



NC: 2023:KHC:23698
WP No. 13658 of 2023
C/W WP No. 11214 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2023

BEFORE

THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 13658 OF 2023 (EDN-EX)

C/W

WRIT PETITION NO. 11214 OF 2023 (EDN-RES)

IN WRIT PETITION NO.13658 OF 2023

BETWEEN:

MISS JIREWAD KALYANI SUNIL

...PETITIONER

(BY SRI S G RAJENDRA REDDY, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
AYUESH DIRECTORATE
DHANVANTARI ROAD
ANANDA RAO CIRCLE
BANGALORE 560 009
REPT. BY ITS COMMISSIONER
2. THE REGISTRAR
RAJIV GANDHI UNIVERSITY OF HEALTH SCIENCES
KARNATAKA, 4TH T BLOCK, JAYANAGAR
BANGALORE 560 041

Digitally
signed by
CHAITHRA A
Location:
HIGH
COURT OF
KARNATAKA



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3. THE NATIONAL COMMISSION FOR
INIDAN SYSTEM OF MEDICINE
MINISTRY OF AYUSH, GOVT INDIA
NO.61-65, INSTITUTIONAL AREA
JANAKAPURI, NEW DELHI -110058
REPRESENTED BY ITS CHAIRMAN,

4. KARNATAKA AYURVEDA MEDICAL COLLEGE
K.E.C.T TOWERS HOIGEBAIL ASHOKNAGAR
MANGALORE
DAKSHINA KANNADA 575 006
REPRESENTED BY ITS PRINCIPAL

...RESPONDENTS

(BY SMT.KAVITHA.H.C, AGA FOR R1;
SRI KARTHIKEYAN.B.S, ADVOCATE FOR R2;
SRI N.KHETTY, ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THEM TO APPROVE/ENTRY OF ADMISSION AND ALLOW THE ADMISSION TO BE REGISTERED IN THE ADMISSION PORTAL OF THE PETITIONER ADMISSION PROCESS AND UPLOAD HER ADMISSION INTO 2ND RESPONDENT UNIVERSITY ONLINE ADMISSION PORTAL AS PER APPROVAL LETTER DTD.17.10.2022, BEARING NO.AYUSH/10/YSHI(2)2022-23 AT ANNEXURE-G ISSUED BY THE 1ST RESPONDENT.

IN WRIT PETITION NO.11214 OF 2023

BETWEEN:

KARNATAKA AYURVEDA MEDICAL COLLEGE
K.E.C.T TOWERS, HOIGEBAIL
ASHOKNAGAR, MANGALORE
DAKSHINA KANNADA-575006
REPRESENTED BY
DR. RAVI RAO S
PROFESSOR AND PRINCIPAL
S/O SORAKE VISHNU RAO
AGED ABOUT 48 YEARS
G-6, SORAKE FEDORA
SHIVANAGARA 2ND CROSS



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CHILIMBI, MANGALORE
DAKSHINA KANNADA-575006.

...PETITIONER

(BY SRI PATIL JAGADEESH GOUD, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
AYUESH DIRECTORATE
DHANVANTARI ROAD
ANANDA RAO CIRCLE
BANGALORE-560009.
REPT. BY ITS COMMISSIONER
2. THE REGISTRAR
RAJIV GANDHI UNIVERSITY OF HEALTH SCIENCES,
KARNATAKA, 4TH T BLOCK, JAYANAGAR
BANGALORE-560041.
- 3 THE NATIONAL COMMISSION FOR
INIDAN SYSTEM OF MEDICINE
MINISTRY OF AYUSH, GOVT INDIA
NO.61-65, INSTITUTIONAL AREA
JANAKAPURI, D BLOCK, NEW DELHI -110058
REPRESENTED BY ITS CHAIRMAN,

...RESPONDENTS

(BY SMT.KAVITHA.H.C, AGA FOR R1;
SMT. FARAH FATHIMA, ADVOCATE FOR R2;
SMT.MONASI KUMAR, ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENTS TO ENTRY OF ADMISSION AND ALLOW THE ADMISSION TO BE REGISTERED IN THE ADMISSION PORTAL OF MISS.JIREWAD KALYANI SUNIL ADMISSION PROCESS AND UPLOAD HER ADMISSION INTO UNIVERSITY ONLINE ADMISSION PORTAL AS PER APPROVAL LETTER DATE 17.10.2022, BEARING NO. AYUSH/10/YSHI(2) 2022-23 AT ANNEXURE-G ISSUED BY THE 1ST RESPONDENT.

THESE WRIT PETITIONS, COMING ON FOR FINAL HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:



ORDER

These two captioned writ petitions are filed by the student and college respectively, seeking mandamus against the respondent-University to approve the admission of Ms.Jirewad Kalyani Sunil-petitioner in W.P.No.13658/2023 and to permit her to take up examination by considering the letter/representation dated 11.05.2022, produced as Annexure-A to W.P.No.11214/2023.

