



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF DECEMBER, 2022

PRESENT

THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV

AND

THE HON'BLE MR JUSTICE C M JOSHI

WRIT PETITION NO.25783 OF 2022 (EDN-RES)

BETWEEN:

1. MR ANKIT KUMAR
S/O DHARMPAL B.,
AGED 20 YEARS,
R/O C/O DHARMPAL
BARDA (18), MAHENDRAGARH
HARYANA - 123 024
2. MR HIMANSHU SHARMA
S/O DEEPAK SHARMA
AGE: 22 YEARS,
R/O WARD NO.11
HAWAIMPATTISHORAHKE PASS
JHUNJHUNUM, RAJASTHAN - 333 001
3. MR BISHLENDRA SINGH YADAV
S/O SARDAR MAL YADAV
AGE: 21 YEARS,
R/O TEH VIRAT NAGAR
DHANIGAISKAN JAIPUR
RAJASTHAN - 303 119
4. MR SUBHASH KUMAWAT
S/O BANSI DHAR, AGE: 22 YEARS,
R/O DEOGUNDHA, JAIPUR
RAJASTHAN - 303 701

... PETITIONERS

(BY SRI. K.N. PHANINDRA, SENIOR COUNSEL FOR
SRI ABHISHEK MALIPATIL, ADVOCATE)

Digitally signed
by VIDYA G R
Location: High
Court of
Karnataka



AND:

1. STATE OF KARNATAKA
HEALTH AND FAMILY WELFARE DEPARTMENT,
DEPARTMENT OF MEDICAL EDUCATION
M S BUILDING
BENGALURU - 560 001
REPRESENTED BY ITS CHIEF SECRETARY
2. DIRECTORATE OF MEDICAL EDUCATION
BANGALORE MEDICAL COLLEGE AND
RESEARCH INSTITUTE
(OLD BUILDING), 1ST FLOOR, FORT, K R ROAD
BANGALORE - 560 002
REPRESENTED BY ITS DIRECTOR
3. KARNATAKA EXAMINATIONS AUTHORITY
SAMPIGE ROAD, 18TH CROSS,
MALLESHWARAM
BANGALORE - 560 012
REPRESENTED BY ITS EXECUTIVE DIRECTOR
4. K V G MEDICAL COLLEGE AND HOSPITAL
KURUNJIBAG - SULLIA
DHAKSHINA KANNADA - 574 327
REPRESENTED BY ITS PRINCIPAL/DEAN
5. KANACHUR INSTITUTE OF MEDICAL SCIENCES
MANGALORE UNIVERSITY ROAD
NATEKAL, DERALAKATTE
DAKSHIN KANNADA - 575 018
REPRESENTED BY ITS PRINCIPAL/ DEAN

... RESPONDENTS

(BY SMT. SHILPA S. GOGI, HCGP FOR R1 & R2;
SRI K.M. PRAKASH, ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO i)ISSUE A WRIT IN THE NATURE OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT OR ORDER OR DIRECTION, DIRECTING THE RESPONDENT NO.3 TO CONSIDER THE REPRESENTATIONS ISSUED BY THE PETITIONERS DATED 20/12/2022 VIDE ANEXURES-E, E1, E2 AND E3



RESPECTIVELY AND TO ACCEPT THE SURRENDER OF THE MEDICAL SEAT ALLOTTED TO THE PETITIONERS AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS THIS DAY, **S. SUNIL DUTT YADAV J.**, MADE THE FOLLOWING:

ORDER

Petitioners have sought for issuance of writ in the nature of mandamus directing respondent No.3 to consider the representations dated 20.12.2022 at Annexures-E, E1, E2, E3 and to accept the surrender of medical seat allotted to petitioners.

2. It is the case of the petitioners that respondent No.3 has withheld the original documents submitted by petitioners at the time of second round of counselling. It is submitted that the petitioners desire to participate in the counselling process elsewhere in other states and hence, desire to obtain the original documents that have been submitted.

3. Learned Senior counsel appearing for the petitioners submits that in terms of Clause 4.2.4 of the



University Grants Commission Notification of October-2018, there is an embargo on taking the certificates into institutional custody under any circumstance or pretext.

4. Sri. K.M.Prakash, learned counsel appearing for the Karnataka Examination Authority submits that the surrender of seats has the effect of depriving the other deserving meritorious students an opportunity and any permission granted for returning of original documents would encourage the practice of surrendering of seats to the detriment of other meritorious students. He further submits that the embargo as pointed out in the notification of October, 2018 would not apply to KEA.

5. Heard both sides.

6. No doubt, the UGC Regulation refers to higher educational institutions and the retention of original certificates by them as also complaints regarding non-refund of fees. However, what would apply to higher



educational institution would more so apply to the KEA. Unless there is a legal provision for withholding of original documents, the KEA also cannot withhold the documents. There is no rule shown to us, which provides that KEA could withhold the original records in the institutional custody.

7. An affidavit of Executive Director, Karnataka Examinations Authority has been filed. Para 3 of the affidavit reads as hereunder:

"I submit that the petitioners had submitted request for cancellation of seats after mop-up round. They were told to submit documents to corroborate their claims that they are participating in the UG medical stray vacancy round of Rajasthan. Till date, they have not submitted the application given to the State of Rajasthan, their entry pass, permission letter issued by the State of Rajasthan to participate in the stray vacancy round. This practice is put in place to ensure that there is valid reason for cancellation so that seat



blocking is discouraged and meritorious students do not suffer. The seats allotted to the petitioners through KES are open Private Seats amounting to Rs.9,94,406/- each in Venkataramana Gowda Medical College Dakshina Kannada (two) and Rs.10,92,602/- each in Kanachur Institute of Medical and Research Centre (two) respectively. If their intention was to participate in the Stray vacancy round of Rajasthan, they should not have participate in the mop-up round of Karnataka as any other meritorious candidate of Karnataka State would have got the seats."

8. It also comes out from the submission made by the learned counsel for the KEA that such practice would result in misuse of opportunities granted and would result in meritorious students losing out on an opportunity to exercise an option as regards such seats which are surrendered later. In public interest, if it is so found appropriate, it is always open for the respondent - State and other authorities to take note of the same and



formulate necessary executive / legislative procedure to take care of such practices, if there are certain loopholes being exploited for commercial gain.

9. Accordingly, the writ petition is **allowed**. The representations at Annexures-E, E1, E2 and E3 are directed to be considered in the affirmative and necessary documents be returned forthwith by today itself.

Needless to state that in light of cancellation of seats, forfeiture of fees and penalty as per existing Rules would apply.

Copy of this order to be furnished to learned counsel for both parties.

**Sd/-
JUDGE**

**Sd/-
JUDGE**