

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

THURSDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HON'BLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION NOS: 43521, 40827 AND 43048 OF 2022

WP NO.43521 OF 2022;

Between:

Babu Benhur.R, S/o John Bilmoria.R aged about 48 years Occ .Temp pvt employment R/o Plot No.135, S.C.B. 5-20-241, Road No.4, Ravi colony, Mahindra Hills, Secunderabad

...PETITIONER

AND

1. THE STATE OF TELANGANA, Rep by its Principal Secretary Higher Education Department Secretariat Hyderabad Telangana State
2. THE TELANGANA STATE COUNCIL OF HIGHER EDUCATION, Represented by its Commissioner Masab Tank Hyderabad
3. THE CONVENOR, TS LAW CET and PGLCET 2022 Admissions Online Counselling Center PGRRCDE Osmania University Hyderabad Telangana State 500007
4. THE OSMANIA UNIVERSITY, Tarnaka Hyderabad Rep by its Registrar
5. The TELANGANA ADMISSION AND FEE, REGULATORY COMMITTEE, Represented by its Chairman,
6. Dr.B.R.Ahbedkar college of law, Repeented by its corospondent/Principal No.1-8-1.Bhaglingampally,Chikadpallay

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to ISSUE AN ORDER OR A DIRECTION OR A WRIT ONE IN THE NATURE OF WRIT OF MANDAMUS DECLARING THE action of the respondents in not allotting admission/seat to the petitioner (Hall ticket no. No.12222101219/RANK-9049 into 3 year LLB Course under TS-Lawcet 2022 IN THE 6TH RESPONDENT INSTITUTION under 15% unreserved open quota as illegal, contrary to law judicial precedents fundamental rights and consequently

1. Direct the respondents 1 to 5 to admit the petitioner herein to the 6th respondent institution the 15% unreserved quota in TSLAWCET- and consequently direct

2. To set aside the 1st phase Counselling of TSLAWCET-2022 as it is not followed the ratio of 15% unreserved open quota.

3. To direct the respondent No.5 to take necessary action/steps to monitor the admissions to maintain 15% unreserved open seats by taking necessary steps for locals and non locals on Merit basis (with No reservations)

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased direct the respondents herein in allot the seat to the petitioner in Convener Quota OF 15% OF UNRESERVED OPEN SEATS in TS-LAWCET-(Hall ticket no. No.12222101219/RANK-9049 in the 6th respondent institution/college pending disposal of the above writ petition

IA NO: 2 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further ongoing phase No.1 admissions of TS-LAWCET-2022 Pending disposal of the above writ petition

Counsel for the Petitioner: SRI J. C. FRANCIS

Counsel for Respondent No. 1: GP FOR HIGHER EDUCATION

Counsel for Respondent Nos. 2 & 3: SMT. C. VANI REDDY

Counsel for Respondent No. 4: SRI CH. JAGANNATHA RAO

Counsel for Respondent Nos. 5 & 6: ----

WP NO: 40827 OF 2022

Between:

Nava Sheela A, W/o J.C. Francis, aged 48 years, Occ. Household, R/o. 3-3-389/B, Chappal Bazar, Kachiguda, Hyderabad- Telangana.

...PETITIONER

AND

1. THE STATE OF TELANGANA, Rep by its Principal Secretary Higher Education Department Secretariat, Hyderabad, Telangana State.
2. THE TELANGANA STATE COUNCIL FOR HIGHER EDUCATION, Rep by its Commissioner, Masab Tank, Hyderabad.

3. THE CONVENOR TS LANCET and PGLCET 2022, Admissions Online Counselling Center PGRRCDE, Osmania University, Hyderabad Telangana State 500007.
4. THE OSMANIA UNIVERSITY, Tarnaka, Hyderabad, Rep by its Registrar.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order or a direction or a writ one in the nature of writ of mandamus declaring the proceedings of the respondents dated 05.11.2022 declaring the petitioner (Hall ticket no. 12212101621) as not eligible for exercising the web options for admission into 3 year LLB Course under TS-Lawcet 2022 as illegal, contrary to law judicial precedents and fundamental rights including right to education and consequently direct respondents herein to grant the following reliefs. A. direct the respondents to permit the petitioner to exercise web options in TS Lawcet B. direct the respondents to consider the case as per Clause D(9) of the notification issued by the respondents for the TS Lawcet admissions 2022 by proper mode of communication in transparency with reference to admissions under the notifications therein

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased direct the respondents to include name of the petitioner (Hall ticket no 12212101621) in the registered list of candidates to be published on 17.11.2022 so as to enable the petitioner to exercise her web options in phase-1 in TS Lawcet 2022 counseling Pending disposal of the above writ petition and pass

Counsel for the Petitioner: SRI DHARMESH D.K.JAISWAL

Counsel for Respondent No. 1: GP FOR HIGHER EDUCATION

Counsel for Respondent Nos. 2 & 3: SMT. C. VANI REDDY

Counsel for Respondent No. 4: SRI CH. JAGANNATHA RAO

WP NO: 43048 OF 2022

Between:

NAVA SHEELA A, W/o J.C. Francis, aged 48 years, Occ. Household, R/o. 3-3-389/B, Chappal Bazar, Kachiguda, Hyderabad- Telangana.

...PETITIONER

AND

1. THE STATE OF TELANGANA, Rep by its Principal Secretary Higher Education Department Secretariat, Hyderabad, Telangana State.
2. THE TELANGANA STATE COUNCIL FOR HIGHER EDUCATION, Rep by its Commissioner, Masab Tank, Hyderabad.
3. THE CONVENOR - TS LAW CET, and PGLCET 2022, Admissions Online Counselling Center PGRRCDE, Osmania University, Hyderabad Telangana State 500007.
4. THE OSMANIA UNIVERSITY, Tarnaka, Hyderabad, Rep by its Registrar.
5. Dr.B.R. AMBEDKAR COLLEGE OF LAW, Rep. by it Correspondent/Principal, No.1-8-1, Bhaglingampally, Chikkadpally, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order or a direction or a writ one in the nature of writ of mandamus declaring the action of the Respondents in not allotting admission/seat to the Petitioner (Hall ticket no. 12212101621/rank no.2324) into 3 year LLB Course under TS-Lawcet 2022 in the 5th Respondent Institution as illegal, contrary to law judicial precedents, fundamental rights and consequently direct the Respondent No.1 to 4 to admit the Petitioner herein in the 5th Respondent Institution

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents herein to allot the seat to the Petitioner in Convenor Quota in TS-LAWCET (Hall ticket No.1221210162/Rank No.2324) in the 5th Respondent Institution/College pending disposal of the above writ petition

IA NO: 2 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further ongoing phase no.1 admissions of TS-LAWCET-2022 pending disposal of the above writ petition

Counsel for the Petitioner: SRI DHARMESH D.K.JAISWAL

Counsel for Respondent No. 1: GP FOR HIGHER EDUCATION

Counsel for Respondent Nos. 2 & 3: SMT. C. VANI REDDY

Counsel for Respondent No. 4: SRI CH. JAGANNATHA RAO

Counsel for Respondent No. 5: -----

The Court made the following: ORDER

HON'BLE SRI JUSTICE K.LAKSHMAN

WRIT PETITION Nos.43521, 40827 AND 43048 OF 2022

COMMON ORDER:

The *lis* involved in all the present writ petitions is the same. Therefore, the same were heard together and are being decided by way of common order.

