

**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**



WRIT PETITION NO: 17700 of 2020

Kammur Thasmia Anjum and Others

...Petitioner(s)

Vs.

The State of Andhra Pradesh, rep. by its Special
Chief Secretary to Government, Department of
Health, Medical and Family Welfare, A.P., & Ors.

...Respondent(s)

Advocate for Petitioners:

MR.DANDUGULA SATYA SIVA
DARSHAN

Advocate(s) for Respondent(s):

GP FOR MED HEALTH AND
FAMILY WELFARE,
Mr.C V R RUDRA PRASAD,
Smt.Tata Venkata Sridevi,
Standing Counsel for Dr.NTR
University of Health Sciences

**CORAM : THE CHIEF JUSTICE DHIRAJ SINGH THAKUR
SRI JUSTICE CHALLA GUNARANJAN**

DATE : 22nd April 2026

ORDER: (per Hon'ble Sri Justice Challa Gunaranjan)

In the present writ petition, petitioners assail G.O.Rt.No.110, Health, Medical and Family Welfare (C1) Department, dated 12.02.2019, insofar as 1st respondent deciding to reimburse B-category medical fee only for one year on the pretext that the petitioner students got admitted to MBBS courses outside the State of Andhra Pradesh, being discriminative in comparison to such of those students who were

admitted to MBBS courses within the State of Andhra Pradesh, to be unreasonable classification and therefore, is in violation of Article 14 of the Constitution of India and consequently, to set aside the same and direct the 1st respondent to extend the benefit uniformly to all the students irrespective of their place of study.

2. Brief facts of the case are as follows:

(a) 5th respondent college is a private unaided educational institution established by the 4th respondent society for the purpose of imparting education in medical courses. It was granted Letter of Permission to establish medical college for undergraduate courses with an intake of 100 students, vide Letter of Permission, dated 13.07.2010. The same came to be renewed till the academic year 2014–15. For the academic year 2015–16, based on successive inspections conducted by the Medical Council of India (“M.C.I.”), as it was felt that the 5th respondent college was not in compliance with the requisite norms, the Executive Council of the M.C.I. had made recommendation to the Government of India not to accord renewal of Letter of Permission.

(b) The same eventually was assailed in W.P.No.31371 of 2015. An interim order came to be passed on 29.09.2015 allowing provisional admissions, however, it was made clear that the students, who sought admissions, were directed to be notified that such admissions would be subject to further orders of the Court and that they can not claim any

equities in future. The 5th respondent appears to have also preferred W.P.No.9215 of 2015 before the Delhi High Court for the very same relief and later has been withdrawn. Eventually, upon M.C.I. assailing the said interim order before the Division Bench, both the writ petition and as well as writ appeal came to be heard together, and by judgment and order, dated 20.04.2016, the writ petition came to be dismissed. The admissions so made by the 5th respondent college came to be cancelled. Even the review preferred against the aforesaid judgment also came to be dismissed, and so also the Special Leave Petition (SLP) was dismissed.

(c) In that background, all the students who were admitted to the 5th respondent college under B-category management seats made a request to the Hon'ble Chief Minister to do justice, as they had lost valuable time and opportunity in securing admissions to MBBS courses. It is stated that petitioners had later been successful in securing admissions under B-category management seats for the academic year 2018–19 in different colleges situated outside the State of Andhra Pradesh. Acceding to request of the students, who suffered in the hands of 5th respondent college, the 1st respondent had issued G.O.Ms. No.110, dated 12.02.2019, deciding to reimburse B-category fees to the students, however, in respect of students who got admitted in B and C-categories within the State of Andhra Pradesh were provided

reimbursement of two years' fee, whereas students who got admitted in colleges outside the State of Andhra Pradesh under same categories were provided reimbursement of only one year. Being dissatisfied with aforesaid decision in restricting reimbursement to only one year on the ground that petitioners had secured admissions outside the State of A.P., the present writ petition is preferred.

3. Respondents 1 and 2 have filed separate counter-affidavits. The respondents in their respective counter-affidavits maintained that petitioners have not suffered any loss, inasmuch as the 5th respondent college was already directed to refund the fee that was collected upon the admissions made for the academic year 2015–16. That though there was no legal obligation on the Government to reimburse medical fees, nevertheless, as a matter of policy, Government decided to reimburse the fee for 54 students to the tune of Rs.12,89,63,696/- and while reimbursing the same, students were categorized based on place of their study i.e., within the State and outside the State, which cannot be said to be unreasonable. Petitioners consciously chose to seek admission in 5th respondent college in pursuance to interim orders of this Court in W.P.No.31371 of 2015, which, *inter alia*, envisaged such admissions to be subject to further orders of the Court, besides not to claim any equities in future, therefore, cannot turn around and claim any loss or equity and that too after securing refund of the amount from the

college. Lastly, the respondents pleaded that the petitioners indeed signed specific undertakings for accepting one-year fee in terms of G.O.Ms. No.110, dated 12.02.2019, and further requested to release the amounts without further delay and having received the amount on 09.07.2020, chose to file the present writ petition, therefore, they cannot blow hot and cold having availed the benefit, and hence, urge to dismiss the writ petition.

