
(1999) 04 AP CK 0044

In the Andhra Pradesh High Court

Case No : Writ Petition No. 27075 of 1998 and Batch

L. Jayasree

APPELLANT

Vs

Convenor, EAMCET-98, JNTU, Hyderabad and another

RESPONDENT

Date of Decision : 09-04-1999

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : AIR 1999 AP 383 : (1999) 3 ALD 258 : (1999) 3 ALT 171

Hon'ble Judges : C.V.N. Sastri, J

Bench : Single Bench

Advocate : Mr. Subrahmanyam Kurettle, for the Appellant; Mr. T.S. Harinath, for EAMCET and Government Pleader for Education, for the Respondent

Judgement

1. All these writ petitions relate to the admissions made for the Engineering Course under EAMCET, 98 for the academic year 1998-99 against the seats reserved for NCC category. The main question which arises for consideration is whether NCC certificates obtained after passing of the qualifying examination i.e., Intermediate can be taken into consideration or not for the purpose of making admissions into the Engineering Course under the NCC quota.

2. According to the petitioners, qualifying examination is the relevant date for examining the eligibility of the candidates for admission and any certificates obtained or qualifications acquired subsequently cannot be taken into account. According to them, NCC "A" and "B" certificates only can be obtained at the Intermediate level and "C" certificate can be obtained only after completion of Intermediate. So "C" certificate holders cannot be considered and they are not entitled for any preference over "A" and "B" certificate-holders. If "C" certificate-holders are also taken into consideration, it amounts to treating unequals equally and leads to discrimination offending Article 14 of the Constitution.

3. The question raised, however, is no longer res Integra as it is concluded by, at least, three judgments of this Court viz., (1) Sarath Prabhakar Vs. State Board of Technical Education and Others, , which is rendered by a Division Bench, (2) the

unreported judgment of a learned single Judge in WP Nos. 17560 and 15615 of 1993 dated 4-3-1994 and (3) another judgment of a learned single Judge reported in M. Subhas Reddy v. University of Health Sciences 1997 (3) ALD 343. In all these three judgments, after repelling similar contentions which were raised there also, this Court held that NCC "C" certificates obtained after the qualifying examination also can be taken into consideration and that "C" certificate-holders are entitled to preference over "A" and "B" certificate-holders for the purpose of admission. I am not impressed with the submission of the learned Counsel for the petitioners that the judgments 1 and 3 cited above have no application to the cases on hand since the first judgment dealt with ECET examination and the third judgment dealt with admission to MBBS Course which are governed by different sets of rules and that, in any case, the said judgments require reconsideration. The mere fact that those cases related to ECET and MBBS does not make any difference so far as the principle laid down is concerned. I am bound by the said judgments and I do not see any valid grounds either to take a different view or to refer these cases to a Division Bench for reconsideration of the said judgments. After all, the object of EAMCET or any other entrance examination is to select the best among the eligible candidates for admission based on merit. When candidates with superior qualifications and merit are available, they cannot be passed over on some imaginary grounds of discrimination. Even Article 14 of the Constitution does not forbid reasonable classification based on qualifications and merit. That apart, according to Rule 8(4Xc) of the Rules issued in G.O. Ms. No. 84 Education (EC-2) dated 20-8-1993, the priorities in respect of the categories mentioned in clauses (a) and (b) of the said rule shall be as declared by the Government. The priorities for admission into the Engineering Colleges under the NCC category were fixed by the Government in G.O. Ms. No. 194 dated 26-8-1993. According to the said priorities fixed by the Government, holders of NCC "C" certificate are entitled to priority over "B" and "A" certificate holders. I do not, therefore, find any illegality in the action of the respondents in giving preference to "C" certificate holders in the matter of admissions over "B" and "A" certificate holders.

4. So far as participation by the candidate in any competition after-passing the qualifying examination is concerned, it is provided in the rules of admission contained in the instruction booklet for EAMCET, 98, that the same shall not be considered. It is contended by the learned Counsel for the petitioners that if NCC "C" certificate which is obtained after the qualifying examination can be taken into consideration, there is no reason to apply a different yardstick with regard to participation in any competition after passing (the qualifying examination and that the action of the convener in placing such a restriction when the statutory rule itself did not provide for any such restriction is illegal and unauthorised. It is true that such a restriction is not found in G.O. Ms. No. 194, dated 26-8-1993. However, a similar provision is contained in G.O. Ms. No. 195 issued by the Government with regard to games and sports where the Government prescribed that participation in any games and sports after the qualifying examination

cannot be taken into consideration. As G.O. Ms. No.194, was silent on this aspect, the convener seems to have adopted the provision made in G.O. Ms. No. 195 in this behalf. Though I find it somewhat anomalous and inconsistent, for that reason I am not inclined to upset and disturb the admissions already made as the petitioners did not raise any objection about the same earlier and they have appeared for the test without demur and went through the selection procedure and allowed the admissions to be finalised. The petitioners are thus guilty of acquiescence and laches. Further the selected candidates are also not made parties to the writ petitions. No orders can be passed upsetting their admissions in their absence.

5. There is yet another reason for which the petitioners are disentitled to any relief. According to Rule 8-A of the rules of admission issued in G.O. Ms. No.184 as amended in G.O. Ms. No.110 dated 6-4-1996, once a candidate secures admission to a particular college/institution, he has no more claim for admission into other colleges, or to any other kind of staff or to any other branch/institutions under any circumstance. An undertaking to this effect has to be signed by the candidate. In the counter-affidavits filed on behalf of the respondents in these writ petitions, it is stated that either the petitioners have accepted the seats offered to them and joined the course or they have declined the seats offered to them. Suppressing the said facts, they have filed the present writ petitions. In either event, they are not entitled to seek any relief.

6. As the admissions have already been completed long ago and as the academic year also is running out, it will not be in the public interest to disturb the admissions already made at this distance of time. However, to avoid the repetition of such anomalies in future, it is desirable to suitably amend the rules issued in G.O Ms. No.184 dated 20-8-1993 and also the priorities fixed in G.O. Ms. No.194 and 195 dated 26-8-1993.

7. With the above observations, the writ petitions are dismissed. No costs.