2. Heard Mr. J.C. Francis, learned counsel for the petitioner in W.P. No. 43521 of 2022, Mr. Dharmesh D.K. Jaiswal, learned counsel for the petitioners in W.P. No.40827 of 2022 and W.P. No. 43048 of 2022, learned Government Pleader for Higher Education appearing on behalf of respondent No.1 and Mrs. C. Vani Reddy, learned Standing Counsel for Telangana State Council for Higher Education (TSCHE) appearing on behalf of respondent No.2 in all the writ petitions and Mr. Ch. Jagannatha Rao, learned standing counsel for Osmania University, appearing on behalf of respondent No.4 in all the writ petitions.

3. **Facts of the case:**

i) The petitioners herein appeared for the T.S. LAW CET Examination (hereinafter referred to as 'examination') for admission into three (3) year undergraduate law course. The petitioner in W.P. Nos. 40827 of 2022 and 43048 of 2022 was allotted Hall Ticket No. 12212101621 and secured a rank of '2324'.

ii) As per the procedure of admission, the candidates qualifying the examination will be permitted to exercise web-options to select the colleges of their preference. *Vide* remarks on the website dealing with admissions of LAW CET, the petitioner in W.P. Nos. 40827 of 2022 and 43048 of 2022 was denied the option of marking her preferred colleges by the Convener, T.S. LAW CET (hereinafter referred to as 'Convener') on the ground that she studied and gave her tenth (10th) standard examination, intermediate examination and three-year undergraduate degree examinations outside the state of Telangana/Andhra Pradesh. Therefore, she was not entitled for a Convener Seat.

iii) The said action of denying the option of selecting the colleges of her preference was challenged by the petitioner in W.P. No.40827 of 2022. This Court *vide* interim order dated 11.11.2022 in I.A. No.1 of 2022 directed the Convener to permit the petitioner therein to exercise her web-options to select the colleges of her preference and permit her to participate in the admission counselling process, subject to the result of the writ petition.

iv) The petitioner in W.P. No.40827 of 2022 exercised her web-options and selected Dr. B.R. Ambedkar College of Law, Hyderabad as her 1st preference, K.V. Ranga Reddy College, Hyderabad as her 2nd preference, Andhra Mahila Sabha, Hyderabad as her 3rd preference and Marwadi College, Hyderabad as her 4th preference. However, after selecting her preferred colleges, the petitioner in W.P. No.40827 of 2022 was not allotted any college in the Phase-I provisional allotment of seats in Dr. B.R. Ambedkar College of Law, Hyderabad, which was her 1st preference. Challenging the non-allotment of a seat in Dr. B.R. Ambedkar College of Law, Hyderabad, the petitioner in W.P. No.40827 of 2022 filed another writ petition bearing W.P. No.43048 of 2022.

v) The petitioner in W.P. No.43521 of 2022 was allotted Hall Ticket No.12222101219 and secured a rank of '9049'. He exercised his web-options to select his preferred colleges for admission. He marked Dr. B.R. Ambedkar College of Law, Hyderabad as his 1st preference, Mahatma Gandhi Law College, Hyderabad as his 2nd preference, Panugoti Madhava Rao College, Hyderabad as his 3rd preference and Pendekanti Law College, Hyderabad as his 4th preference. However, no seat was allotted to him in the Phase I provisional allotment of seats. Therefore, he filed W.P. No.43521 of 2022 challenging the non-allotment of seat in Dr. B.R. Ambedkar College of Law, Hyderabad as illegal and arbitrary. Further, a direction was sought to direct Dr. B.R. Ambedkar College of Law, Hyderabad to grant him admission under the 15% seats of Convener quota. The petitioner also sought to set-aside the Phase I counselling and allotment of seats, as the same was in violation of relevant seat allotment rules.

vi) In W.P. No.43048 of 2022, this Court *vide interim* order dated 29.11.2022 in I.A. No.1 of 2022 directed the Convener to keep

one seat vacant in Dr. B.R. Ambedkar Law College, Hyderabad (Respondent No.5 therein).

vii) In W.P. No.43521 of 2022, this Court *vide* order dated 02.12.2022 in I.A. No.1 of 2022 directed the Convener to keep one seat vacant in Dr. B.R. Ambedkar Law College, Hyderabad (Respondent No.6 therein).

4. Contentions of the petitioner in W.P. Nos.40827 of 2022 & 43048 of 2022:

i) The petitioner is a local candidate and is entitled for admission under 85% seats reserved for local candidates under Andhra Pradesh Law Courses (Regulation of Admissions into 3 year and 5 year LLB/B.L. courses through Common Entrance Test) Rules, 2006 (hereinafter referred to as 'Rules, 2006).

ii) Though the petitioner studied her tenth (10th) standard examination, intermediate examination and three-year undergraduate degree outside the state of Telangana/Andhra Pradesh, she is still a local candidate as her parents were permanent residents of Telangana. Further, her husband is from Hyderabad and she has been residing in Telangana for more than twenty three years. In support of the same,

she filed her mother's Mulki Certificate dated 28.09.1970 and her Residence Certificate dated 02.04.2005.

iii) The petitioner shall be considered as a local as she is a permanent resident of Hyderabad and non-consideration of her candidature as a local is against Article 371D of the Constitution of India and Presidential Order, 1974.

iv) The petitioner, *in arguendo*, contends that in the event she is not treated as a local candidate for admission under 85%, she is entitled for admission as a non-local for the 15% unreserved seats. She relied on Rule 7 of the Rules, 2006.

v) Further, relying on the provisional allotment of list of Dr. B.R. Ambedkar Law College, Hyderabad it was contended that the seats in the 15% unreserved category are illegally allotted without following the Rules, 2006. She contends that there is no transparency in allotment of seats in 15% unreserved quota.

vi) Additionally, the petitioner contends that 15% unreserved seats are filled as seats reserved for local candidates and the same is illegal.

5. **Contentions of the petitioner in W.P. No.43521 of 2022:**

i) Though the petitioner is a local candidate, he is also entitled to claim a seat under the 15% unreserved category.

ii) The petitioner reiterated the contentions of the petitioner in W.P. Nos.40827 of 2022 and 43048 of 2022 that the seats were allotted contrary to the Rules, 2006 and the 15% seats unreserved seats are not filled. Therefore, he is entitled for a seat under the 15% category.

