

**M. John David Vs. Ntr University of Health Sciences and ors.**

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**Court : Andhra Pradesh**

**Decided On : Dec-27-2002**

**Reported in : 2003(1)ALD622**

**Judge : L. Narasimha Reddy, J.**

**Acts : Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993**

**Appeal No. : WP No. 23746 of 2002**

**Appellant : M. John David**

**Respondent : Ntr University of Health Sciences and ors.**

**Advocate for Def. : T.Y. Padmavathi, Adv. for Respondent No.1, ;Standing Counsel for University of Health Sciences, for Respondent No.2 and ;D. Sudhershana Reddy, Adv. for Respondent No.3**

**Advocate for Pet/Ap. : J. Sudheer, Adv.**

**Judgement :**

**ORDER**

**L. Narasimha Reddy, J.**

1. This writ petition is connected to W.P. No. 14881 of 2002 filed by the 3rd respondent herein. Hence, it is disposed of simultaneously along with the said writ petition, though through a separate order.

2. The petitioner and the 3rd respondent appeared in the EAMCET conducted in the year 2000. They secured ranks 3005 and 2626 respectively. The petitioner claimed social status of BC 'C' being a converted Christian, The 3rd respondent also claimed the same status. In view of the meritorious rank of the 3rd respondent, he came to be selected and admitted into the 1st year of MBBS Course at the 2nd respondent College.

3. Alleging that the 3rd respondent does not belong to BC 'C' category, the petitioner herein filed WP No. 350 of 2001 seeking a direction for cancellation of the admission of the 3rd respondent. The writ petition was dismissed and he preferred WA.No.188 of 2001. The same was disposed of with an observation that it shall be open to the petitioner to make representation and initiate proceedings before the appropriate authority constituted under the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short 'the Act').

4. The District Collector, West Godavari, initiated proceedings against the 3rd respondent under the said Act. Through orders dated 20-9-2001, the District Collector upheld the social status of the 3rd respondent. Thereupon, the petitioner carried the matter in appeal before the Government of A.P. The appeal was allowed through orders dated 3-8-2002 and the same resulted in cancellation of the Caste Certificate issued to the 3rd respondent. The 3rd respondent filed W.P. No. 14881/2002 challenging the order of the Government dated 3-8-2002. The writ petitioner has filed the present writ petition seeking a direction to respondent No. 2 to cancel the admission of the 3rd respondent in view of the orders of the Government and consequently admit the petitioner to the 1st year of MBBS course in the vacancy so caused.

5. Common arguments were addressed in both the writ petitions. Sri J. Sudheer, learned Counsel for the petitioner submits that in view of the cancellation of the Caste Certificate of the 3rd respondent, the seat will become vacant and the

petitioner is entitled to be considered against the same. To overcome the objection as to the completion of almost two academic years, the learned Counsel relies upon an unreported judgment of the Supreme Court in C. Tulasi Priya v. A.P. State Council of Higher Education rendered on 29-7-1998. He submits that if a candidate is wrongfully denied admission, the time that is spent in securing appropriate relief cannot be a factor against him and necessary directions need to be issued to provide a seat to such candidate in the immediately succeeding academic year.

6. Sri D. Sudershana Reddy, the learned Counsel for the 3rd respondent had made several submissions in his challenge to the orders passed by the Government. In fact that is the main issue in W.P.No. 14881 of 2002.

7. Through a separate judgment, W.P. No. 14881/2002 has been dismissed upholding the orders of the Government dated 3-8-2002, the effect of which is that the Caste Certificate issued to the 3rd respondent herein stands cancelled. It is not in dispute that the admission of the 3rd respondent into 1st year of MBBS Course during the relevant academic year was only on the basis of the Caste Certificate issued to him. Once the Caste Certificate is cancelled, it is axiomatic that the admission secured by him on the basis of that certificate cannot be sustained. Therefore, the relief claimed by the petitioner herein for cancellation of the admission of the 3rd respondent deserves to be cancelled, as a consequence or logical extension of the orders of this Court in WP No. 14881/2002.

8. Now remains the question as to whether the petitioner is entitled to be considered for admission against the resultant vacancy and, if so, the manner in which such admission can be made. Even if the resultant vacancy arises, the petitioner cannot claim it as of right. At the most, there can be a direction to respondent No. 2 to consider the case of the petitioner along with other eligible candidates. If he is most meritorious among them, he deserves to be admitted.

9. The other aspect of the matter is as regards steps to be taken for filling up the resultant vacancy. It is a matter of record that almost two years have elapsed since the 3rd respondent had been admitted. It is rather impracticable and impermissible to direct the respondent No. 2 to admit a fresh candidate in the

middle of the course against the seat, which hitherto was occupied by the 3rd respondent. The matter however needs to be considered from the point of view of the candidate who was otherwise denied the admission.

10. In C. Tulasi Priya's case (supra), the Hon'ble Supreme Court was confronted with a similar situation. Entrance Examination for admission into MBBS 1st year course was held for the academic year 1996-97. One of the candidates, who appeared in the entrance examination, was issued a wrong question paper and the same was replaced with a correct one at the subsequent point of time. She lost about half an hour time. She claimed proportionate marks corresponding to the time lost in the issuance of correct question paper. The relief was denied by the High Court. She approached the Supreme Court. By the time the matter was taken up, almost two academic years have elapsed. It was found that the petitioner was wrongfully denied the benefit. Having taken note of the fact that by the time she was eligible to be considered for admission, two academic years have elapsed, it was directed as under:

'In the circumstances and to do complete justice, it is necessary to grant the relief that is sought in the appellant's writ petition and to direct that the appellant shall be considered for admission to a medical college in the State of Andhra Pradesh in a seat from the quota of the State of Andhra Pradesh for the academic year 1998-99 session upon the basis that she has secured 94.55% marks at the EAMCET.'

11. Thus, the harm caused to the student during the academic year 1996-97 was redressed by directing her to be considered for admission for the academic year 1998-99. I am of the view that a similar situation arises in the present case also. But for the wrongful admission granted to the 3rd respondent, the petitioner would have had a chance of being considered. Accordingly, respondents 1 and 2 are directed to cancel the admission of the 3rd respondent in view of the judgment of this Court in W.P. No. 14881 of 2002 and to consider the case of the petitioner along with other similarly situated candidates, into the 1st year MBBS Course in the 2nd respondent college, in the admissions during the current academic year, if they are not closed. If the admissions for the current academic year are closed, this exercise shall be undertaken during the next academic year. Such a seat

shall, however, not cut into the sanctioned strength of the college.

12. The Writ Petition is accordingly disposed of. No costs.

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