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

TUESDAY, THE FOURTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT PETITION NO: 1893 OF 2025

Between:

Polineni Pavani Venkata Harika, D/o. P. Thirupathi Rao, Age. 29 years, Occ. Student, R/o. 6-3-5/1/3/401, TRI Star Homes, Behind ZP Quarters, Khammam-Telangana-507001.

...PETITIONER

AND

1. The State of Telangana, represented by its Principal Secretary, Medical and Health Family Welfare Department, Secretariat Buildings, Hyderabad-500 055
2. Kaloji Nararayana Rao University of Health Sciences, represented by its Registrar, Warangal.

...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 declaring the action of the respondents in not reserving 15 percent of Un-reserved seats in Competent Authority quota as per presidential Order, 1974 and the action of the 2nd respondent university in not considering the petitioner for registration for admission into PG-Medical course for the academic year 2024-25 under Management Quota Category as illegal, arbitrary, unconstitutional and consequently direct the respondents to reserve 15 percent of seats of competent authority quota for Un-reserved seats as per presidential Order, 1974 and consider the petitioner for admission into PG Medical course under Un-reserved seats and consequently direct the 2nd

respondent university to permit the petitioner for registration for admission into PG-Medical course for the academic year 2024-25 under Management Quota.

IA NO: 1 OF 2025

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 2nd respondent to consider the petitioner request for registration for admission into PG-Medical course under Competent Authority Quota and Management Quota pending disposal of the writ petition.

Counsel for the Petitioner : SRI M.DURGA PRASAD

Counsel for the Respondent No.1 : GP FOR MEDICAL HEALTH FW

Counsel for the Respondent No.2 : SRI T.SHARATH, SC FOR KNRUHS

The Court made the following: ORDER

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT. JUSTICE RENUKA YARA

WRIT PETITION No.1893 of 2025

ORDER: *(Per Hon'ble The Acting Chief Justice)*

In this petition filed under Article 226 of the Constitution, the petitioner has prayed to declare the action of the respondents in not reserving 15% of un-reserved seats in Competent Authority Quota as per Presidential Order, 1974 and also the action of respondent No.2-university in not considering the petitioner for registration of admission into PG-Medical course for the academic year 2024-25 under Management Quota Category, as illegal, arbitrary, unconstitutional and sought consequential directions (i) to the respondents to reserve 15% of seats of Competent Authority Quota for un-reserved seats as per Presidential Order, 1974, (ii) to the respondents to consider the petitioner for admission into Postgraduate Medical course under Un-reserved seats, and (iii) to respondent No.2-university to permit the petitioner for registration for admission into PG-Medical course for the academic year 2024-25.

FACTS:-

2. Shorn of unnecessary details, the case of the petitioner is that she is aggrieved by action of respondent No.2-University in

rejecting her application for PG-MD/MS course under 'Competent Authority Quota' for the Academic Year 2024-25. The petitioner is native of Khammam District of Telangana State and completed her school and intermediate education in the year 2012 from the State of Telangana.

3. The petitioner, after completion of intermediate education, studied MBBS at NRI Medical College at Guntur District of Andhra Pradesh State and completed the said course in the year 2017. She got herself enrolled in Andhra Pradesh Medical Council on 08.05.2019. The petitioner, after completion of MBBS, attempted PG NEET-2024 examinations and secured rank of 18247 under General Category. On 08.01.2025, respondent No.2 issued notification for online registration under 'Competent Authority Quota' for PG Medical Degree/Diploma courses for 2024-25. Earlier, the cut off marks for General Category candidate were 50 percentile. However, by the order dated 08.01.2025, it was reduced to 15 percentile.

4. On 30.10.2024, respondent No.2 issued prospectus for Postgraduate Medical Degree and Diploma courses and opined that candidates of other States are not eligible under 'Competent Authority Quota'. On 09.01.2025, the petitioner submitted online

application in the web portal of respondent No.2. On 11.01.2025, the petitioner received final reminder message in her mobile number intimating to upload the certificates on or before 11:00 AM on 12.01.2025, failing which the application will be rejected.