6. **Contentions of the Respondents:**

i) The residential status of the parents alone is not enough for the petitioner to claim status of a local candidate.

ii) The 15% unreserved seat category is open for both local and non-local candidates. The petitioners cannot contend that such 15% is restricted only for non-local candidates.

iii) Relying on **NTR University of Health Sciences, Vijayawada v. Dr. Babu Rajendra Prasad**¹ (hereinafter referred to

¹. (2000) 2 ALT 716 (FB)

as 'NTR University decided by the Full Bench of HC'), it was contended that reservation is calculated on the number seats available and such seats are proportionally divided between the 85% local category and 15% unreserved category.

iv) The petitioners in all the writ petitions are entitled to claim seat under the 15% unreserved seats. However, due to their ranks, they were not allotted seats in their preferred colleges.

7. Findings of the Court:

i) It is not in dispute that both the petitioners have secured qualifying marks in the examination. The only question before this Court is whether the petitioners are entitled for a seat as local candidates or non-local candidates and whether the allotment of seats by the Convener was in accordance with the applicable law.

ii) Before deciding the issues at hand, it is apposite to discuss the background behind having admissions to educational institutions in the name of local and non-local candidates.

iii) The erstwhile combined State of Andhra Pradesh consisted of three regions i.e., the Andhra region, the Telangana region and the

Rayalaseema Region. To ensure equal opportunities and representation to all the people from the three regions in matters of education and public employment, the Central Government *vide* the Thirty Second (32nd) Constitutional Amendment, 1973 added Article 371D to the Constitution of India. Article 371D empowers the President of India to pass orders in respect of the State of Andhra Pradesh to meet the requirements of the State for equal opportunities in the fields of education and employment.

iv) It is relevant to note that in exercise of the powers conferred under Article 371D of the Constitution of India, the President issued Presidential order: Andhra Pradesh Educational Institutions (Regulations and Admissions) Order, 1974 (hereinafter 'Presidential Order, 1974'). The said Presidential Order, 1974 defined the concept of local candidates, the concept of unreserved seats and the division of the available seats between 85% and 15%.

v) The Supreme Court in **Sandeep v. Union of India**² extracted the relevant provisions of the Presidential Order, 1974, which are further extracted below:

“15. At this stage we think it appropriate to refer to the relevant clauses of the Presidential Order. The pertinent clauses, we are inclined to think, are:

“**1.(2)** It extends to the whole of the State of Andhra Pradesh.

(3) It shall come into force on the 1st day of July, 1974.

2. Interpretation.—(1) In this Order, unless the context otherwise requires—

(a) ‘**available seats**’ in relation to any course of study, means the number of seats provided in that course for admission at any time after excluding those reserved for candidates from outside the State;

(b) ‘**local area**’, in respect of any university or other educational institution, means the local area specified in Para 3 of this Order for the purposes of admission to such university or other educational institution;

(c) ‘**local candidate**’, in relation to any local area, means a candidate who qualifies under Para 4 of this Order as a local candidate in relation to such local area;

(d) ‘**State Government**’ means the Government of Andhra Pradesh;

². (2016) 2 SCC 328

(e) 'State-wide educational institution' means an educational institution or a department of an educational institution specified in the Schedule of this Order;

(f) 'State-wide university' means the Andhra Pradesh Agricultural University constituted under the Andhra Pradesh Agricultural University Act, 1963 (Andhra Pradesh Act 24 of 1963), or the Jawaharlal Nehru Technological University constituted under the Jawaharlal Nehru Technological University Act, 1972 (Andhra Pradesh Act 16 of 1972).

(2) Any reference to any district in this Order shall be construed as a reference to the area comprised in that district on the 1st day of July, 1974.

(3) The General Clauses Act, 1897 (10 of 1897) applies for the interpretation of this Order as it applies for the interpretation of a Central Act.

3. Local area.—(1) The part of the State comprising the districts of Srikakulam, Visakhapatnam, West Godavari, East Godavari, Krishna, Guntur and Prakasam shall be regarded as the local area for the purpose of admission to the Andhra University, the Nagarjuna University and to any other educational institution (other than a State-wide university or State-wide educational institution) which is subject to the control of the State Government and is situated in that part.

(2) The part of the State comprising the districts of Adilabad, Hyderabad, Karimnagar, Khammam, Mahaboobnagar, Medak, Nalgonda, Nizamabad and Warangal shall be regarded as the local area for the purposes of admission to the Osmania University (the Kakatiya University) and to any other educational institution (other than a State-wide university or State-wide educational

institution) which is subject to the control of the State Government and is situated in that part.

(3) The part of the State comprising the districts of Anantapur, Cuddapah, Kurnool, Chittoor and Nellore shall be regarded as the local area for the purposes of admission to Sri Venkateswara University and to any other educational institution (other than a State-wide university or State-wide educational institution) which is subject to the control of the State Government and is situated in that part.

4. Local candidates.—(1) A candidate for admission to any course of study shall be regarded as a local candidate in relation to a local area—

(a) if he has studied in an educational institution or educational institutions in such local area for a period of not less than four consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared in the relevant qualifying examination; or

(b) where during the whole or any part of the four consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared for the relevant qualifying examination, he has not studied in any educational institution, if he has resided in that local area for a period of not less than four years immediately preceding the date of commencement of the relevant qualifying examination in which he appeared or, as the case may be, first appeared.

(2) A candidate for admission to any course of study who is not regarded as a local candidate under sub-para (1) in relation to any local area shall—

(a) if he has studied in educational institutions in the State for a period of not less than seven consecutive academic years ending with the academic year in which he appeared or, as the

case may be, first appeared for the relevant qualifying examination, be regarded as a local candidate in relation to—

(i) such local area where he has studied for the maximum period out of the said period of seven years; or

(ii) where the periods of his study in two or more local areas are equal, such local area where he has studied last in such equal periods; or

(b) if, during the whole or any part of the seven consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared for the relevant qualifying examination, he has not studied in the educational institutions in any local area, but has resided in the State during the whole of the said period of seven years, be regarded as a local candidate in relation to—

(i) such local area where he has resided for the maximum period out of the said period of seven years, or

(ii) where the periods of his residence in two or more local areas are equal, such local area where he has resided last in such equal periods.

Explanation.—For the purposes of this paragraph—

(i) '**educational institution**' means a university or any educational institution recognised by the State Government, a university or other competent authority;

(ii) '**relevant qualifying examination**' in relation to admission to any course of study, means the examination, a pass in which is the minimum educational qualification for admission to such course of study;

(iii) in reckoning the consecutive academic years during which a candidate has studied—

(a) any period of interruption of his study by reason of his failure to pass any examination; and

(b) any period of his study in a State-wide university or a State-wide educational institution, shall be disregarded.

(iv) the question whether any candidate for admission to any course of study has resided in any local area shall be determined with reference to the places where the candidate actually resided and not with reference to the residence of his parent or other guardian.

