



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF JULY, 2024

PRESENT

THE HON'BLE MR. N. V. ANJARIA, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION No.24645 OF 2023 (EDN-RES)

BETWEEN:

MS. SIRI SRIKANTH,
D/O. SRIKANTH. R. S.,
AGED ABOUT 18 YEARS,
No.253/C1, 2ND B MAIN,
GIRINAGAR, 1ST STAGE,
BENGALURU-560 085.

...PETITIONER

(BY SRI ARUN B. M., ADVOCATE)

AND:

- 1 . THE KARNATAKA EXAMINATION AUTHORITY,
18TH CROSS, SAMPIGE ROAD,
MALLESWARAM,
BENGALURU-560012,
REPRESENTED BY ITS
- 2 . YOUTH SERVICES AND SPORTS DEPARTMENT,
YAVANIKA, K.R. CIRCLE,
BENGALURU-560 001,
REPRESENTED BY ITS COMMISSIONER.
- 3 . NATIONAL MEDICAL COMMISSION,
POCKET-14, SECTOR-8,
DWARKA PHASE-1,
NEW DELHI-110 077.
ALSO AT SATARKTA BHAWAN,
G.P.O. COMPLEX,

BLOCK 'A', INA,
NEW DELHI-110 023.

- 4 . MEDICAL COUNSELING COMMITTEE,
DIRECTORATE GENERAL OF HEALTH SERVICES,
NEW DELHI,
REPRESENTED BY ITS ADDITIONAL DIRECTOR.
- 5 . STATE OF KARNATAKA,
BY ITS PRINCIPAL SECRETARY TO GOVERNMENT,
MEDICAL EDUCATION DEPARTMENT,
VIKASA SOUDHA,
DR. AMBEDKAR ROAD,
BENGALURU-560 001.
- 6 . THE DIRECTOR OF MEDICAL EDUCATION,
1ST FLOOR, FORT,
K.R. ROAD,
BENGALURU-560 002.
7. Mr. SATHWIK SHIVANAND,
(CET No.SW412),
PATAJA FARMS POST,
BELLARE, SULLIA,
MANGALURU-574212.

...RESPONDENTS

(BY SRI N. K. RAMESH, ADVOCATE FOR R1;
SMT. MAMATHA SHETTY, AGA FOR R2, 5 & 6;
SRI N. KHETTY, ADVOCATE FOR R3;
SRI H. SHANTHI BHUSHAN, DSGI FOR R4;
SRI SRIDHAR PRABHU, ADVOCATE FOR R7)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENTS TO ADMIT/ALLOT THE PETITIONER MBBS SEAT UNDER SPORTS QUOTA IN FURTHERANCE OF THE DIRECTIONS ISSUED BY THE GOVERNMENT/ 5TH RESPONDENT VIDE LETTER DATED 19.08.2023 AT ANNEXURE-AF OPINION OF THE LAW DEPARTMENT DATED 06.10.2023 VIDE ANNEXURE-AJ AND LETTER OF THE GOVERNMENT / 5TH RESPONDENT ADDRESSED TO THE 1ST RESPONDENT DATED 11.10.2023 VIDE ANNEXURE-AK.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, **K.V. ARAVIND J.**, MADE THE FOLLOWING:

CORAM: HON'BLE THE CHIEF JUSTICE MR. JUSTICE
N. V. ANJARIA
and
HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. ORDER

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

This writ petition seeking the following reliefs:

- "a) *Direct the respondents to admit/allot the petitioner MBBS Seat under Sports Quota in furtherance of the directions issued by the Government/5th respondent vide letter dated 19.08.2023 at Annexure-AG, opinion of the Law Department dated 06.10.2023 vide Annexure-AK and letter of the Government/5th respondent addressed to the first respondent dated 11.10.2023 vide Annexure-AL.*
- b) *Pass any order of consequential relief or any other appropriate order or direction as this Hon'ble Court deems fit in the facts and circumstances of the case in the ends of justice and equity."*

2. Heard learned counsel Mr. B.M. Arun for the petitioner, learned counsel Mr. N.K. Ramesh for respondent No.1, learned Additional Government Advocate Smt. Mamatha Shetty for respondent Nos.2, 5 and 6, learned counsel Mr. N. Khetty for respondent No.3, learned Deputy Solicitor General of India Mr. H. Shanthi Bhushan for respondent No.4 and learned counsel Mr. Sridhar Prabhu for respondent No.7.

