

APHC010181432022



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3446]

THURSDAY, THE THIRD DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

HONOURABLE THE CHIEF JUSTICE DHIRAJ SINGH THAKUR

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

WRIT PETITION NO: 10783/2022

Between:

Shanmukha Kanaka Priya Chinta,

...PETITIONER

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.T LAKSHMI NARAYANA

Counsel for the Respondent(S):

1.S.V.S.S.SIVA RAM

2.RAVI KIRAN KUMAR KOLUSU (SC FOR SAAP)

3.J JANAKIRAMI REDDY

4.GP FOR MED HEALTH AND FAMILY WELFARE

5.G V RAMAKRISHNA PRASAD

6.Tata Venkata Sridevi,Standing Counsel For Dr.NTR University of Health
Sciences

7.VENKATA RAMA RAO KOTA

The Court made the following Order:

(Per Hon'ble Sri Justice R. Raghunandan Rao)

Heard Sri T. Lakshminarayana, learned counsel appearing for the petitioner, learned G.P. for Medical & Health appearing for respondent No.1, learned G.P. for Tourism, appearing for respondent No.2, Sri G. Vijaya Kumar, and Smt. T.V. Sri Devi, learned Standing Counsel appearing for respondent Nos.3 & 4, Sri K. Ravi Kiran Kumar, learned Standing Counsel appearing for respondent No.5, Sri J. Janakirami Reddy, learned counsel appearing for respondent No.15, Sri Kota Venkata Rama Rao, learned counsel appearing for respondent No.20 and Sri S.V.S.S. Siva Ram, learned Standing Counsel appearing for respondent No.21.

2. The petitioner herein had appeared for NEET Examination 2021 conducted for admission to Under Graduate Medical Courses in the State of A.P. She had secured Rank No.654334. Thereafter, she had applied for admission to MBBS course by relying upon her performance in Handball. The application of the petitioner was considered under the sports category. However, she was unable to obtain a seat under this category and opted to join in respondent No.21-college under management seat category.

3. The petitioner, thereafter, filed the present writ petition contending that various persons, who had achieved lesser priority than her in the sports category, had been allotted medical seats in various colleges. The petitioner has specifically mentioned respondent No.18, who was granted a seat under sports quota, in the Convener quota, in respondent No.21-college. She

contends that though she was placed at priority No.92 in the final merit list for sports category and respondent No.18 was placed at priority No.146, the sports category seat available in respondent No.21-college was allotted to respondent No.18 and the same is clearly arbitrary and unreasonable. She contends that such allotment of seat is clearly not in accordance with the merit list prepared for the sports category.

4. The respondent-University has filed a counter affidavit in which it is stated that the relevant G.O.Ms.No.231 dated 11.07.2007 required the sports category reservation to be treated as horizontal reservation under which seats are allocated, within the sports category, to persons on the basis of the social status of their community. It is contended that the petitioner belongs to open category, whereas respondent No.18 belongs to BC-A category.

5. In the second additional counter affidavit, the details of the seats, allotted under sports category, in various colleges in Andhra University area, for the academic year 2021-2022, are shown as follows:

Open Category	1. Govt. Medical College, Srikakula OC – F 2. Govt. Medical College, Ongole OC – G 3. ASRAM Medical College, Eluru OC - G 4. GSL Medical College, Rajahmundry OC – G
SC Category	Govt. Medical College, Ongole SC– G
ST Category	PSIMS, Gannavaram ST – G
BC-A Category	NRI Medical College, Chinkakani BC-A G
BC-B Category	RMC, Kakinada BC-B G
BC-D Category	KIMS, Amalapuram BC-D G

6. It is contended that by virtue of this allotment of seats, there was no seat available to a sports person belonging to OC category in respondent No.21-college.

7. Sri T. Lakshminarayana, learned counsel appearing for the petitioner would contend that sports quota is a separate category of reservation, in which social status of the sports persons cannot be taken into account. He would submit that allotting seats in sports quota, according to the social status of community of such person, would amount to reservation within reservation and the same is impermissible. He relies upon a judgment of the Division Bench of the erstwhile High Court of Andhra Pradesh in the case of **P. Srividya vs. State of Andhra Pradesh**¹.

8. The learned counsel for the petitioner has also taken us through G.O.Ms.No.136, dated 30.04.2007 and G.O.Ms.No.231 dated 11.07.2007 to contend that there can be no reservation within reservation.