5. Reservation in non-State-wide universities and educational institutions.—(1) Admissions to eighty-five per cent of the available seats in every course of study provided by the Andhra University, the Nagarjuna University, the Osmania University, the Kakatiya University or Sri Venkateswara University or by any other educational institution (other than a State-wide university or a State-wide educational institution) which is subject to the control of the State Government shall be reserved in favour of the local candidates in relation to the local area in respect of such university or other educational institution.

(2) While determining under sub-para (1) the number of seats to be reserved in favour of local candidates any fraction of a seat shall be counted as one:

Provided that there shall be at least one unreserved seat.

6. Reservation in State-wide universities and State-wide educational institutions.—(1) Admissions to eighty-five per cent of the available seats in every course of study provided by a State-wide university or a State-wide educational institution shall be reserved in favour of and allocated among the local candidates in relation, to the local areas specified in

sub-para (1), sub-para (2) and sub-para (3) of Para 3, in the ratio of 42:36:22 respectively:

Provided that this sub-para shall not apply in relation to any course of study in which the total number of available seats does not exceed three.

(2) While determining under sub-para (1) the number of seats to be reserved in favour of the local candidates, any fraction of a seat shall be counted as one:

Provided that there shall be at least one unreserved seat.

(3) While allocating under sub-para (1) the reserved seats among the local candidates in relation to different local areas, fractions of a seat shall be adjusted by counting the greatest fractions as one and, if necessary, also the greater of the remaining fractions as another; and, where the fraction to be so counted cannot be selected by reason of the fractions being equal, the selection shall be by lot:

Provided that there shall be at least one seat allocated for the local candidates in respect of each local area.

7. Filling of reserved vacant seats.—If a local candidate in respect of local area is not available to fill any seats reserved or allocated in favour of local candidate in respect of that local area, such seat shall be filled as if it has not been reserved.

8. Power to authorise issue of directions.—(1) The President may, by order, require the State Government to issue such directions as may be necessary or expedient for the purpose of giving effect to this Order to any university or to any other educational institution subject to the control of the State Government; and the university or other educational institution shall comply with such directions.

(2) The State Government may, for the purpose of issuing any directions under sub-para (1) or for satisfying itself that any directions issued under that sub-para have been complied with, require, by order in writing, any university or any other educational institution subject to the control of the State Government to furnish them such information, report or particulars as may be specified in the order; and the university or other educational institution shall comply with such order.”

16. The State Government issued the Circular in 1979. The relevant paragraphs of the Circular deserve to be reproduced. They read as follows:

“2. The Andhra Pradesh Educational Institutions (Regulation of Admissions) Order, 1974 provides for reservation of seats in favour of local candidates in courses of study provided by the universities and other educational institutions subject to the control of the State Government. Para 9 of the Order lays down that the provisions of that Order shall have effect notwithstanding anything contained in any statute, ordinance, rule, regulation or other order (whether made before or after the commencement of the Order) in respect of admissions to any university or any other educational institutions subject to the control of the State Government. Para 10 of the said Order, however, declares that nothing in the Order shall affect the operation of any provisions made by the State Government or other competent authority (whether before or after the commencement of the Order) in respect of reservations in the matter of admission to any university or other educational institution in favour of women, socially and educationally backward classes of citizens, the Scheduled Castes and the Scheduled Tribes insofar as such provisions are not inconsistent with the Order.

3. After the coming into force of the above Presidential Order, with effect from 1-7-1974, admissions to the educational institutions in the entire State are to be made in the light of the provisions of the said Order. According to Para 4 of the Order a candidate for admission to any course of study shall be regarded as a local candidate in relation to the local area—

(a) if he has studied in an educational institution or educational institutions in such local area for a period of not less than four consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared in relevant qualifying examination; or

(b) where during the whole or any part of the four consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared for the relevant qualifying examination, he has not studied in any educational institution, if he has resided in that local area for a period of not less than four years immediately preceding the date of commencement of the relevant qualifying examination in which he appeared, or, as the case may be, first appeared.

4. It must be noted that Para 4(a) as extracted above covers the cases of those candidates who studied in an educational institution or educational institutions for a period of not less than four consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared in the relevant qualifying examination, while Para 4(b) applies to the case of other candidates. For purposes of Para 4(a) educational institution has been defined as a university or any educational institution recognised by the State Government, a university or other competent authority. The eligibility of a candidate who has studied during any part of the four-year period in an unrecognised

institution will have to be dealt with under Para 4(b). While considering the eligibility of a candidate to be regarded as a local candidate, under Para 4(a) of the Order by virtue of four consecutive years of study in a local area, it should be noted that in reckoning the consecutive academic years of study, any interruption in the period of his study, by reason of his failure to pass any examination shall be disregarded. For instance, a candidate who has studied in the IXth and Xth classes and the junior and senior intermediate classes in institutions of the same local area with a break of one year after the X Class on account of failure to pass the Xth class examination at the first attempt, shall be regarded as a local candidate in relation to that local area for admission to a degree course in any institution in that area.

5. The above definition of the local candidate (as it stood until it was amended with effect from 25-11-1976) had given rise to certain situations wherein some of the candidates belonging to the State of Andhra Pradesh who have studied or resided throughout within the State came to be regarded as non-local candidates in all the local areas within the State. In order to avoid such a situation, the Government of India have since issued the Andhra Pradesh Educational Institutions (Regulation of Admissions) Second Amendment Order, 1976 amplifying the said definition in para 4 of the Order.

6. The Andhra Pradesh Educational Institutions (Regulation of Admissions) Second Amendment Order, 1976 inserts a new sub-paragraph in the said 1974 Order viz. sub-para (2) to Para 4 thereby making provision for considering the claims of persons, who under the old definition would have become non-local in relation to all local areas in the State. *According to sub-para (2)(a) of Para 4, after amendment, if such a candidate has studied in educational*

institutions in the State for a period of not less than seven consecutive academic years ending with the academic year in which he appeared on, as the case may be, first appeared for the relevant qualifying examination, he shall be regarded as a local candidate in relation to that local area where he had studied for the longest period out of the said period of seven years. In the event of the periods of study in two or more local areas being equal he shall be regarded as local candidate in relation to that local area where he studied during the last of the said equal periods. Clause (b) to sub-para (2) applies to a candidate who, during the whole or any part of the seven consecutive academic years ending with the academic year in which he appeared or as the case may be, first appeared for the relevant qualifying examination has not studied in educational institutions in any local area, but has resided in the State during the whole of the said seven years, the candidate shall be regarded as a local candidate in relation to that local area where he has resided for the longest period out of the said seven-year period. This residence test will be applied to candidates in whose cases there is a gap in study, occasioned otherwise than by reason of failure to pass in an examination, in the prescribed full term of seven years immediately preceding the relevant qualifying examination. It has also been provided that where the periods of residence in two or more local areas are equal, such a candidate shall be regarded as a local candidate in relation to the local area where he resided last in such equal periods. The application of the liberalised definitions made through the Second Amendment Order are illustrated by the examples given in Annexure I.