3. The petitioner is a Swimmer secured one Silver Medal and four Bronze Medals in the National Level Championship conducted by Swimming Federation of India. She has secured one Silver Medal in the South Zone Aquatic Championship. It is stated that the petitioner has participated in the 63rd, 64th and 65th National School Games conducted by the School Games Federation of India. The petitioner represented Karnataka in KHELO India in 2020. In the year 2017, she participated in the National Level Swimming Championship conducted by the Swimming Federation of India.

4. The petitioner aspiring to become a Doctor appeared for CET and NEET Examinations for the academic year 2022-23. Respondent No.1- Karnataka Examination Authority [KEA] published list of candidates comprising 618 candidates eligible for admission under the Sports Quota. The petitioner was placed at Sl.No.24. The list was revised on 08.10.2022, changing the petitioner's place to Sl.No.29.

5. It is stated that respondent No.1 admitted candidates in the Sports Quota contrary to the list published. It is the specific case that respondent No.7 was at Sl.No.117 in the first list and at Sl.No.129 in the second list and admitted to Jawaharlal Nehru Medical College, Nehru Nagar, Belgaum.

Another candidate named Pranitha S.R., whose name was not figured in the published list was admitted to Dr. Chandramma Dayanandasagar Institute of Medical Education. In view of the arbitrary exercise of admitting the candidates contrary to the published list, the petitioner is deprived of admission to medical course. It is stated that the respondent-authorities were evasive in their replies and conduct on the discrepancies in the list.

6. It is stated that this Court in Writ Petition No.23265/2022 directed to re-do the ranking list under the Sports Quota. The petitioner made a representation on 21.12.2022 to respondent Nos.1 and 2 to consider the petitioner while re-doing the rank list. The said request was denied stating that the said exercise was to be done only of a particular candidates. Though the petitioner preferred Writ Petition No.25780/2022, withdrew the same on 03.01.2023. It is contended that the denial of admission is in contravention of Rule 9(1)(B) of Karnataka Selection of Candidates for Admission to Government Seats in Professional Educational Institutions Rules, 2006 [hereinafter referred to as 'Rules 2006' for short]. The respondent Nos. 1 and 7 have filed their statement of objections to the writ petition.

7. Learned counsel for the petitioner submits that allotment of seats is as per Rules 2006. Rule 9 of Rules 2006 provides for reservation of seats under different categories. As per Rule 9(1)(B), reservation is provided to the candidates under Sports category. As per the said Rule, the petitioner was categorized as P-IV. Respondent No.7 was categorized as P-V. The authorities have committed an error in denying admission to the petitioner to MBBS. The admission of respondent No.7 is contrary to Rule 9(1)(B) of Rules 2006. It is submitted that this Hon'ble Court in Writ Petition No.23265/2022 dated 13.12.2022 preferred by Ms. Aditi Dinesh Rao raising similar grievance directed the authorities to re-do the ranking list.

8. Against the said order, SLP was preferred in Special Leave to Appeal No. 454/2023 by Pranitha S.R. The Hon'ble Supreme Court by order dated 16.01.2023 held that the exercise as directed in Writ Petition No.23265/2022 would be re-done in accordance with the guidelines framed by the authorities. The petitioner also preferred SLP No.2432/2023 against the order in Writ Petition No.529/2023 dated 10.01.2023. The Hon'ble Supreme Court by order dated 10.02.2023 permitted the petitioner to participate in the exercise to be re-done as ordered in SLP No.454/2023 dated

16.01.2023. The authorities while undertaking the exercise on 13.02.2023 have failed to consider the case of the petitioner. If the petitioner was considered while re-doing the ranking, the petitioner would have stood on a better footing than the other four candidates. The inaction of the respondent-authorities in not considering the respondent's case despite the order of the Hon'ble Supreme Court has resulted in denying the petitioner of pursuing medical education.

