
(1995) 06 AP CK 0013

In the Andhra Pradesh High Court

Case No : Writ Petition No. 6066 of 1995

Dr. M. Ranganatham

APPELLANT

Vs

University of Health Sciences, Vijayawada and another

RESPONDENT

Date of Decision : 22-06-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1995 AP 341 : (1995) 2 ALT 755

Hon'ble Judges : T.N.C. Rangarajanm, J

Bench : Single Bench

Advocate : K. Ramakrishna Reddy, for the Appellant; S. Ramamurthi Reddy, S.C. for U.H.S., for the Respondent

Judgement

1. This writ petition seeks transfer of the petitioner's admission from M.D. (dermatology) to M.D. (General Medicine) course.

2. The petitioner passed M.B.B.S., and appeared for Post Graduate Entrance Test May, 1993, and in July, 1993 he was given admission in M.D. (Tuberculosis and Chest diseases), but later on the ground that there has been some mistake in the ranking, he was directed to appear for the second selection. In the meanwhile, the entrance test itself was questioned by several candidates in certain writ petitions and there was a direction to review the rankings. The consequence was that the petitioner's rank came down to 60 and his option was, therefore, reduced. Accordingly, he was admitted to M. D. (Dermatology) in October, 1994. Subsequently, in December, 1994 and March, 1995, two candidates who have been admitted to M.D. (General Medicine) left the course. Therefore, the petitioner requested that in the vacancy caused, he should be given a transfer, but that request was rejected. The petitioner has, therefore, approached this Court with this petition. The respondent-university has filed a counter-affidavit stating the facts and pointing out the accommodating the petitioner in M.D. (General Medicine) course will be against the rules. The learned counsel for the petitioner submitted that in any case writ petition No. 206 of 1995 for a similar

relief has been allowed and was upheld by the Division Bench of this Court. The learned counsel for the respondents relied on the decision of a Bench of this Court in *Dr. K. Aruna Kumar v. A. P. University of Health Sciences* (1990) 1 ALT 455 which noted that Rule 12 of the rules of admission stating that any vacancy as on the date of closure of admission or that arises after the closure of admission shall not be filled, is mandatory, and therefore such an admission cannot be permitted.

3. I have gone through the rules and I find that while Rule 12 provides that admissions shall be closed on 31-10-1995 and any vacancy as on the date of closure of admission or that arises after the closure of admissions shall not be filled. There is another rule regarding mutual transfers or transfers. Rule 14 states that against clear vacancies, from one college to another, transfers may be permitted in exceptional circumstances at the discretion of the university, but such transfers shall not be permitted beyond six months from the starting of the course. Keeping these two rules in mind, looking at the decisions cited by both the sides, I think that perhaps the appropriate rule in the present case is Rule 14 and not Rule 12. Even though in *Aruna Kumar's* case (1990 (1) ALT 455) (*supra*) there was an similar request by the petitioner therein for admission to diploma in Gynaecology while she had already been admitted to diploma in Ophthalmology, the focus of attention was on the question whether the admission could be made after the date of application for admission. In spite of this decision given on 30-1-1990, the request in W.P. No. 206 of 1995 for shift from M.S. (General Surgery) to M.D. "Gynaecology) was allowed by a single Judge of this Court by the order dated 8-3-1995. When that matter went upon appeal, an order was made by the Division Bench W.A.M.P. No. 526 of 1995 to implement the order of the learned single Judge and also directed that after the petitioner is admitted to M.D. (Gynaecology) the resultant seat i.e., (Surgery) shall not be filled as it is not possible in the middle of the academic year to entertain fresh applications. That indicates that the subsequent Division Bench has considered Rule 14 to be the appropriate rule in a case of this kind rather than Rule 12. If this understanding of mine is correct, then the application of the petitioner herein which was made within six months for transfer to another course is admissible at the discretion of the university. It is stated that the petitioner can continue M.D. (General Medicine) course without any difficulty because of change of curriculum by reason of transfer and it is also possible for him to maintain the required attendance, I am of the view that such a permission cannot unreasonably be denied. The resultant vacancy, however, will not be filled by similar transfer inasmuch as such transfers are prohibited beyond six months from the date of starting of the course. I am taking this view with the understanding that the admission is to the M.D. course as such, and transfer from one subject to the other is not to be understood as a fresh admission to the course for which the petitioner had already been admitted. In the circumstances, let there be a mandamus as prayed for. Writ petition is allowed. No costs.

4. Petition allowed.