9. ... the Government have directed that for the purpose of admission into educational institutions, those who claim to be local candidates with reference to Para 4(1)(a) or Para 4(2)(a) of the Andhra Pradesh Educational Institutions (Regulation of Admissions) Order, 1974 should produce evidence in the form of study certificates issued by the heads of the educational institutions concerned indicating the details of the year or years in which the candidate has studied in an educational institution or institutions in such local area for a period of not less than four or seven consecutive academic years ending with academic year in which he appeared or, as the case may be, first appeared in the relevant qualifying examination. *Those who do not qualify as local candidates under Para 4(1)(a) or 4(2)(a) but claim to qualify by virtue of residence under Para 4(1)(b) or Para 4(2)(b) of the said Order should produce a certificate issued by an officer of the Revenue Department not below the rank of Tahsildar in the form annexed vide Annexure II.*

11. As clarifications were being sought on the question as to who should be considered eligible to apply as candidates belonging to the State of Andhra Pradesh for the purpose of admission to courses of studies offered by educational institutions, subject to the control of the State Government against the 15% of the available seats kept unreserved in terms of the Andhra Pradesh Educational Institutions (Regulation of Admissions) Order, 1974 *the Government after careful consideration have directed that the following categories of candidates may be treated as eligible to apply for admissions to educational institutions in the State, subject to the control of the State Government, as candidates belonging to the State of Andhra Pradesh against the 15% of*

the available seats left unreserved in terms of the Presidential Order:

(i) All local candidates defined in the Presidential Order.

(ii) Candidates who have resided in the State for a total period of ten years excluding periods of study outside the State; or either of whose parents have resided in the State for a total period of ten years excluding periods of employment outside the State;

(iii) Candidates who are children of parents who are in the employment of this State or Central Government, public sector corporation, local bodies, universities and other similar quasi-public institutions within the State; and

(iv) Candidates who are spouses of those in the employment of this State or Central Government, public sector corporations, local bodies, universities and educational institutions recognised by the Government, a university or other competent authority and similar other quasi-government institutions within the State.

12. It has been decided that persons in the employment of this State or Central Government, public sector corporations, local bodies, universities and other similar quasi-public institutions, within the State may be treated as eligible to apply for admission to the part-time course of study offered by the educational institutions in the State subject to the control of the State Government as candidates belonging to the State of Andhra Pradesh.

13. The Government considers that in the large majority of cases falling under the above categories, 'nativity' may not be in doubt. The heads of educational institutions or other admission authorities may call for appropriate certificates of

study/residence or employment in cases of doubt.” (emphasis supplied)

vi) The Presidential Order, 1974 states that educational institutions in the State of Andhra Pradesh shall allot 85% of the available seats to local candidates belonging to the local areas as defined. The remaining 15% of the seats shall be allotted to candidates as unreserved seats.

vii) The Presidential Order, 1974 defines local area in the form of university regions i.e., the Osmania University region, Andhra University region and Sri Venkateshwara University Region. It is students belonging to these regions who can claim benefit as local candidates.

viii) Local candidates are defined as students who have studied in an educational institution for at least four consecutive years in the local area which includes the last academic year in which he/she appeared or first appeared in the relevant qualifying examination; or has not studied in an educational institution for whole or any part of four consecutive years but has resided in such local area for four

consecutive years immediately preceding the date of commencement of the relevant qualifying examination or the date when he/she first appeared for such examination. The candidates will also be termed local candidates if he/she has studied in an educational institution for seven consecutive years or has not studied in an educational institution but has resided in the local area of seven consecutive years. The seven consecutive years shall be said to have been completed with the ending academic year in which he/she appears for the exam or the year when he first appeared for the exam. Such area will be treated as a local area in which the candidate has spent the maximum period out of the said seven years and when the period of residence is divided between two local areas and the period of stay is equal, the local area in which the candidate last resided will be considered. Therefore, the students who satisfy the definition of local candidates will be eligible to claim a seat in an educational institution under 85% category.

ix) The Presidential Order, 1974 was clarified in the year 1979 in respect of the candidates who can claim seats under the 15% unreserved category. It was stated that all local candidates are entitled

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for a seat under the 15% unreserved category along with candidates who have resided in the State of Andhra Pradesh or whose parents who have resided in the State of Andhra Pradesh for a period of ten years. The ten years are calculated, in case of candidates, by excluding the period of study outside the State of Andhra Pradesh and in case of their parents, the period of employment outside the State of Andhra Pradesh. Further, candidates whose parents are in employment of the State Government or Central Government or whose spouses are in such employment are also entitled for seats under the 15% unreserved category.

x) It is relevant to note that Rules, 2006 regulating the admission process of the LAW CET examinations were issued in line with the Presidential Order, 1974. The definitions of local area, local candidates, the breakup of seats between 85% to local candidates and 15% as unreserved seats under Rules, 2006 are *parimateria* to the definitions of the Presidential Order, 1974.

xi) For a better understanding of the admission process under the Rules, 2006, the relevant provisions are extracted below:

“Allotment of Seats:

(1) University colleges

All the sanctioned intake of seats in 3-YEAR/5-YEAR LLB./B.L. courses in University colleges shall be filled by the Convener, LAW CET Admissions. Such seats shall be allotted to eligible candidates on the basis of and Rules of Reservation as laid down in Rule 7 hereunder.

(a) Unaided Non-Minority and Minority Professional Institutions

(a) The seats allotted to each Un-aided Non-Minority and Minority Professional Institution for admission of Candidates shall be classified as:

(1) Category A seats (2) Category B seats

(b) The Category A seats shall be 80% of sanctioned intake of seats in 3-YEAR/5-YEAR LL.B/B.L. courses in Un-Aided Non-Minority and Minority Professional Institutions, which shall be filled with eligible candidates on the basis of Rank obtained at LAW CET/LAW CET-AC, as the case may be, following the procedure laid down in Rule 6 (ii) and Rules of Reservation laid down in Rule 7. (C) The Category B Seats shall be 20% of the total intake of seats in each course in respect of Un-Aided Non-Minority and Minority Professional Institutions, which shall be open for admission the eligible to

candidates including candidates belonging to other States and Union Territories of India and NRIs on merit basis, following the provisions of Rule 6 (iii).

Within Category B, seats not exceeding 15% of the total intake of seats maybe filled, at the discretion of the Institution, with NRIs.

(d) In respect of Minority Professional Institutions, the seats filled up with eligible minority candidates of the concerned minority, as a percentage of total seats, should satisfy the minimum percentage norm as prescribed by the Government while according the minority status.

Rules of Reservation for admission

All the seats in the University colleges and Category A seats in Unaided Non- Minority and Minority Institutions offering 3-YEAIUS-YEAR shall be reserved, to the following categories in Admissions:

Region-wise reservation of seats Admission to 85% of the seats in each course shall be reserved for the local candidates and the remaining 15% of the seats shall be un-reserved seats as specified in the Andhra Pradesh Educational Institutions (Regulations and Admissions) Order, 1974 is subsequently amended.