2. The Karnataka Ayurveda Medical College, Mangaluru, is before this Court in W.P.No.11214/2023, feeling aggrieved by the inaction on the part of the respondent-University in not approving the admission of one student, by name Ms.Jirewad Kalyani Sunil, who is petitioner in W.P.No.13658/2023. The college claims that though college had sent the list of students seeking approval for admission including that of Ms.Jirewad Kalyani Sunil, respondent University has not approved the admission. The college claims that Ms.Jirewad Kalyani Sunil was admitted on 11.05.2022 in place of one Mr.Khot Abid Zameer and originals were submitted vide letter/communication dated 11.07.2022. Petitioner-College has further claimed that College could not update the admission of



Ms.Jirewad Kalyani Sunil, as the online portal was closed on 10.05.2022. Therefore, a detailed representation was submitted by the college as per Annexure-C and Annexure-J and requested the University to approve the admission of Ms.Jirewad Kalyani Sunil and consequently, upload her admission into University admission portal.

3. Heard the learned counsel for petitioner and learned counsel for respondents, in both the writ petitions.

4. The contention of the petitioner-Medical College that, they had admitted Ms.Jirewad Kalyani Sunil having cancelled the admission of Mr.Khot Abid Zameer, appears to be totally misconceived and misleading. The case on hand also depicts the manner in which the Colleges are admitting the students beyond the cut-off date and then passing the blame on respondent-University. The standard ground in all these identical writ petitions which are filed by colleges is that the online portal was closed and therefore, they could not upload and furnish the details of students admitted, is clearly to cover up the admissions made by college after the cut-off date.



5. On examining the records, I am of the view that, the present case on hand does not require any roving enquiry to ascertain whether the college has indulged in admitting students beyond cut-off date. Though college has made a claim that entire list of 100 students was sent to University and Ms.Jirewad Kalyani Sunil was part of the original list of students stands falsified in view of the approval list issued by the respondent-University vide Annexure-D. The claim of the college that in the original list name of Ms.Jirewad Kalyani Sunil was also included is, not only factually incorrect but also contrary to records. Petitioner-college has produced the approved list communicated by respondent University at Annexures-D and H.

6. As rightly pointed out by the counsel for respondent University, Ms.Jirewad Kalyani Sunil's name is not found at first instance. The averments made in paragraph-6, in fact, amounts to admission. In Paragraph-6 of the petition, college admits that one student by name Mr.Khot Abid Zameer's admission was not approved by the University, as he failed to furnish the original documents found at Sl.No.3, furnished by the respondent-University vide Annexure-D.



7. The colleges are often taking chances. After respondent-University approves the list and if vacancies are found on account of non approval of some of the students, the colleges indulge in making up these vacancies by giving admissions to students beyond cut-off date. If petitioner-college claims that in place of Mr.Khot Abid Zameer admission is given to Ms.Jirewad Kalyani Sunil, then it does not require any enquiry and it clearly demonstrates that admission is given to said student after cut-off date and after partial approval of list sent by college. Therefore, this is a clear case where admission is given to a student in blatant violation of the time schedule fixed by National Commission for Indian System of Medicine (NCISM).

8. In identical cases, the co-ordinate Bench of this Court imposed exemplary cost and issued mandamus to the respondent University to approve the admission.

9. In the present case, it is only one student whose future is at stake on account of unlawful admission tendered by the college. As rightly pointed out by learned counsel for University, petitioner college has also indulged in fabricating



the documents. List which is now sought to be produced at Annexure-B was never communicated to the respondent-University. The said list could not have been communicated as College had already furnished the list of 100 students as is evident from Annexures-D and H. If the student's name is not found in the original list, petitioner college has made attempt to incorporate the name of Ms.Jirewad Kalyani Sunil, after cut-off date.

10. Taking a lenient view bearing in mind the interest of the student, who took admission with bonafide intent, I am of the view that W.P.No.11214/2023 needs to be allowed only to meet the ends of justice. The college also needs to be saddled with exemplary cost for having violated the time stipulated by the apex body for taking admission to the students. Therefore, this Court is of the view that this is a fit case where exemplary cost of Rs.5,00,000/- has to be imposed on the college for having fabricated the list of students while filing the captioned writ petition. Petitioner-college is also bound to give an undertaking that henceforth, it will not admit students beyond cut-off date. In such an event, it is well within the jurisdiction of the University to withdraw the affiliation.



11. With the above observations, the following:

ORDER

- (i) W.P.No.11214/2023 is **allowed**.
- (ii) The Respondent University is hereby directed to approve the admission of Ms.Jirewad Kalyani Sunil and permit her to pursue the course and attend the exam, subject to eligibility.
- (iii) The petitioner-Karnataka Ayurveda Medical College shall deposit cost of Rs.5,00,000/- (Rupees five lakhs only) with the respondent-University, within a period of four weeks from today.
- (iv) Having admitted the students beyond cut-off date, petitioner-Medical College shall surrender one management seat to the Government during the next academic year i.e., 2024-25.
- (v) The petitioner-Medical College shall submit an undertaking to the respondent University that it will not repeat such mistake of admitting the students beyond cut-off date.



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- (vi) In the event there is violation and students are admitted beyond cut-off date, respondent University is at liberty to hold an enquiry and withdraw the affiliation of the petitioner-Medical College, if situation warrants.
- (vii) In the light of the observations recorded above, W.P.No.13658/2023 filed by the student stands ***allowed.***

Sd/-
JUDGE