4. We have heard Sri D.S. Siva Darshan, learned counsel for the petitioners; learned Government Pleader for Medical and Health for 1st respondent; Smt.T.V.Sri Devi, learned Standing Counsel for Dr.NTR University of Health Sciences, for respondents 2 and 3; and Sri C.V.R. Rudra Prasad, learned counsel for 5th respondent.

5. Both learned counsel for the petitioners and as well as learned counsels for the respondents reiterated their respective stands as pleaded in the writ petition and respective counter-affidavits.

6. It is not in dispute that the admissions made by 5th respondent college under B-category without intervention of official respondents came to be cancelled on account of the M.C.I. not renewing Letter of Permission for the academic year 2015–16. A coordinate Bench of this Court, while dealing with the challenge to non-renewal of Letter of Permission in W.P.No.31371 of 2015 and W.A.No.1101 of 2015, has categorically expressed the following view:

“37. In view of the dismissal of the writ petition, no orders are necessary in the writ appeal. Writ appeal is accordingly closed. We are informed that as a consequence to the interim orders granted by this Court, 2nd petitioner admitted the students for the academic year 2015-16 of its own. In other words, the students admitted were not allotted to the petitioner-college by the respondents. In paragraph (iii) of the order dated 29.09.2015 of this Court, it was made clear that the students allotted and admissions made pursuant to the interim orders should be notified that the admission is based on provisional permission and subject to further orders of the Court and no equities could be claimed by any student. We direct the petitioners to refund forthwith the entire amount collected from the students towards fee and other expenses. We also make it clear that this order does not come in the way of students to work out their remedies as available in law against the petitioners, if so advised.”

7. The students assailed aforesaid judgment and order before the Hon'ble Supreme Court in S.L.P.(C) No.15166 of 2016, along with S.L.P.(C) No.14377 of 2016, preferred by 5th respondent college, which came to be dismissed by common order, dated 23.05.2016. Further, review preferred by students, and as well as 5th respondent college seeking review of judgement and order of the Division Bench, also came to be dismissed vide order 01.09.2016. Even students unsuccessfully challenged orders of cancellation of admissions in W.P. No. 26123 of 2016, which came to be dismissed, vide order, dated 23.09.2016. The petitioners also admit that eventually they have been refunded the fee

by 5th respondent college in terms of the directions issued by the Division Bench.

8. It appears, considering the request of the petitioners that they had suffered on account of mistake of 5th respondent college, the Government had taken a sympathetic view, though there was no legal obligation on it in any manner to compensate them, in particular, with a financial aid which translated into issuance of G.O.Ms.No.110, dated 12.02.2019. In fact, even writ petitioners have initially accepted the said G.O., and went a step ahead in executing affidavits of undertaking, dated 14.02.2020, requesting for implementation of G.O. at earliest possible time and also stated that they had no objection for sanctioning of one-year fee to be credited to their accounts without any delay. Upon execution of such affidavits of undertaking, the official respondents have taken steps to release the amounts, and accordingly, even as per students, the amounts came to be credited to their accounts on 09.07.2020. It is only thereafter petitioners chose to file the present writ petition on 28.09.2020.

9. The entire narrative and the construction of petitioners' case rests on their assertion that students were victims of 5th respondent college and merely on account of the mistake of the college, they had to loose admission not only for the academic year 2015-16, but also suffered two successive years till securing admissions for the academic year

2018-19. Therefore, they ought to be compensated for the loss of two academic years by way of reimbursement of fee. Further, when Government decided to reimburse the fee for B and C-categories, the criteria adopted in classifying students into two classes was completely irrational and offending Article 14 of the Constitution of India.

10. Firstly, we are of the view that assertion of petitioners that they were victims in the hands of 5th respondent college is unfounded inasmuch as they had consciously made a choice to seek admission, despite in the interim orders passed in W.P.No.31371 of 2015, this Court had emphatically made a word of caution that such admissions would be subject to further orders of the Court and that the students can not claim any equity. Even this Court, while deciding the aforesaid writ petition, has specifically rendered finding that admission of students in 5th respondent college under B-category were without permission of official respondents, but rather at the volition of both 5th respondent and the students, hence, any subsequent adverse consequences have to be met and absorbed by them alone and cannot be thrust on the official respondents.