EXPLANATION: For purpose of these rules.

(a)Local Areas means:

(1)The part of the State comprising the districts of Adilabad, Hyderabad (including Twin Cities) Ranga Reddy, Karimnagar, Khammam, Medak, Mahaboobnagar, Nalgonda, Nizamabad and Warangal shall be regarded as the Local Area for the purpose of admission to the Osmania University, the Kakatiya University and the Telangana University and to any other educational institutions (other than State wide University or State wide educational institution) which is subject to the control of the State Government and is situated in that part

(2)The part of the State Comprising the districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Krishna. Guntur and Prakasam shall be regarded as the Local Area for the purpose of admission to the Andhra University, the Acharya Nagarjuna University and Adikavi Nannaya University and to any other educational institutions (other than State wide University or State wide educational institution) which is subject to the control of the State Government and is situated in that part...

(3) The part of the State Comprising the districts of Anantapur, Kumool, Chittoor, Cuddapah and Nellore shall be regarded as the Local Area for the purpose of admission to the Sri Venkateswara University, the Sri Krishnadevaraya University and the Yogi Vemana University and to any other educational institutions (other than State wide University or

State wide educational institution) which is subject to the control of the State Government and is situated in that part...

(b) "The Local Candidate" means:

(1) A candidate for admission shall be regarded as a local candidate in relation to a local area.

(A) If he/she has studied in Educational Institution or Educational Institutions in such local area for a period of not less than four consecutive academic years ending with the academic year in which he/she appeared or as the case may be, first appeared in the relevant qualifying examination, or

(B) Where, during the whole or any part of the four consecutive academic years ending with the academic year in which he/she appeared or as the case may be first appeared for the relevant qualifying examination he/she has not studied in any Educational Institutions, if he/she has resided in that local area for a period of not less than four years immediately preceding the date of commencement of the relevant qualifying examination which he/she appeared or as the case may be first appeared.

(2) A candidate for admission to the Course who is not regarded as local candidate under clause (1) above relation to any local area shall,

(A) If he/she has studied in Educational Institutions in the State for a period of not less than seven consecutive academic years ending with the academic year in which he/she appeared

or as the case may be first appeared for the relevant qualifying examination be regarded as a local candidate in relation to,

(I) Such local area where he/she has studied for the maximum period out of said period of seven years, or

(II) Where the period of his/her study in two or more local areas are equal, such local area, where he/she has studied last in such equal period, or

(B) If, during the whole or any part of seven consecutive academic years ending with the academic year in which he/she appeared or as case may be first appeared for the relevant qualifying examination he/she has not studied in the Educational Institutions in any local area but has resided in the State during the whole of the said period of seven years, be regarded as a local candidate in relation to

(I) Such local area where he/she has resided for the maximum period out of the said period of seven years, or

(II) Where the periods of his/her residence in two or more local areas are equal such local area where he/she has resided last in such equal periods.

(3) The following categories of candidates are eligible to apply for admission to the remaining 15% of un-reserved seats:

(A) All the candidates eligible to be declared as local candidates.

(B) Candidates who have resided in the State for a total period of 10 years excluding periods of study outside the State or either of whose, parent have resided in the State for a total period of ten years excluding period of employment outside the State.

(C) Candidates who are children of parents who are in the employment of this State or Central Government, Public Sector Corporations, Local Bodies, Universities and other similar quasi-public Institutions, within the State

(D) Candidates who are spouses of those in the employment of the State or Central Government Public Sector Corporations, Local Bodies, Universities and Educational Institutions recognized by the Government or University OR Other competent authority and similar quasi Government Institutions within the State.

(4) If a local candidate in respect of a local area is not available to fill any seat reserved or allocated in favour of a local candidate in respect of that local area, such seat shall be filled if it had not been reserved.”

xii) Rule 3 of the Rules, 2006 deals with allotment of seats in University Colleges, Unaided Non - Minority and Minority Professional Institutions. In the present case, we are dealing with

Unaided Non-Minority Institutions (hereinafter referred to as 'colleges'), therefore, the discussion shall be restricted to the same.

xiii) Rule 3(ii) of the Rules, 2006 states that seats in colleges are divided into Category 'A' and Category 'B'. Category 'A' deals with 80% of the sanctioned seats which are to be filled based on the rank obtained in the examination by the Convener. Category 'B' deals with remaining 20% of the sanctioned seats which are to be filled based on the discretion of the colleges.

xiv) Rules 5 & 6 of the Rules, 2006 provide for the method of admission and procedure of admission, respectively. The said Rules provide the procedure to be followed by the Convener to allot colleges. Rule 7 of the Rules, 2006 deals with the rules of reservation for admissions. Rule 7(i) provides region-wise reservation and states that 85% seats which are available for allotment by the Convener are reserved for local candidates. In other words, 85% of the Category 'A' seats shall be reserved for local candidates (85% of the 80% seats to be allotted by the Convener). The remaining 15% seats of Category 'A' seats shall be unreserved seats.

xv) The definition of local candidates in Rules, 2006 is *parimateria* to definition of local candidates as discussed above in relation to the Presidential Order, 1974. To avoid repetition, the same is not discussed again.

xvi) Now coming to the facts of the case, the petitioner in W.P. Nos.40827 of 2022 and 43048 of 2022 cannot be considered as a local candidate as she fails to satisfy the requirements of the definition of a local candidate. The petitioner admittedly completed her tenth (10th) standard examination, intermediate examination and three-year undergraduate degree outside the state of Telangana/Andhra Pradesh. Therefore, it cannot be said that she studied for four consecutive years in the local area neither has she resided in the local area immediately preceding the date of commencement of the relevant qualifying examination or the date when he/she first appeared for such examination.

xvii) Further, the contention of the petitioner that she should be considered as a local candidate based on her mother's Mulki Certificate and her Residence Certificate cannot be accepted for the

simple reason that Rules, 2006 do not provide that parents' residence is a criterion to be considered to treat a candidate as a local candidate. Rules, 2006 only contemplate period of study in local area or period of residence in such area to be calculated for four consecutive years or seven consecutive years, as the case may be. The definition of a local candidate under the Presidential Order, 1974 and Rules, 2006 is clear. In the absence of challenge to such definition, the contention of the petitioner that she is a local candidate on account of her period of residence and place of birth cannot be considered. Therefore, according to this Court, the petitioner in W.P. Nos.40827 of 2022 and 43048 of 2022 cannot be considered as a local candidate and she is not entitled for a seat under 85% reserved for local candidates.