9. It is submitted that the issue was examined by the respondents and legal opinion has been expressed by the Under Secretary, Health and Family Welfare Department, Government of Karnataka as per Annexures-AJ and AK wherein, it is clearly held that the denial of admission to the petitioner is in contravention of Rules 2006. It is further submitted that as the Academic Year of 2022-23 has already commenced, the petitioner should be accommodated in the admissions to be made for the Academic Year 2024-25.

10. Learned counsel in support of his submissions relies on the judgment of the Hon'ble Supreme Court in the case of **S. Krishna Sradha vs. State of Andhra Pradesh and Others [(2020) 17 SCC 465]**.

11. Sri. N.K. Ramesh, learned counsel appearing for respondent No.1 submits that the list of eligible candidates under the Sports Quota and selection thereof is in conformity with Rules 2006. It is further submitted that respondent No.7 is more meritorious than the petitioner. As relevant academic has started, petitioner is not entitled to any relief.

12. Sri. N. Khetty, learned counsel for respondent No.3 submits that even if the denial of admission to the petitioner is found to be incorrect and untenable, the petitioner cannot be admitted by creating supernumerary seat as the colleges have filled their sanctioned strength. It is further submitted that the petitioner's case cannot be considered for admission for the next academic year.

13. Learned counsel placed reliance on the judgments of Hon'ble Supreme Court in the case of ***National Medical Commission vs. Mothukuru Sriyah Koumudi and others, [(2021) 14 SCC 805]*** and ***Maharishi Markandeshwar University and another vs. Akriti Sharma and others*** in ***Civil Appeal No.6809/2022 [2022 SCC OnLine SC 1420]***.

14. Sri. Sridhar Prabhu, learned counsel for respondent No.7 submits that the petitioner has secured 8,24,288 rank and

respondent No.7 has secured 63,498 rank. Respondent No.7 is more meritorious than the petitioner. It is submitted that as respondent No.7 has no role in any of the irregularities as alleged by the petitioner, the admission of the respondent No.7 cannot be disturbed. It is further submitted that respondent No.7 has been admitted and pursuing MBBS course. It is further submitted that even if the admission of respondent No.7 is reversed, in view of the deadline as fixed by the Hon'ble Supreme Court for admission being crossed, no relief can be extended to the petitioner. Thus, prays to not to disturb respondent No.7.

15. Heard learned counsel for the parties and perused the papers.

16. The petitioner and respondent No.7 appeared for CET and NEET Examinations in the year 2022-23. The petitioner and respondent No.7 claimed admissions under Sports Quota. Respondent No.1-KEA published list of 618 eligible candidates for admission under Sports Quota. The petitioner was placed at Sl.No.24. List was revised and petitioner was placed at Sl.No.29. Respondent No.7 was placed at Sl.No.117. In the revised list, he was placed at Sl.No.129. The petitioner has secured NEET 8,24,288 ranking and respondent No.7 secured

63,498 ranking. It is pointed that Ms. Pranitha S.R. whose name was not figured in the list of eligible candidates was given admission to MBBS course. This aspect is pointed out to contend that the admissions made under the Sports Quota by the KEA is not in order.

17. The procedure for admitting students for professional course is provided under the Rules 2006. Rule 9 of Rules 2006 provides reservation applicable to Government seats. Rule 9(1)(A) of Rules 2006 is to NCC category. Rule 9(1)(B) of Rules 2006 prescribes the eligibility for selection under Sports category. Rule 9(1)(B) of Rules 2006 reads as under;

"9. Reservations applicable to Government seats-

(1) ...

...