11. Be that as it may, though, there was any legal obligation on the part of 1st respondent, nevertheless it took a decision to reimburse medical fee to such of those affected students who later secured admissions in different colleges under B and C-categories. Essentially,

it is a policy decision of the State to extend such a fiscal benefit. The State is expected to be cautious in spending public money. Undoubtedly, the reimbursement of fee in present case and that too, for students securing admissions in B- category, which are management quota seats, would in no manner amount to a welfare measure, benefiting larger sections of students. Therefore, petitioners have no enforceable right as such to seek reimbursement of medical fee. The State in the process of trying to do justice for the affected students, though it did not had any role in the gamut of renewal of permission to 5th respondent college, nevertheless, a decision was taken to reimburse the fee to the students by classifying them into two categories - one those who have secured admissions in the colleges within the State, and those who have secured admissions in colleges outside the State.

12. In the process of making classification, a wide latitude of discretion and judgment must be given to the Government. No doubt, the true test of classification propounded by various judgments of the Hon'ble Apex Court requires that the classification must be founded on intelligible differentia distinguishing persons, transactions or things group together from others left out and that the differentia has a rational relationship to the object sought to be achieved by such classification. The classification may, however, also be founded on different basis viz., geographical or according to the objects or occupation or allied, but what

is necessary to be noticed would be that there must be a nexus between the basis of classification and object sought to be achieved. Having said that it has also been propounded by Hon'ble Apex Court that a mere differential treatment on its own cannot be termed as an anathema to Article 14 of the Constitution of India. Further, the Courts are not expected to insist on absolute equality by taking a rigid and pedantic view as against a pragmatic one. It is apt to quote the following paragraphs from the judgment of the Hon'ble Apex Court in **State of Uttarakhand v. Sudhir Budakoti**¹:

“14. A mere differential treatment on its own cannot be termed as an “anathema to Article 14 of the Constitution”. When there is a reasonable basis for a classification adopted by taking note of the exigencies and diverse situations, the Court is not expected to insist on absolute equality by taking a rigid and pedantic view as against a pragmatic one.

15. Such a discrimination would not be termed as arbitrary as the object of the classification itself is meant for providing benefits to an identified group of persons who form a class of their own. When the differentiation is clearly distinguishable with adequate demarcation duly identified, the object of Article 14 gets satisfied. Social, revenue and economic considerations are certainly permissible parameters in classifying a particular group. Thus, a valid classification is nothing but a valid discrimination. That being the position, there can never be an injury to the concept of equality enshrined under the Constitution, not being an inflexible doctrine.

16. A larger latitude in dealing with a challenge to the classification is mandated on the part of the Court when introduced either by the Legislature or the Executive as the case may be. There is no way, courts could act like appellate authorities especially when a classification is introduced by way of a policy decision clearly identifying the group of beneficiaries by analysing the relevant materials.

¹ (2022) 13 SCC 256

17. The question as to whether a classification is reasonable or not is to be answered on the touchstone of a reasonable, common man's approach, keeping in mind the avowed object behind it. If the right to equality is to be termed as a genus, a right to non-discrimination becomes a specie. When two identified groups are not equal, certainly they cannot be treated as a homogeneous group. A reasonable classification thus certainly would not injure the equality enshrined under Article 14 when there exists an intelligible differentia between two groups having a rational relation to the object. Therefore, an interference would only be called for on the Court being convinced that the classification causes inequality among similarly placed persons. The role of the court being restrictive, generally, the task is best left to the authorities concerned. When a classification is made on the recommendation made by a body of experts constituted for the purpose, Courts will have to be more wary of entering into the said arena as its interference would amount to substituting its views, a process which is best avoided.

18. As long as the classification does not smack of inherent arbitrariness and conforms to justice and fair play, there may not be any reason to interfere with it. It is the wisdom of the other Wings which is required to be respected except when a classification is bordering on arbitrariness, artificial difference and itself being discriminatory. A decision made sans the aforesaid situation cannot be tested with either a suspicious or a microscopic eye. Good faith and intention are to be presumed unless the contrary exists. One has to keep in mind that the role of the Court is on the illegality involved as against the governance.”

13. In the present case, the classification or preference given to the students who have secured admissions within the State compared with others would in no manner amount to unreasonable classification. The State intended to support the students who secured admissions within the State by reimbursing fee for two years and for others for one year, which we do not find to be illegal or offending Article 14 of the Constitution of India.

14. That apart, petitioners did not throw challenge to the G.O. at the very first instance, when it came to be issued on 12 02 2019, rather chose to pursue the Government for release of the benefit for almost more than a year. They even went to the extent of executing affidavits of undertaking, dated 14.02.2020, requesting to implement the G.O. and expedite the process of release of payment without delay. The said effort eventually fructified, and petitioners came to be paid the benefit on 09.07.2020 and only, thereafter, they chose to challenge the G.O. By way of aforesaid actions and conduct, petitioners have acquiesced their right to claim any better benefit than already extended and realized. Not only that, it also amounts to an act of approbation and reprobation. We, therefore, find no merit in the writ petition and, accordingly, the same stands dismissed. No order as to costs.

As a sequel, miscellaneous petitions pending in this case, if any, shall stand closed.

DHIRAJ SINGH THAKUR, CJ

CHALLA GUNARANJAN, J