9. Smt. T.V. Sridevi, learned counsel appearing for the respondent-University as well as Sri S.V.S.S. Siva Ram, learned counsel appearing for respondent No.21-NRI Medical College would contend that the said Government Orders provide for sub-categorization of sports quota, in as much as, the said quota is only a horizontal reservation and not a vertical reservation which can be treated as a separate silo for allotment of seats.

10. G.O.Ms.No.136 dated 30.04.2007 was issued for regulating admission of students into Under-Graduate Medical and Dental Professional

¹ AIR 2008 AP 109

Courses. The Rules issued under this Government Order are the A.P. Un-aided Non-Minority Professional Institutions (Regulations of Admissions into Under Graduate Medical and Dental Professional Courses) Rules 2007. These Rules set out the criteria for admission, allotment of seats, procedure for filling up the competent authority seats as well as management seats. Apart from these provisions, the Rules also set out the Rules of Reservation for admission, both region-wise as well as community wise.

11. These Rules, after setting out the seats reserved for SC, ST and BC communities, also stipulated reservation for sub-categories in the following manner:

(3) Reservation for Special Categories:

a) Seats shall be reserved in each course for the following categories, to the extent indicated against them:

- (i) Physically Handicapped .. 3%
- (ii) National Cadet Corps ..1/4% (0.25%)
- (iii) Games and Sports ..1/2% (0.50%)

(*) Note: 3% Reservation provided to Physically Handicapped with the locomotary disorders and that too with disability of lower limbs between 50% to 70%, as per the instructions of Govt. of India Lr.F.No.U.12021/8/2002-MEC/ME.III, dated 12.05.2004 under Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

- (iv) 1% for the Children of Ex-servicemen and serving service personnel of the three wings of the Defence Services i.e., Army, Nav and Airforce, subject to the condition that the Ex-service men etc., are residing for a minimum of five years in Andhra

Pradesh, provided that if suitable candidates are not available equivalent to fulfill the above reservation, the condition of five year minimum period of residence shall not be insisted upon.

- b) The priorities in respect of the categories mentioned in item (a) above as declared by the Government vide G.O.Ms.No.254, HM&FW (E1) Department, dated 28.04.1993 and subsequent amendments thereto from time to time.

12. Thereafter, G.O.Ms.No.231 dated 11.07.2007 was issued for amending the above Rules. The relevant amendment reads as follows:

2. In clause (b) of sub-rule (3) after the note in clause (b) the following clause shall be added, namely:-

“(C): The reservations for special categories mentioned in clause (a) above shall be provided on the basis of compartmentalized horizontal reservation for each category of OC, BC, SC and STs”.

13. The amended Rules make it clear that the reservation granted under sports quota, would be a horizontal reservation under which, the seats available under sports quota would have to be distributed among all the social communities. This amendment was challenged before the erstwhile High court of Andhra Pradesh in **P. Srividya vs. State of Andhra Pradesh**². A division of the erstwhile High Court of Andhra Pradesh, after considering the challenge to this amendment, in terms of the grounds raised by the learned counsel for the petitioner herein, had upheld the amendment. The division bench, following the judgment of the Hon’ble Supreme Court, in “**Indira Sawhney vs.**

² AIR 2008 AP 109

Union of India1992 Supp (3) SCC 217, had also held that there was a necessity to treat the special reservations, mentioned above, as horizontal reservations.

14. In those circumstances, the contention of the learned counsel for the petitioner that distribution of sports quota seats among various social groups is not permissible, has to be rejected.

15. The petitioner is in the OC group, whereas the 18th respondent is in the BC-A group to whom the sports quota seat had been allotted in respondent No.21-college. In that view of the matter, the petitioner, even if she was eligible otherwise, would not have been granted a seat in respondent No.21-college.

16. The claim of the petitioner can also be viewed from another angle. In view of the fact that the sports quota seats have to be distributed between the social communities, the petitioner would have a case if she could point to any other sports person in the open category, who was allotted a seat even though he/she was less meritorious than the petitioner in the sports quota. The petitioner does not make out any such case.

17. In the circumstances, there is no merit in the writ petition. 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.

DHIRAJ SINGH THAKUR, CJ

R. RAGHUNANDAN RAO, J
Js.

HON'BLE MR. JUSTICE DHIRAJ SINGH THAKUR, CHIEF JUSTICE
&
HON'BLE MR. JUSTICE R. RAGHUNANDAN RAO

W.P.No.10783 of 2022

(per Hon'ble Sri Justice R.Raghunandan Rao)

03rd April, 2025

Js