(B) The following candidates will be eligible for selection under Sports category, namely -

- (i) who have represented the country and won medals/cups in the SUPER-A Games specified in Schedule-II during the five year period of study in Karnataka between 8th and 12th standards,*
- (ii) who have represented the country and won medals/cups in 'A Games' specified in Schedule-II during the five-year period of study in Karnataka between 8th and 12th standards;*
- (iii) who have won medals / cups in 'B-Games' specified in Schedule-II by representing Karnataka State and participated in the SUPER-A Games or A-Games specified in Schedule-II during the five-year period of study in Karnataka between 8th and 12th standards;*

- (iv) *who have represented Karnataka State in 'B-Games' specified in Schedule-II and won medals/cups during the five-year period of study in Karnataka between 8th and 12th standards;*
- (v) *who have represented K or games in the 'B-Grade' specified Schedule-II during the five-year period of study in Karnataka between 8th and 12th standards.*

Provided that for selection of a reserved seat in Sports category, the candidates who belong to sub-clause (i) shall be considered first; candidates who belong to sub-clause (ii) shall be considered second, candidates who belong to sub-clause (iii) shall be considered third and candidates who belong to sub-clause (iv) shall be considered fourth before considered the candidates belonging to sub-clause (v);"

18. The petitioner has secured Silver and Bronze medals in National Level Championship conducted by Swimming Federation of India, apart from other medals and participation certificates. Respondent No.7 has only represented the State. Rule 9(1) (B) of Rules 2006 provides preference among the candidates seeking admission under the Sports Quota. The preferences are referred to as P-I to P-V. P-I and P-II categories refer to representing the country and winning medals/cups. P-III refers to winning medals/cups by representing Karnataka in 'B' games specified in Schedule-II and participation in Super-A games. P-IV refers to representing Karnataka State in 'B' games specified in Schedule-II and winning medals/cups. P-V refers to

representing Karnataka in 'B' group specified in Schedule-II. The proviso provides for priority among the five categories. As per the proviso, P-I shall be considered first, P-II shall be considered second, P-III shall be considered third, P-IV shall be considered fourth and then the P-V candidates.

19. In the case on hand, it is not disputed that the petitioner has represented the Karnataka State, won medals/cups and is classified as P.IV. Respondent No.7 has only represented Karnataka State and is classified as P-V. Applying the priority provided under the proviso, the petitioner is to be preferred over respondent No.7. In view of Rule 9(1)(B) and the proviso of Rules 2006, preferring respondent No.7 against the appellant is incorrect.

20. The dispute regarding the preferences among 618 candidates was subject matter before this Court in Writ Petition No.23265/2022 by M.S. Aditi Dinesh Rao. This Court by order dated 13.12.2022 directed the respondents therein to re-do the ranking inter se between the petitioner and respondent Nos.3, 4 and 5 therein. In the said petition, the petitioner was not a party, however, respondent No.7 herein was respondent No.3. The petitioner preferred Writ Petition No.529/2023 seeking consideration of the petitioner while re-doing the process of

selection as ordered in Writ Petition No.23265/2022. The writ petition was rejected on 10.01.2023 on the ground of delay. The order in Writ Petition No.23265/2022 dated 13.12.2022 was carried before the Hon'ble Supreme Court in Special Leave to Appeal (C) No.454/2023. The Hon'ble Supreme Court by order dated 16.01.2023 directed to re-do the exercise as directed by this Court in Writ Petition No.23265/2022 in accordance with the guidelines framed by the authorities. The petitioner challenging the order in Writ Petition No.529/2023 preferred SLP (Civil) No.2432/2023. The Hon'ble Supreme Court by order dated 10.02.2023 permitted the petitioner to be considered in the re-doing exercise as ordered in Special Leave to Appeal (C) No.454/2023. The respondent-authorities have undertaken re-doing exercise in the proceedings dated 13.02.2023. Though the Hon'ble Supreme Court permitted the petitioner to be considered in the re-doing exercise, the authorities have not permitted the petitioner to participate. As a result, the petitioner was denied consideration and admission under the Sports Quota.

