

(2022) 11 KAR CK 0012

In the Karnataka High Court

Case No : Writ Petition No. 22728 Of 2022 (EDN-RES)

Dr. Madhumita Swamy

APPELLANT

Vs

State Of Karnataka & Others

RESPONDENT

Date of Decision : 18-11-2022

Acts Referred:

Citation : (2022) 11 KAR CK 0012

Hon'ble Judges : Alok Aradhe, J;S Vishwajith Shetty, J

Bench : Division Bench

Advocate : Vivek Subba Reddy, Laxmi Narayana, N.K. Ramesh

Final Decision : Dismissed

Judgement

Alok Aradhe, J

1. Heard Sri Vivek Subbareddy, learned Senior Counsel for the petitioner, Sri Laxminarayana, learned Additional Government Advocate for respondent Nos.1 to 3 and Sri. N.K.Ramesh, learned counsel for respondent No.4

2. Heard on the question of admission.

3. In this writ petition, the petitioner who is an in-service PG - NEET qualified Doctor and who has secured 36509 rank in PG - NEET Examination under in-service quota under the General Merit category, inter alia seeks a writ of mandamus to consider the E-mail representation dated 16.11.2022 made to Karnataka Examination Authority and to direct the Authority to allot de-categorized seat to the petitioner of MD(Dermatology) in M.S.Ramaiah Medical college to the petitioner.

4. Facts giving rise to filing of this writ petition briefly stated are that, the petitioner is an in-service candidate. The petitioner participated in the PG-NEET examination and secured 36509 rank in NEET-PG examination under in-service quota under the GM category. The petitioner entered the options in the first round of counseling and had given 37 options in the order of merit. The first

three options given by the petitioner reads as under:

- 1) Bengaluru Medical College.
- 2) Dr.B.R.Ambedkar Medical College
- 3) M.S.Ramaiah Medical College

5. The petitioner participated in the first round of counseling and was allotted a Dermatology seat in Dr.B.R.Ambedkar Medical College which was second option. After allotment of seat, the petitioner exercised choice to meaning thereby that she would hold the seat and would participate in the second round of counseling to improve her position.

6. It is the grievance of the petitioner that in the second round of counseling, the petitioner was not permitted to alter her choices. The petitioner thereupon submitted a representation dated 16.11.2022 to the Karnataka Examination Authority and thereafter this writ petition has filed.

7. Learned counsel for the petitioner while inviting the attention of this Court to the brochure submitted that a choice to candidate can alter, modified, delete or re-order the higher order options and therefore, the petitioner could have been permitted to alter her option in the second round of counseling and should have been permitted to opt for a seat in M.S.Ramaiah Medical College which became available subsequently on account of de-categorization. It is also submitted that the petitioner is more meritorious candidate than the candidate who has been subsequently selected. However, it is fairly pointed out that Brochure does not contemplate a situation where a seat become available on account of de-categorization.

8. On the other hand, learned counsel for Karnataka Examination Authority has submitted that since the petitioner had opted for choice, she is eligible only to make her option to go higher and could have opted for seat in Bengaluru Medical College which become available. However, the petitioner cannot be permitted to choose any lower option. It is also submitted that the seat in M.S.Ramaiah Medical College has been allotted to one Dr.Rakesh D.S, who is not before this Court. Therefore, no effective relief can be granted to the petitioner.

9. We have considered the rival submissions made by the learned Counsel for the parties.

10. The relevant extraction of brochure is reads as under:

"Additional Instructions To Choice-

2 CANDIDATES

- Candidates who have exercised Choice-2 in first round are participating in the second round by holding the seat allotted to them in the first round.
- All the higher order options will displayed on the option entry screen.

- Candidates can alter, modify, delete or re-order the higher order options.
- Higher order options means, presume that the candidate has entered 76 options, and if the seat is allotted for his / her priority number 45 in the first round, then the priority number 1 to 44 are the higher order options.
- If higher order options are allotted to them, the earlier seat will automatically stand cancelled. OR
- If any of the Higher Order Options are not allotted, then the seat allotted to them in the first round will remain with the candidate."

11. From the perusal of the aforesaid relevant extract of the Brochure, it is evident that a choice to candidate can alter his priority only in case of higher order option. In the instant case, admittedly seat has not become available in Bengaluru Medical College. M.S.Ramaiah Medical College was the third option and was the lower order option than the institution in which the petitioner was already admitted namely Dr.Amedkar Medical College. Therefore, the petitioner could not have been permitted to alter her option and to choose lower order option. The Karnataka Examination Authority has therefore, rightly not permitted the petitioner to opt for a lower order option. The aforesaid seat is not contemplated under the Brochure.

12. It is pertinent to mention that the provisions of Brochure have not been assailed in this writ petition. One Dr.Rakesh D.S, has already been allotted a seat in M.S.Ramaiah Medical College. The process of second round of counseling is over and therefore, at this point of time, that too in the absence of a candidate who has been allotted a seat in the place of the petitioner, no relief can be granted to the petitioner.

13. For the aforementioned reasons, we do not find any merit in this petition and the same fails and is hereby dismissed.