xviii) Now coming to the question whether the petitioner in W.P. Nos.40827 of 2022 and 43048 of 2022 is eligible to claim a seat under 15% unreserved seats. The answer to the said question is affirmative. It is clear based on the certificates produced by the petitioner that she has been residing in the State of Telangana for over ten years and also her parents have resided in the State of Telangana for over ten years. Further, the respondents in their Counter-Affidavit

filed in W.P. No.43048 of 2022 admit that the petitioner is entitled to claim a seat under 15% unreserved category. Therefore, the petitioner is entitled an eligible for a seat under 15% unreserved category.

xix) The petitioner in W.P. No.43521 of 2022 contends that he is entitled for a seat under 15% unreserved category. According to this Court, the petitioner being a local candidate is eligible to claim a seat under both 85% as a local candidate and under 15% unreserved seats.

xx) The petitioners in all the writ petitions herein contend that the allotment in relation to 15% unreserved seats happened contrary to the Rules, 2006 as candidates entitled for seats as local candidates under 85% quota were allotted seats in 15% unreserved quota, thereby denying the petitioners their right to compete for seats in the said 15% quota.

xxi) The petitioner in W.P. Nos.40827 of 2022 and 43048 of 2022 contends that Dr. B.R. Ambedkar Law College has a total of 180 seats. Out of 180 seats, 144 seats (80% of 180) fall within the Category 'A' seats which are to be filled by the Convener. Further, out of the said 144 seats, 122 seats (85% of 144) are to be filled with local

candidates and the remaining 22 seats (15% of 144) shall be treated as seats to be filled as unreserved seats as per Rules, 2006. However, the petitioner contends that among the said 22 seats most of them were allotted to local candidates who are otherwise eligible for a seat under 85% quota as a local candidate. In other words, the petitioner contends that a student who will get a seat under 85% quota as a local candidate was given a seat under 15% quota of the unreserved seats. According to the petitioners, the said allotment is illegal.

xxii) On the other hand, the respondents in their Counter-Affidavit in W.P. No.43521 of 2022 contend that the allotment of seats was done by proportionally dividing the reservation between 85% and 15% quota. Therefore, the allotment of seats was valid and the petitioners were not allotted any college under the 15% quota due to their higher rank.

xxiii) Therefore, the question now is whether the allotments of 22 seats (15% unreserved seats) in B.R. Ambedkar Law College is illegal. Before answering the said question, it is important to discuss the nature of 15% unreserved seats.

xxiv) It is clear that the 15% category is open to local candidates as well as the candidates who satisfy other criteria as to period of residence and whose parents/spouses are in the employment of State or Central Government. The 15% unreserved category is not for non-local candidates but for candidates who satisfy the criteria mentioned in the Presidential Order, 1974.

xxv) Further, the 15% unreserved seats are to be considered as seats that are to be filled based on merit and competition among the candidates who fall within the eligible categories mentioned therein. In other words, in the 15% unreserved seats, there is no preference given to any candidate belonging to local area over other candidates who claim seats under the residence criteria. For the purposes of 15% unreserved seats, all the eligible candidates are considered equals and a candidate having a better rank will get a seat over other candidate.

xxvi) The above view is fortified by the decision of the Supreme Court in **NTR University of Health Sciences v. G. Babu Rajendra Prasad**³ which overruled the decision of **NTR University**

³. (2003) 5 SCC 350

decided by HC (supra) relied upon by the respondents. The Supreme Court in **NTR University (supra)** held that 15% unreserved seats are open to all the eligible candidates and social reservations applicable to 85% quota of local candidates are not applicable to 15% unreserved seats. The relevant paragraphs are extracted below:

“12. Article 371-D of the Constitution of India contains a special provision applicable to the State of Andhra Pradesh only. 54% of seats are required to be filled up from open categories and 46% of seats are to be filled up from the reserved category candidates in each of the three regions from the medical colleges and engineering colleges. Having regard to the reservations made region wise, indisputably 85% of seats are to be filled up from amongst local candidates whereas only 15% of seats are to be filled up from amongst outside candidates.

14. It is not in dispute that limited seats are available for admission in the superspeciality courses. It may be true that normally the reservation has to be made for the entire State but in terms of Article 371-D of the Constitution of India reservation has to be made region wise. The seats have been reserved indisputably on total available seats in each discipline and those who come within the zone of consideration are considered for admission from amongst the reserved category candidates. Once it is found that reservation has been made for the reserved-category candidates on the total number of seats available in each

course, the High Court must be held to have committed a manifest error in issuing the impugned direction.

15. Having regard to the fact that reservation has been provided to the extent of 46% of all the seats, the question of any further reservation i.e. for the remaining 15% of the seats would not arise.”

Therefore, this Court cannot accept the contention of the respondents that the allotments to colleges were made by dividing social reservations between 85% seats of local candidates and 15% unreserved seats. The said allotment of providing caste-based reservation in the 15% unreserved seat quota is illegal and contrary to law laid down by the Supreme Court in **NTR University (supra)**.

xxvii) Now coming to the question of allotment of seats, the petitioner in W.P. Nos.40827 of 2022 and 43048 of 2022 placed before this Court list of the provisional allotment of seats for Phase I and Phase II. This Court has perused the said allotment list and has found that the allotments happened contrary to Rules, 2006 and the mandate of Presidential Order, 1974.

xxviii) As stated above, local candidates are eligible for a seat both under 85% category and 15% unreserved seat category. However, a candidate who has a better rank and who is eligible to obtain a seat as a local candidate under the 85% quota in his/her preferred college, cannot be allotted a seat under 15% unreserved seat quota in the same preferred college. Doing so will reduce the chances of other candidates who are ineligible to claim a seat as a local candidate.

xxix) The object behind the 15% unreserved seats is to fill them based on competition between local candidates, candidates who have resided in the State of Andhra Pradesh or whose parents who have resided in the State of Andhra Pradesh for a period of ten years and candidates whose parents/spouses are in employment of the State Government or Central Government. If a candidate, who is otherwise getting a seat under the 85% quota as a local candidate, is given a seat under 15% unreserved quota, the competition gets significantly impaired. The effect of allotting seats to local candidates having a better rank in the 15% unreserved quota, will make it practically

impossible for other candidates who are not local to secure a seat under the 15% unreserved quota.

xxx) In the present case, the Phase-I list of provisionally selected candidates of Dr. B.R. Ambedkar Law College shows that a candidate having a rank of '286' and belonging to the OU region (local candidate) was allotted a seat under the unreserved category of 15%. However, a candidate having a rank of '296' belonging to OU region (local candidate) was allotted a seat under the local category of 85%. This clearly shows that a candidate having a better rank than another and who belonged and was entitled to a seat as a local candidate was allotted a seat under 15% unreserved quota. Similarly, a candidate having a rank of '396' and belonging to OU region (local candidate) was allotted a seat under the local category of 85%.

xxxii) Likewise, the Phase I list of provisionally selected candidates of Dr. B.R. Ambedkar Law College shows that a candidate having a rank of '82' belonging to the OU region (local candidate) was allotted a seat under the unreserved category of 15%. Therefore,

it is clear that the Convener allotted colleges to the candidates illegally.