21. The KEA has issued endorsement stating the NEET ranking of petitioner-Siri Srikanth is 8,24,248 and respondent No.7-Satvik Shivanand is 63,498. As per the endorsement, the

petitioner has been denied admission based on the rank secured in NEET. The said exercise violates Rule 9(1)(B) of Rules 2006. As per Rule 9(1)(B) of Rules 2006, when the candidates are in different categories, as per the proviso, priority to be given as per their categories i.e., in sequence of P-I to P-V. The endorsement dated 22.02.2023 rejecting the petitioner's claim on the ground of NEET ranking is not sustainable.

22. The petitioner unsuccessfully challenged the said endorsement dated 22.02.2023 in Writ Petition No.4855/2023, however this Court has not examined the preference of admission to be given or eligibility in terms of Rule 9(1)(B) of Rules 2006.

23. The petitioner further pursued the issue before the authorities, which resulted in communication between the Director of Medical Education and KEA. The KEA reiterated that while considering the eligible candidates in different categories, inter se merits/NEET rank is to be applied. The said controversy resulted in seeking opinion from the Law Department of the State. The Deputy Secretary in his Note dated 06.10.2023 has clearly stated that the petitioner was in the category of P-IV and respondent No.7 was in the category

of P-V. It is further stated that candidate in P-IV is to be preferred than candidate in P-V category.

24. It is further stated that, if more than one candidate is seeking admission in the same category, then, inter se merit/ranking is to be applied in the same category. The inter se ranking between P-IV and P-V categories cannot be applied and the same is in violation of the applicable Rules. The same view has been reiterated in the opinion of the Under Secretary, Medical Education on 11.10.2023.

25. On the basis of the undisputed fact that the petitioner is in the category of P-IV and respondent No.7 is in the category of P-V, it is clear that preferring respondent No.7 than petitioner is violation of Rule 9(1)(B) of Rules 2006. The interpretation of KEA that the inter-se merit/ranking is to be applied among the category of candidates claiming Sports Quota in P-IV and P-V is contrary to Rules 9(1)(B) of Rules 2006 and is unsustainable.

26. Now, the question to be considered is how to balance equities to the petitioner and respondent No.7. In such situation, the primary duty of the Constitutional court has been dealt by the Hon'ble Supreme Court in the case of **Manoj**

Kumar vs. Union of India, [2024 OnLine SC 163], as
under,

20. *We are of the opinion that while the primary duty of constitutional courts remains the control of power, including setting aside of administrative actions that may be illegal or arbitrary, it must be acknowledged that such measures may not singularly address repercussions of abuse of power. It is equally incumbent upon the courts, as a secondary measure, to address the injurious consequences arising from arbitrary and illegal actions. This concomitant duty to take reasonable measures to retribute the injured is our overarching constitutional purpose. This is how we have read our constitutional text, and this is how we have built our precedents on the basis of our preambular objective to secure justice. [The Preambular goals are to secure Justice, Liberty, Equality, and Fraternity for all citizens.]*

21. *In public law proceedings, when it is realised that the prayer in the writ petition is unattainable due to passage of time, constitutional courts may not dismiss the writ proceedings on the ground of their perceived futility. In the life of litigation, passage of time can stand both as an ally and adversary. Our duty is to transcend the constraints of time and perform the primary duty of a constitutional court to control and regulate the exercise of power or arbitrary action. By taking the first step, the primary purpose and object of public law proceedings will be subserved.*

22. *The second step relates to restitution. This operates in a different dimension. Identification and application of appropriate remedial measures poses a significant challenge to constitutional courts, largely attributable to the dual variables of time and limited resources.*

23. *The temporal gap between the impugned illegal or arbitrary action and their subsequent adjudication by the courts introduces complexities in the provision of restitution. As time elapses, the status of persons, possession, and promises undergoes transformation, directly influencing the nature of relief that may be formulated and granted.”*

27. Applying above principle to the case on hand, the declaration that the petitioner was illegally denied of admission due to illegal and arbitrary actions of the respondents would not be sufficient. This Court needs to look into further to address injuries, consequences arising from arbitrary and illegal actions.