5. The stand of the petitioner is that on 11.01.2025, the petitioner unsuccessfully tried to upload her certificates in online portal, but as per the slot of college allotted to the petitioner i.e., NRI Medical College, Guntur, Andhra Pradesh, was not shown in the web portal and accordingly, the petitioner could not upload her application. The petitioner telephonically informed respondent No.2 about this difficulty.

Contention of the petitioner:-

6. Sri M. Surender Rao, learned Senior Counsel for the petitioner, by taking this Court to certain paragraphs of common order dated 17.12.2024 in W.P.Nos.30771 of 2024 and batch decided by a Division Bench of this Court, urged that the Presidential Order, 1974 issued under Article 371D of the Constitution which deals with education still applies to the State of Telangana. The Presidential Order dated 03.07.1974 (Annexure P-5) is relied upon to contend that a conjoint reading of paragraph Nos.5 and 6 leaves no room for any doubt that 85% of the seats

are reserved in favour of 'local candidates'. The petitioner is claiming her right of consideration against remaining 15% vacancies.

7. The next limb of argument is based on **The Telangana Medical Colleges (Admission into Postgraduate Medical Courses) Rules 2021 ('Rules of 2021')**. It is submitted that Rule-I deals with 'eligibility criteria' and as per this Rule, the petitioner is very much eligible to participate in the admission process. Rule-VIII deals with '*reservation* in favour of *local candidates*'. The Rules of 2021 were amended by **G.O.Ms.No.148**, dated 28.10.2024 (Annexure P-2). It is strenuously contended that mainly Rule-VIII of Rules of 2021 was amended which essentially deals with 'local candidate'. Thus, Rule-I of Rules of 2021 which prescribes 'eligibility criteria' has not undergone any amendment and the Division Bench in W.P.No.30771 of 2024 and batch clearly held that Rules-I, VI and VIII can co-exist and there is no 'head-on' between Rules-I, VI and VIII of Rules of 2021. In this backdrop, learned Senior Counsel for the petitioner submits that the respondents have erred in depriving the petitioner from her right of consideration against 15% quota.

8. Learned Senior Counsel for the petitioner by taking this Court to the counter filed by respondent No.2 contended that whole defence of respondent No.2-University is based on **G.O.Ms.No.148**, dated 28.10.2024. The petitioner was held to be ineligible for 'Competent Authority Quota' as per G.O.Ms.No.148. It was further argued that the petitioner did not register herself online for 'Management Quota'. As per G.O.Ms.No.148, a candidate can be treated to be eligible for admission into Postgraduate Medical courses only if he/she is Indian National/Person of Indian Origin/Overseas Citizen of India Card Holder and be a 'local candidate'. It is submitted that the whole counter of respondent No.2 is based on G.O.Ms.No.148, which only amended Rules of 2021 in relation of 'local candidate reservation' mentioned under Rule-VIII. Since petitioner is not claiming right of consideration as local candidate and confining her claim against remaining 15% quota, G.O.Ms.No.148 cannot be a hurdle for her. The previous minimum percentile i.e., 50 percentile stood reduced to 15 percentile and petitioner got more than 15 percentile marks, she is entitled against 15% quota.

Contention of the respondents:-

9. Sri T. Sharath, learned Standing Counsel for respondent No.2, submits that from 2018, the selections are being conducted through NEET. 50% of the seats are being filled up by the Central Government through NEET and only remaining 50% of the seats are being filled up by the State.

10. He further submits that broadly there are two kinds of quotas for filling up the seats viz., 'Competent Authority Quota' and 'Management Quota'. **G.O.Ms.No.40**, dated 09.05.2017, defines both the quotas. By taking this Court to the definition of 'Management Seats' as per G.O.Ms.No.40, learned counsel for respondent No.2 submits that apart from the seats which are earmarked from out of the sanctioned intake of seats, remaining seats will be under 'Competent Authority Seats'. Putting it differently, it is submitted that only earmarked seats shall fall within 'Management Seats' and remaining will be under 'Competent Authority Quota'.

