

(1998) 12 AP CK 0008

Andhra Pradesh High Court

Case No: Writ Petition No. 18764 of 1998

M.N. Chaitaniya

APPELLANT

Vs

N.T.R. University of Health
Sciences, A.P., at Vijayawada and
others

RESPONDENT

Date of Decision: Dec. 16, 1998

Citation: AIR 1999 AP 70 : (1999) 1 ALD 267 : (1999) 1 ALT 456

Hon'ble Judges: C.V.N. Sastri, J

Bench: Single Bench

Advocate: Mr. M.V.S. Suresh Kumar, for the Appellant; Mr. K.G.K. Prasad, SCR for NTR University of Health Sciences, Mr. C. Kodandaram, SC for EAMCET-97 and Mr. C. Venkata Raghuramulu, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

1. In this writ petition, the petitioner assails the action of the first and second respondents in not allotting a seat to her under NCC quota in the M.B.B.S. Course for the year 1997-98 and instead granting the said seat to the third respondent.
2. The petitioner secured the rank of 4439 in the entrance test, whereas the third respondent secured the rank of 8641. The third respondent was however preferred on the ground that he participated in the Republic Day Parade at New Delhi.
3. It is not in dispute that as per the rules for admission, out of the available seats for admission by the University of Health Sciences 1/4% (0.25%) of the seats are reserved for National Cadet Corps candidates. According to the respondents, only one seat was available under NCC quota and the same was allotted to the third respondent as he was placed at the top of the gradation list by the NCC Directorate on the evaluation of the certificates produced by the candidates. Though the petitioner sought to question the selection of the third respondent in preference to her, I am satisfied that the third respondent is entitled for preference over the

petitioner as the third respondent participated in the Republic Day Parade at New Delhi and I do not find any illegality in the selection of the third respondent for the said seat. The petitioner has however raised an alternative contention that on a proper computation of the seats available, one more seat should be provided under NCC quota and if so provided the petitioner stands a chance of getting that seat as she was the only other candidate besides the third respondent who appeared at the time of counselling for allotment of seat under NCC quota.

4. According to the notification issued for admission for the academic year 1997-98, the following seats were available in the local area of Osmania University.

Osmania University College	... 200
Gandhi Medical College, Hyderabad	... 150
Kakathiya Medical College, Warangal	... 100
Total	450

In Siddhartha Medical College, Vijayawada which is a State-wide institution out of the total seats of 100, 36 seats are available for the Osmania University region. Thus, the total available seats as per notification was 486. Forty three additional seats became available in Kakathiya Medical College, Warangal and 85 more seats also became available in the un-aided private Medical College i.e., Mamatha Medical College, Khammam and 75 seats in Deccan College of Medical Sciences, Hyderabad. Thus, the total number of seats available for being filled by the first respondent-University of Health Sciences came to be 689. If so the reserved seats under NCC quota comes to 1.72 (0.25% of 689) which has to be treated as two seats. On that basis one more seat has to be provided for candidates under NCC quota.

5. In the counter-affidavit filed on behalf of the respondent No.1, a stand is taken that the private medical college and un-aided minority medical college in the State were treated as State-wide institutions as per G.O. Ms. No. 184, Education-E2 Department, dated 20-8-1993, that out of 75 seats in Deccan College of Medical Sciences, Hyderabad only 24 seats are available for Osmania University area and similarly out of 85 seats in Mamatha Medical College, Khammam only 26 seats are available for Osmania University area and so the total number of seats available for Osmania University area comes to only 575 and the percentage of reservation for NCC candidates comes to 1.43 only which should be treated as one seat only. This is however rebutted by the petitioner by stating that Deccan College of Medical Sciences, Hyderabad and Mamatha Medical College, Khammam were not declared as State-wide institutions and this is borne out by the notification issued by the first respondent-University itself for the year 1998-99.

6. The Counsel for the petitioner also relies on a judgment of the Division Bench of this Court in [J. Sameerana Vs. A.P. State Council for Higher Education and Others](#), wherein it was held that all the Private Engineering Colleges which are now functioning in the State of Andhra Pradesh including minority educational

institutions are not state-wide educational institutions and that according to the Presidential Order of 1974, 85% of the available seats in every course of study have to be earmarked in favour of the local candidates in relation to the local area in respect of such University/ educational institution. Learned Counsel for the respondents, however, sought to contend that the judgment of the Division Bench cannot be made applicable retrospectively for the admissions for the academic year 1997-98 which were already completed. It is, however, conceded by the learned Counsel for the respondents that Mamatha Medical College, Khammam and Deccan College of Medical Sciences, Hyderabad, were not notified as State-wide institutions. It, therefore, follows that the total number of seats available for admission by the first respondent-University is 689 and as such two seats must be provided for candidates belonging to NCC category. But the authorities, by restricting it to only one seat, deprived the petitioner of admission for no fault of her. Under these circumstances, I feel that it is just and proper to accommodate the petitioner in any available seat for the academic year 1997-98.

7. In the aforesaid decision, the Division Bench, while declaring the law observed that the Court will be failing in its duty if it did not grant equitable relief to the writ petitioners but at the same time, the Division Bench also was conscious of the fact that admissions which were already completed should not be upset. Under the circumstances, the Division Bench directed that the three writ petitioners in that case should be accommodated by granting them admission for the academic year 1997-98 as they have been denied admission for no fault of theirs. The Division Bench stated that no student already admitted should be dislodged and the petitioners shall be accommodated in the vacant seats available (both free and payment) and their choice is limited to the available seats in the courses they wish to join.

8. Learned Counsel for the respondents, on receipt of instructions, submits that there is one free seat available in Mamatha Medical College, Khammam and one payment seat in Deccan College of Medical Sciences, Hyderabad. Following the above decision of the Division Bench, this writ petition is disposed of with a direction to the first respondent to accommodate the petitioner in the free seat available in Mamatha Medical College, Khammam, under NCC quota for the academic year 1997-98 preferably within one week from the date of receipt of a copy of this order.

9. There will be no order as to costs.