28. It is the specific contention and prayer in the writ petition that the respondents are to be directed to admit the petitioner to MBBS course under Sports Quota. It is not in dispute that the petitioner was seeking admission for the academic year 2022-23, the academic year has commenced and all the seats sanctioned by the National Medical Commission has been filled. Even if there is any vacancy, it is not in the interest of the petitioner to be directed to be admitted for the academic year 2022-23. In such circumstances, the alternative to be considered is to minimize the damages or injuries caused to the petitioner by providing admission in the next academic year i.e., 2024-25. It is submitted across the Bar that CET/NEET results have been announced for the academic year 2024-25 and the admission is to commence at any time.

29. The Hon'ble Supreme Court in **S. Krishna Sradha** (*supra*) has dealt with similar issue. The question considered by the Hon'ble Supreme Court is,

"The issue that arises for consideration is whether a student, a meritorious candidate, for no fault of his/her and who has pursued his/her legal right expeditiously without delay, can be denied admission as a relief, because the cut-off date of 30th September has passed. In such a situation the relief which can be given by the Court is to grant appropriate compensation only?"

The Hon'ble Supreme Court concluded as under,

"13. *In light of the discussion/observations made hereinabove, a meritorious candidate/student who has been denied an admission in MBBS course illegally or irrationally by the authorities for no fault of his/her and who has approached the Court in time and so as to see that such a meritorious candidate may not have to suffer for no fault of his/her, we answer the reference as under:*

13.1. *That in a case where candidate/student has approached the court at the earliest and without any delay and that the question is with respect to the admission in medical course all the efforts shall be made by the court concerned to dispose of the proceedings by giving priority and at the earliest.*

13.2. *Under exceptional circumstances, if the court finds that there is no fault attributable to the candidate and the candidate has pursued his/her legal right expeditiously without any delay and there is fault only on the part of the authorities and/or there is apparent breach of rules and regulations as well as related principles in the process of grant of admission which would violate the right of equality and equal treatment to the competing candidates and if the time schedule prescribed — 30th September, is over, to do the complete justice, the Court under exceptional circumstances and in rarest of rare cases direct the admission in the same year by directing to increase the seats, however, it should not be more than one or two seats and such admissions can be ordered within reasonable time i.e. within one month from 30th September i.e. cut-off date and under no circumstances,*

the Court shall order any admission in the same year beyond 30th October. However, it is observed that such relief can be granted only in exceptional circumstances and in the rarest of rare cases. In case of such an eventuality, the Court may also pass an order cancelling the admission given to a candidate who is at the bottom of the merit list of the category who, if the admission would have been given to a more meritorious candidate who has been denied admission illegally, would not have got the admission, if the Court deems it fit and proper, however, after giving an opportunity of hearing to a student whose admission is sought to be cancelled.

13.3. *In case the Court is of the opinion that no relief of admission can be granted to such a candidate in the very academic year and wherever it finds that the action of the authorities has been arbitrary and in breach of the rules and regulations or the prospectus affecting the rights of the students and that a candidate is found to be meritorious and such candidate/student has approached the court at the earliest and without any delay, the court can mould the relief and direct the admission to be granted to such a candidate in the next academic year by issuing appropriate directions by directing to increase in the number of seats as may be considered appropriate in the case and in case of such an eventuality and if it is found that the management was at fault and wrongly denied the admission to the meritorious candidate, in that case, the Court may direct to reduce the number of seats in the management quota of that year, meaning thereby the student/students who was/were denied admission illegally to be accommodated in the next academic year out of the seats allotted in the management quota.*

13.4. *Grant of the compensation could be an additional remedy but not a substitute for restitutive remedies. Therefore, in an appropriate case the Court may award the compensation to such a meritorious candidate who for no fault of his/her has to lose one full academic year and who could not be granted any relief of admission in the same academic year.*