11. Learned counsel for respondent No.2 placed reliance on Sections 3, 4 and 5 of **The Andhra Pradesh Reorganization Act, 2014** (for short, **'Reorganization Act'**) and urged that after formation of the State of Telangana, erstwhile districts of common

Andhra Pradesh were bifurcated/divided amongst newly formed states i.e., Andhra Pradesh and Telangana. The Reorganization Act can be termed as 'temporary law'. The concept of temporary law has been considered by the Apex Court in **Krishna Kumar Singh v. State of Bihar**[1] and it was held that if Parliament/State Legislature intent to revive the state of affairs which were existing before the temporary law was promulgamated, it would have to bring a law which has a retrospective effect. A disapproval by the Legislature cannot revive completed transaction. This principle is buttressed to highlight the point that as per Section 95 of the **Reorganization Act**, the previous arrangement including method and extent of filing seats was required to be followed for ten (10) years which were over by 02.06.2024. The selection in question is subsequent to the said date i.e., 02.06.2024.

12. It is strenuously contended by learned counsel for respondent No.2 that after ten (10) years from appointed day i.e., 02.07.2014, there exists no bifurcation of 85% and 15% quota. The entire seats can be filled up by the 'local candidates'. The earlier concepts of 'zones' in relation to filling up the seats for education fades into insignificance. He submits that the Coordinate Bench in W.P.No.30771 of 2024 and batch has not

[1] (2017) 3 SCC 1

examined the matter from this point of view and, therefore, any observation made therein regarding interpretation of Section 95 of the Reorganization Act and limiting of ten years mentioned hereinabove is distinguishable.

13. He further submits that a careful reading of G.O.Ms.No.148, dated 28.10.2024, shows that from paras 1 to 4, the background is clearly mentioned pursuant to which the Rules of 2021 were amended. Explanation (b) to Rule VIII (ii) although is struck down, the remaining Rule is still there in the statutory book. The present petitioner is not covered under Rule VIII and not a 'local candidate' for the purpose of admission in the State of Telangana.

14. It is further submitted that Presidential Notification of 1974 for the purpose of admission cannot be treated to be extended beyond ten (10) years in the light of Section 95 of the Reorganization Act. Thus, its applicability came to end on 02.06.2024.

Rejoinder submissions:-

15. Learned Senior Counsel for the petitioner, by placing reliance on a recent judgment of Supreme Court in **Dr. Tanvi**

Behl v. Shrey Goel[2], submits that in PG Medical Courses, the selection has to be done on merits. Thus, alternative argument is that even if the petitioner is not entitled to be considered against 15% quota arising out of the Presidential Order, 1974, she is entitled to be considered on her own merits. Thus, looking from any angle, the petitioner deserves a consideration on merits.

16. During the course of hearing, learned counsel for the parties submits that the minimum percentile has again been reduced during the pendency of this writ petition.

17. No other point is pressed by learned counsel for the parties.

18. We have heard learned counsel for the parties at length and perused the record.

FINDINGS:

19. Before dealing with rival contentions, it is apposite to quote the relevant portion of G.O.Ms.No.148 dated 28.10.2024 whereby the Rules of 2021 were amended, which reads thus:

"G.O.Ms.No.148 Dated: 28.10.2024.

Read the following:

1.The Andhra Pradesh Reorganiation Act, 2014 (Central Act No.6 f 2014).

[2]2025 SCC OnLine SC 180

2.G.O.Ms.No.186, HM & FW (C1) Department, dated 20.09.2021.
3.G.O.Ms.No.155, HM & FW (C1) Department, dated 18.11.2021.
4.G.O.Ms.No.109, HM & FW (C1) Department, dated 22.08.2022.
5.G.O.Ms.No.76, HM & FW (C1) Department, dated 03.07.2023.
6.From Registrar, KNRUHS, Warangal, Lr.No.1119/ KNRUHS/Admissions/2024, dt. 19.08.2024.

