitioners, which is contrary to the Rule 4, sub-rule (xi) to (xv) of the Rules. In support of his contention, he relied upon "**Ramnaresh alias Rinku Kushwah and others vs. State of Madhya Pradesh and Others**¹."

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

¹ 2024 SCC OnLine SC 2058

8.1 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 petitioners.

8.2 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 petitioners are 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:

9. 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.

10. 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."

11. 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.

12. The record reveals that admittedly, petitioners in both the writ petitions are belonging to OC Category and they secured AIR of 29430 and 26277 respectively. The core contention of the petitioners is that respondent Nos.4 and 5 colleges, allotted seats in OC Category who secured lesser rank, and then the petitioners and the same is contrary to Rule 4, sub-rule (x) of Rules.

13. Respondent No.3 in para-8 of the counter affidavit specifically stated 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 petitioners have secured the AIR of 29430 and 26277 respectively. 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.

14. The main ground raised by the petitioners is that in respondent Nos.4 and 5 colleges, the candidates who secured lesser rank i.e., 31717, 32661 than the petitioners 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 petitioners are not entitled to compare with the reserved category candidates, as the petitioners are belonging to open category candidates.

15. 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."

16. The judgment relied by the learned counsel for the petitioners in **Ramnaresh alias Rinku Kushwah** (*supra*) is not applicable to the facts and circumstances of the case on hand. The Hon'ble Supreme Court held that in this case Madhya Pradesh Education Admission Rules, 2018, which introduced a 5% reservation for government school students following the NEET (UG) examination. The sub-classification of candidates into categories like UR-GS (Unreserved Government School) and OBC-GS (Other Backward Classes Government School) was illegal, resulting in less meritorious candidates being admitted to UR-GS seats while more qualified candidates faced unfair denials despite higher marks, highlighting significant cut-off disparities. The State defended this classification under horizontal reservation policies. However, the Supreme Court

held that vertical reservation categories should be admitted based on merit in the open category, ensuring equitable access to seats and directing the admission of wrongfully denied appellants in the next academic session against reserved seats.

17. It is already stated *supra* that the petitioners are 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 petitioners are secured AIR rank 29430 and 26277 rank. 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 petitioners are not entitled to compare themselves 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.

18. It is also pertinent to mention that the petitioners have already got admission as per their merit in Apollo Medical College and in Kakatiya Medical College and the entire counselling including admissions are completed. The petitioners have filed these writ petitions after completion of the entire selection/admission process, without explaining any reasons for the delay.

19. For the foregoing reasons, this Court does not find any merit in both the writ petitions.

20. Accordingly, both the Writ Petition Nos.28402 and 29725 of 2024 are dismissed. There shall be no order as to costs.

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

**SD/- L. LAKSHMI BABU
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to SRI VIMAL VARMA VASI REDDY, Advocate [OPUC]
2. One CC to SRI SRINIVAS PODICHETI, Advocate [OPUC]
3. One CC to SRI RAVINDER REDDY MUPPU, Advocate [OPUC]
4. One CC to SRI A. PRABHAKAR RAO, SC FOR KNRUHS [OPUC]
5. One CC to Ms. GORANTLA SRIRANGA PUJITHA, SC FOR NMC [OPUC]
6. Two CCs to GP FOR HIGHER EDUCATION, High Court for the State of Telangana. [OUT]
7. Two CCs to GP FOR MEDICAL & HEALTH, High Court for the State of Telangana. [OUT]
8. Two CD Copies

BN
LS

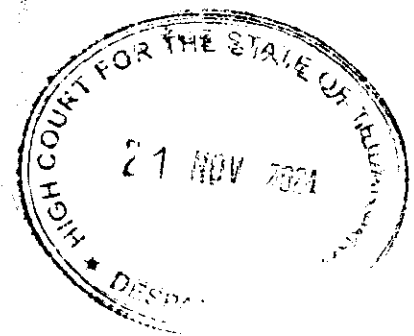
K.P.

HIGH COURT

DATED:29/10/2024

COMMON ORDER

WP.No.28402 & 29725 of 2024



**DISMISSING BOTH THE WRIT PETITIONS
WITHOUT COSTS**

12 Copies

[Signature]
13/11/24