13.5. *It is clarified that the aforesaid directions pertain to admission in MBBS course only and we have not dealt with postgraduate medical course."*

30. Similar issue was considered in ***National Medical Commission vs. Mothukuru Sriyah Koumudi*** (*supra*). The question considered by the Hon'ble Supreme Court is,

"12. *The question that arises for our consideration is whether the High Court was right in directing creation of a seat for this academic year for granting admission to Respondent 1. It has been repeatedly held by this Court that directions cannot be issued for increasing annual intake capacity and to create seats. The annual intake capacity is fixed by the Medical Council of India (now National Medical Commission) which has to be strictly adhered. Admissions to Medical Colleges cannot be permitted to be made beyond the sanctioned annual intake capacity of a Medical College as has been repeatedly held by this Court."*

The Hon'ble Supreme Court held as,

"13. *The next point that arises for our consideration is whether Respondent 1 can be left high and dry in spite of having suffered due to the illegal action of Respondent 2 College in denying admission to her. This Court in S. Krishna Sradha [S. Krishna Sradha vs. State of A.P., (2020) 17 SCC 465] had occasion to consider the nature of relief to be granted to a student after the last date of admissions in case it is found that he or she was denied admission illegally. The conflicting views in the judgments of this Court in Asha v. Pt. B.D. Sharma University of Health Sciences [Asha v. Pt. B.D. Sharma University of Health Sciences, (2012) 7 SCC 389 : 4 SCEC 611] and State (UT of Chandigarh) v. Jasmine Kaur [State (UT of Chandigarh) v. Jasmine Kaur, (2014) 10 SCC 521 : 6 SCEC 745] was resolved by this Court in the judgment of S. Krishna Sradha [S. Krishna Sradha v. State of A.P., (2020) 17 SCC 465] . In Asha [Asha v. Pt. B.D. Sharma University of Health Sciences, (2012) 7 SCC 389 : 4 SCEC 611] , it was held by this Court that the rule of merit for preference of medical courses and colleges admits no exception and that the said rule has to be followed strictly and without demur. The last date for admissions has to be strictly followed except in very rare and exceptional cases of unequivocal discrimination or arbitrariness or pressing emergency. In such cases, admission can be granted by courts even after the last date. A contrary view was taken*

in Jasmine Kaur case [State (UT of Chandigarh) v. Jasmine Kaur, (2014) 10 SCC 521 : 6 SCEC 745] wherein this Court was of the opinion that a student is only entitled to a compensation in cases of illegal denial of admission and no admission can be directed after the last date."

"16. *As the last date for admissions for the present academic year is 30-8-2020, we are not inclined to grant admission to Respondent 1 for this academic year. Even if the admission of Respondent 5 is cancelled as having not been in accordance with the Regulations, it would not be of any use to Respondent 1 or to any other eligible candidate. Furthermore, the High Court is right in holding that Respondent 5 might not have known about the denial of admission to Respondent 1 illegally. Though we disapprove the practice of Respondent 2 College in picking up students for granting admission without following the merit list, we do not seek to disturb the admission granted to Respondent 5.*

17. *Respondent 2 College adopted unfair means to deprive Respondent 1 admission to postgraduate course. Respondent 1 has lost one precious academic year for no fault of hers for which she has to be compensated by way of an amount of Rs. 10 lakhs to be paid by Respondent 2 College within a period of four weeks from today. Furthermore, Respondent 1 is entitled for admission to the MS (General Surgery) course in the next academic year 2021-2022 and shall be given admission in a seat allocated to Respondent 2 College. In other words, one seat in MS (General Surgery) course from the management quota of Respondent 2 College for the next academic year (2021-2022) shall be granted to Respondent 1."*

31. Applying above principle of law laid down by the Hon'ble Supreme Court to the facts of the present case, list of eligible candidates was announced on 08.10.2022, the petitioner preferred Writ Petition No.25780/2022 before this Court on 22.12.2022 seeking consideration of her candidature in the re-doing of the list of candidates under the Sports Quota. The

said writ petition was withdrawn. In similar circumstance, a direction was issued by this Court in Writ Petition No.23265/2022 on 13.12.2022. The petitioner preferred another Writ Petition No.529/2023, which came to be rejected on 10.01.2023, against which, the petitioner preferred SLP, which came to be dismissed on 10.02.2023 permitting consideration in the re-doing exercise.