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ORDER:

The Registrar, Kaloji Narayana Rao University of Health Sciences, Telangana in the letter 6th above, has proposed certain amendments to the Telangana Medical Colleges (Admissions into Postgraduate Medical Courses) Rules, 2021 issued in the G.O. third read above in view of the completion of 10 years period after formation of Telangana State.

2. Section 95 of the Andhra Pradesh Reorganization Act, 2014 (Central Act No.6 of 2014), provides that the **existing admission quotas** in all Government or Private, aided or unaided, Institutions of higher, technical and medical education in so far as it is provided under Article 371-D of the Constitution, **shall continue as such for a period of ten years during which the existing common admission process shall continue.**

3. **Consequent upon expiry of the period of ten years provided in section 95 of the Andhra Pradesh Reorganization Act 2014, by 2nd June, 2014, the Government, after careful examination of the matter, have decided to amend the Telangana Medical Colleges (Admission into Postgraduate Medical Courses) Rules, 2021 issued vide G.O. third read above.**

4. Accordingly the following notification shall be published in the Telangana Gazette, Dated: 29.10.2024.

NOTIFICATION

In exercise of powers conferred by section 3 read with sub-section (1) of section 15 of the Telangana Educational Institutions (regulation of Admission and Prohibition of Capitation Fee) Act, 1983 (Act no.5 of 1983), the Government of Telangana hereby make the following amendments to the Telangana Medical Colleges (Admission into Postgraduate Medical Courses) Rules, 2021 issued vide G.O.Ms.No.155, HM&FW (C1) Dept, dated 18.11.2021, and as subsequently amended from time to time:-

AMENDMENT

In the said rules,

(1) in Rule IV, for sub-rule (i), the following shall be substituted: namely:-

"(i) 15%, 10% and 29% of the total number of seats notified in each of postgraduate degree and diploma courses separately shall be reserved for Scheduled Castes, Scheduled Tribes and Backward Classes respectively".

(2) In Rule V,

(a) for sub-rule (i), the following shall be substituted namely:-

"(i) The reservations to SC, ST and BC categories shall be 15% 10% and 29% in each broad specialty".

(b) sub-rules (xiv), (xv) and (xvi) shall be deleted".

(3) In Rule VI, for sub-rule (iv), the following shall be substituted namely:-

"(iv) It is further clarified that 'in-service candidate' means, a candidate who has put in

(a) two years of continuous regular service in tribal areas.

Tribal service means service located in tribal areas institutions recognized by the Government of Telangana.

(b) three years of continuous regular rural service

"Rural service means service rendered in Primary Health Centres, Subsidiary Health Centres, Dispensaries, Taluk Hospitals, Mobile Medical Units, Leprosy Control Units or the sample survey-cum-Assessment units, under Leprosy Temporary hospitalization wards situated in Taluks and Leprosy Training Centre in Telangana."

(c) six years of continuous regular service:

"Continuous regular service' means regular services in the State of Telangana in the following services:-

(1) Directorate of Medical Education.

(2) Directorate of Public Health & Family Welfare.
(3) Telangana Vaidya Vidhana Parishad.
(4) Insurance Medical Service.
(5) Singareni Collieries.
(6) Any other service notified by Government of Telangana".

(4) In Rule VIII, for sub-rules (i) and (ii) the following shall be substituted namely:-

(i) A candidate to be eligible for admission into P.G. Medical Courses under these rules should be an Indian National/Person of Indian Origin/Overseas Citizen of India Card Holder and be a Local Candidate.

(ii) 'Local candidate' means a candidate who has studied in the educational institutions in the State of Telangana for a period of not less than four (4) consecutive years ending with the academic year in which he appeared or as the case may be, first appeared in the relevant qualifying examination subject to:

Explanation (a): A candidate who is regarded as a **Local Candidate** for the purpose of admission to Undergraduate (MBBS) in the State of Telangana, but has studied in a State-wide Institutions outside the State of Telangana, shall also be regarded as a Local Candidate.