xxxii) According to this Court, the Convener should first allot colleges filling up the 85% quota of local candidates which includes the reserved seats. After filling up these 85% seats reserved for local candidates, the Convener shall then fill up the remaining 15% by considering merit among the local candidates and other candidates. In the present case, the allotment of seats was contrary to the Rules, 2006. A perusal of the Phase I and Phase II allotment list of Dr. B.R. Ambedkar Law College alone shows that out of 22 unreserved seats 19 were filled by local candidates. It is clear that the petitioner in W.P. Nos.40827 of 2022 and 43048 of 2022 would be entitled to a seat if the allotment of 15% unreserved seats was not done in favour of local candidates. The same is evident from the fact that a local candidate who secured a rank of '2652' was allotted a seat under the 15% unreserved quota and candidates who secured a rank of '4032' and '4096' belonging to the OU region were allotted seats under the 15% unreserved quota. Therefore, petitioner having a better rank of '2324'

was entitled for a seat under 15% unreserved quota and has been illegally denied the same.

xxxiii) According to this Court, the petitioner in W.P. No.43521 of 2022 was also illegally denied a seat as the candidate securing a rank of '9077' was allotted a seat under the 15% unreserved quota, whereas the petitioner having a rank of '9049' was not allotted a seat under 15% unreserved quota.

xxxiv) The action of the Convener and the method adopted in allotment of seats is illegal and has an effect of depriving eligible students from getting seats under the 15% unreserved quota. This Court would have interfered to set aside the entire allotment process. However, as the counselling is completed and classes have begun, this Court has to balance competing equities of students who were already allotted seats and the students who have been deprived a seat. Admissions are completed and the clock cannot be set back.

xxxv) It is apt to refer to the decision of the Supreme Court in **Punjab Engg. College v. Sanjay Gulati**⁴ wherein the Court noted

⁴. (1983) 3 SCC 517

that the admission of students happened illegally and in violation of procedure. The Court refused to interfere with the admissions of the students. However, issued a stern warning to erring authorities in not following the admission process. The relevant paragraphs are extracted below:

“4. Cases like these in which admissions granted to students in educational institutions are quashed raise a sensitive human issue. It is unquestionably true that the authorities who are charged with the duty of admitting students to educational institutions must act fairly and objectively. If admissions to these institutions are made on extraneous considerations and the authorities violate the norms set down by the rules and regulations, a sense of resentment and frustration is bound to be generated in the minds of those unfortunate young students who are wrongly or purposefully left out. Indiscipline in educational institutions is not wholly unconnected with a lack of sense of moral values on the part of the administrators and teachers alike. But, the problem which the courts are faced with in these cases is, that it is not until a period of six months or a year elapses after the admissions are made that the intervention of the court comes into play. Writ petitions involving a challenge to such admissions are generally taken up by the High Courts as promptly as possible but even then, students who are wrongly admitted finish one or two semesters of the course by the time the decision of the

High Court is pronounced. A further appeal to this court consumes still more time. which creates further difficulties in adjusting equities between students who are wrongly admitted and those who are unjustly excluded. Inevitably, the court has to rest content with an academic pronouncement of the true legal position. Students who are wrongly admitted do not suffer the consequences of the manipulations, if any, made on their behalf by interested persons. This has virtually come to mean that one must get into an educational institution by means, fair or foul: Once you are in, no one will put you out. Law's delays work their wonders in such diverse fashions.

5. We find that this situation has emboldened the erring authorities of educational institutions of various States to indulge in violating the norms of admission with impunity. They seem to feel that the courts will leave the admissions intact, even if the admissions are granted contrary to the rules and regulations. This is a most unsatisfactory state of affairs. Laws are meant to be obeyed, not flouted. Some day, not distant, if admissions are quashed for the reason that they were made wrongly, it will have to be directed that the names of students who are wrongly admitted should be removed from the rolls of the institution. We might have been justified in adopting this course in this case itself, but we thought that we may utter a clear warning before taking that precipitate step. We have decided, regretfully, to allow the aforesaid 16 students to continue their studies, despite the careful and weighty finding of the High Court that at least eight of them, namely, the seven wards of employees and Ashok

Kumar Kaushik, were admitted to the Engineering course in violation of the relevant rules and regulations.”

8. **Conclusion:**

i) In light of the competing equities of students, this Court deems it fit not to interfere with the admission of students who have already been allotted seats. However, the petitioners are entitled for a relief owing to the illegal allotment process adopted by the Convener - respondent.

ii) In light of the aforesaid discussion, this Court holds as follows:

- a) W.P. No.43048 of 2022 and W.P. No.43521 of 2022 are allowed;
- b) The petitioner in W.P. No.43048 of 2022 shall be allotted the seat which was directed by this Court to be kept vacant in respondent No.5 college therein *vide* order dated 29.11.2022 in I.A. No.1 of 2022;
- c) The petitioner in W.P. No.43521 of 2022 shall be allotted the seat which was directed by this Court to be kept vacant in

respondent No.6 college therein *vide* order dated 02.12.2022 in I.A. No.1 of 2022;

- d) W.P. No.40827 of 2022 becomes infructuous as the petitioner therein was permitted to exercise web-options and selected her preferred colleges *vide* the interim order dated 11.11.2022 in I.A. No.1 of 2022 and, therefore, the same is dismissed as infructuous.

iii) In the circumstances of the case, there shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in all the writ petitions shall also stand closed.

SD/- T. TIRUMALA DEVI
ASSISTANT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To,

1. The Principal Secretary Higher Education Department, State of Telangana, Secretariat Hyderabad Telangana State
2. The Commissioner, Telangana State Council Of Higher Education, Masab Tank Hyderabad
3. The Convenor, TS LAW CET and PGLCET 2022 Admissions Online Counselling Center PGRRCDE Osmania University Hyderabad Telangana State 500007
4. The Registrar, Osmania University, Tarnaka Hyderabad Rep by its Registrar
5. The Chairman, Telangana Admission And Fee, Regulatory Committee,
6. One CC to Sri J C Francis Advocate [OPUC]
7. Two CCs to GP For Higher Education, High Court for the State of Telangana. [OUT]
8. One CC to Smt. C. Vani Reddy, Advocate(OPUC)
9. One CC to Sri Ch. Jagannatha Rao, Advocate(OPUC)
10. One CC to Sri Dharmesh D. K. Jaiswal, Advocate(OPUC)
11. Two CD Copies

MBC
GJP

HIGH COURT

DATED: 09/03/2023



COMMON ORDER

WP NOS: 43521, 40827 AND 43048 OF 2022

**WRIT PETITION No's 43048 and 43521 of 2022 are
ALLOWING THE WRIT PETITION
AND
WRIT PETITION 40827 of 2022
DISMISSING AS INFRUCTUOUS WITHOUT COSTS**

14
[Signature]
18/03/2023