32. Be that as it may, the petitioner is agitating her rights from earliest point of time. In all the orders referred to by the respondents, the manner of selection of candidates under Rule 9(1)(B) of Rules 2006 was not considered. The dismissal of earlier writ petitions shall not prejudice or take away the right of the petitioner to be considered for admission under the Sports Quota in terms of Rule 9(1)(B) of the Rules 2006.

33. As held by the Hon'ble Supreme Court in the judgments referred to *supra*, this Court can mould the relief by directing admission to be granted in the current academic year. Though an attempt was made to persuade this Court that a direction can be issued to increase sanction of seats to accommodate the petitioner, this Court is not convinced as the Hon'ble Supreme Court has not approved the said exercise in the judgments referred to *supra*.

34. This Court cannot allow the petitioner to suffer due to illegal action of the respondent-authorities in denying admission to her by wrongly interpreting Rule 9(1)(B) of Rules 2006. For the said violation, the admission already being made to respondent No.7 cannot be cancelled as respondent No.7 is also meritorious, secured admission and is pursuing MBBS course. Respondent No.7 cannot be said to have role in any of the illegalities committed by the respondent-authorities. In the absence of any proof of active role being played by respondent No.7, respondent No.7 cannot be made to suffer for the illegal acts of respondent-authorities. This Court is not inclined to disturb the admission of respondent No.7.

35. The loss of precious academic year/career by the petitioner cannot be compensated in terms of money. As the petitioner was entitled to admission to MBBS course in the academic year 2022-23, against sports quota, the respondent-authorities can be directed to admit the petitioner to MBBS course for the academic year 2024-25 against the seats reserved under Sports Quota. The Hon'ble Supreme Court has applied the above recourse in the above referred judgments.

36. Learned Senior counsel for NMC has vehemently contended that the petitioner's admission for the subsequent academic year is not permissible because the same would deprive the seniority and merit of the candidates participating in the competitive exams for the relevant academic year. In support of the said submission, reliance has been placed on the judgments of the Hon'ble Supreme Court in the case of ***Maharishi Markandeshwar University*** (*supra*). The above judgment is not applicable to the facts of the present case. The Hon'ble Supreme Court has not disturbed the principle of law laid down in the case of ***S. Krishna Sradha*** (*supra*) and in ***National Medical Commission vs. Mothukuru Sriyah Koumudi and others*** (*supra*). The respondent therein has aspired to be admitted to MBBS. Due to the illegalities committed by the university, she was deprived admission to MBBS, whereas she has secured admission for BDS course and she has joined and pursued her career in Dental. In such circumstances, the Hon'ble Court has chosen not to disturb the position as on that date. Whereas, in the present case, nothing is on record to hold petitioner is admitted to any Medical/Dental courses. The petitioner has not secured any admission either in MBBS or Dental or any other professional course.

37. In view of the preceding analysis, the following order is passed,

- (i) The writ petition is allowed.
- (ii) The respondent authorities are directed to admit the petitioner to the MBBS course on a seat in the quota reserved for sports for the academic year 2024-25 without applying any seniority among the candidates eligible for admission under the Sports Quota in the CET/NEET Examination conducted for the academic year 2024-25.
- (iii) The petitioner shall pay the fees as prescribed for the current academic year.

In view of disposal of petition pending interlocutory application does not survive for consideration and is disposed of.

**Sd/-
(N. V. ANJARIA)
CHIEF JUSTICE**

**Sd/-
(K. V. ARAVIND)
JUDGE**