Explanation (b): A candidate, who has secured admission to the relevant Undergraduate Course (MBBS) under **Non-Local Quota** in the State of Telangana, shall not be regarded as a Local Candidate.

(5) In Rule IX, sub-rules (v) and (vi) shall be deleted.

(6) In Rule IX, in sub-rule (xxiii), clauses (s) and (t) shall be deleted.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr.CHRISTINA Z. CHONGTHU
SECRETARY TO GOVERNMENT"

(Emphasis Supplied)

20. The argument of learned Senior Counsel for the petitioner is that the eligibility criteria mentioned in Rule-I has not been

amended by G.O.Ms.No.148 dated 28.10.2024. The petitioner is eligible under Rule-I and therefore, even otherwise, the petitioner has a right of consideration in a PG seat in Telangana. We do not see any merit in this contention for the simple reason that the G.O.Ms.No.155, dated 18.11.2021, which is known as Rules of 2021, stood amended by G.O.Ms.No.148, dated 28.10.2024. Rules-I and VIII must be read conjointly. This is trite that the Courts must make endeavor to read and interpret different parts of the statute harmoniously, unless it is impossible to advance such interpretation. More-so, when validity of amended Rules through G.O.Ms.No.148 is not subject matter of challenge.

21. It is equally noteworthy that in the previous round of litigation before the coordinate Division Bench in W.P.No.30771 of 2024 and batch decided on 17.12.2024, the constitutionality of G.O.Ms.No.148 was challenged and the Court has reproduced it in paragraph No.18 of its judgment. The conclusion drawn by the Court reads thus:

> "**90.** In view of the preceding analysis, Explanation (b) to Rule VIII (ii) of Telangana Medical Colleges (Admission into Post Graduate Medical Courses) Rules, 2021 as amended by **G.O.Ms.No.148, dated 28.10.2024, and Explanation (b) to Rule 8 (ii) of the Telangana Admission** into Post Graduate (AYUSH) Courses Rules, 2024 issued vide G.O.Ms.No.149, dated 28.10.2024, **are struck down.** Such petitioners who have completed MBBS/BAMS/BHMS course from the State of Telangana or have completed MBBS/BAMS/BHMS from 'local area' as defined in the Presidential Order, 1974 are held

entitled to participate in the counselling for admission to post graduate courses in the State of Telangana in respect of seats for local candidates for the Academic Year 2024-25."

(Emphasis Supplied)

22. Only Explanation (b) of Rule VIII (ii) as amended by Rules of 2021 through G.O.Ms.No.148 and Explanation (b) of Rule 8 (ii) of the Telangana Admission into Post Graduate (AYUSH) Courses Rules, 2024 issued *vide* G.O.Ms.No.149, dated 28.10.2024 were struck down. Thus, remaining portion of G.O.Ms.No.148 got a stamp of approval from this Court. The Bench is informed that SLP No.30706-30708/2024, against the order of judgment of this Court in W.P.No.30771 of 2024, is pending before the Supreme Court. The Supreme Court granted an interim relief to the in-service candidates. The petitioner is admittedly not an in-service candidate. The inevitable conclusion arises from the conclusion drawn by this Court in W.P.No.30771 of 2024 and batch is that the Rule VIII which is coming in the way of the petitioner has not been set aside. Thus, said Rule is certainly coming in the way of the petitioner.

23. The contention of learned Standing Counsel for respondent No.2 that after introduction of the examination system through NEET, 50% seats are filled up as All India seats and remaining 50% seats through Management and Competent Authority Quota

has not been controverted by learned Senior Counsel for the petitioner. Thus, if the petitioner is eligible under 50% All India quota in view of reduction of percentile, the respondents shall consider her claim for the allotment of seat in accordance with law.

24. A careful reading of G.O.Ms.No.148 shows the background reasons for introduction of the amended Rules of 2021. The reasons mentioned in G.O.Ms.No.148 which, in our opinion, were foundational reasons for amending the Rules, 2021. The limited interference was made in W.P.No.30771 of 2024 and batch to the extent highlighted hereinabove.

25. Learned Senior Counsel for the petitioner, although, had taken pains to submit that in view of certain observations given in the judgment of W.P.No.30771 of 2024 and batch, the 15% quota as per the Presidential Order, 1974, still subsists against which a right of consideration, we are unable to persuade ourselves with this line of argument because it cannot be forgotten as to what is actually decided by the coordinate Division Bench in W.P.No.30771 of 2024. This is trite that precedent is what has actually been decided and not what is logically flowing from a previous judgment (see **Regional Manager v. Pawan Kumar**

Dubey[3], **Ambica Quarry Works v. State of Gujarat**[4] and **Union of India v. Major Bahadur Singh**[5]). The previous Bench in W.P.No.30771 of 2024 has actually did not interfere with G.O.Ms.No.148 except to the extent of declaring Explanation (b) as *ultra vires*. The remaining portion of G.O.Ms.No.148 dated 28.10.2024 i.e., Rule VIII (i) & (ii) is still coming in the way of the petitioner which were called in question in W.P.No.30771 of 2024, but were not interfered with.

26. In this petition, the petitioner has not challenged the constitutionality of amended Rule VIII of G.O.Ms.No.148. This is trite that if constitutionality of a provision which is coming in the way of the petitioner is not called in question, the Court is bound to treat it as *intra vires* and interpret the same accordingly (see **Molar Mal v. Kay Iron Work (P) Ltd.**[6]). This is equally settled that relief not claimed cannot be granted (see **State of Orissa v. Mamata Mohanty**[7]).

27. So far reliance on the judgment of **Dr.Tanvi Behl** (supra) is concerned, it is pertinent to note that those Writ Petitions were

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[3] AIR 1976 SC 1766
[4] AIR 1987 SC 1073
[5] (2006) 1 SCC 368
[6] (2000) 4 SCC 285
[7] (2011) 3 SCC 436

originally filed before Punjab and Haryana High Court challenging the *vires* of the provision which were coming in the way of admission of the petitioners therein. While examining such provisions, the Apex Court gave findings in **Dr.Tanvi Behl** (supra). At the cost of repetition, in the instant case, Rule-VIII of G.O.Ms.No.148 is coming in the way of the petitioner, but it is not called in question and in W.P.No.30771 of 2024, the interference was not made to the said G.O.Ms.No.148 except to explanation (b).

28. The background facts and reasons for issuing G.O.Ms.No.148 make it clear that the operative reason was that as per Article 371D of the Constitution and Section 95 of the **Reorganization Act**, the existing admission quotas shall not continue beyond a period of ten years. Despite the fact that G.O.Ms.No.148 is pregnant with this object and reason, the entire G.O., and the provisions which are coming in the way of the petitioners were not interfered with by the previous Bench. Thus, the judgment of **Dr.Tanvi Behl** (supra) cannot be pressed into service in the instant case where no challenge is made to the offending provision.

29. In view of forgoing analysis, we find no reason to interfere with the matter and the Writ Petition *sans* substance and is

hereby **dismissed**. The *ad interim* relief granted earlier stands vacated. There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

SD/-N. SRIHARI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Medical and Health Family Welfare Department, Secretariat Buildings, State of Telangana, Hyderabad-500 055
2. The Registrar, Kaloji Nararayana Rao University of Health Sciences, Warangal.
3. One CC to SRI M.DURGA PRASAD, Advocate. [OPUC]
4. Two CCs to GP FOR MEDICAL HEALTH FW, High Court for the State of Telangana. [OUT]
5. One CC to SRI T.SHARATH, SC for Kaloji Narayana Rao University of Health Sciences, Warangal. [OPUC]
6. Two CD Copies

BSK

BS

HIGH COURT

DATED:04/03/2025



ORDER

WP.No.1893 of 2025

DISPOSING OF THE WRIT PETITION WITHOUT COSTS

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S.B
17/3/25