

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JULY 2015

BEFORE

THE HON'BLE MR. JUSTICE H.G.RAMESH

WRIT PETITION NOS.28966-28968/2015 (EDN-RES)

R

BETWEEN:

1. VYDEHI INSTITUTE OF DENTAL SCIENCES AND RESEARCH CENTRE
NO. 82, EPIP AREA, NALLURAHALLI
WHITEFIELD, BANGALORE 560066
REPRESENTED BY ITS PRINCIPAL
DR D.P.NARAYAN
SON OF LATE D.H. PUNDALIK RAO
AGED 64 YEARS
2. MS. RAHEE INGTIPI
DAUGHTER OF MR. SAMSON INGI
AGED ABOUT 19 YEARS
RESIDENT OF HOUSING BOARD
DIPHU, KARBI ANGLONG, ASSAM
PRESENTLY R/O GIRLS HOSTEL
VYDEHI INSTITUTE OF MEDICAL SCIENCES
NO.82, EPIP AREA, NALLURAHALLI
WHITEFIELD, BANGALORE 560066
3. MR. HESAMODIN GHAFARI
SON OF MR. DARIOUSH
AGED ABOUT 19 YEARS
R/AT NO. 404, "SREE EMERALD PARK"
VASVANI LANE ROAD, MARATHALALLI
BANGALORE-560066

... PETITIONERS

(BY SRI A.LOBO, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
HEALTH & FAMILY WELFARE DEPARTMENT

(MEDICAL EDUCATION),
VIKASA SOUDHA
VIDHANA VEEDHI
BANGALORE 560001

2. RAJIV GANDHI UNIVERSITY OF
HEALTH SCIENCES, KARNATAKA
4TH "T" BLOCK, JAYANAGAR
BANGALORE 560041
BY ITS REGISTRAR

... RESPONDENTS

(GOVERNMENT ADVOCATE SERVED)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO SET THE ASIDE THE R-2 ACTION OF REFUSAL TO APPROVE THE ADMISSION OF PETITIONERS 2 & 3 IN THE 1ST PETITIONER COLLEGE IN THE FIRST BDS COURSE IN THE ACADEMIC YEAR 2013-14 AND DIRECTING DISCHARGE, BY ITS LETTER DTD.3.7.2015, VIDE ANNEX-A AND TO DIRECT THE R-2 TO APPROVE THE ADMISSION OF PETITIONERS 2 & 3 TO 1ST YEAR BDS COURSE IN THE 1ST PETITIONER COLLEGE, IN THE ACADEMIC YEAR 2013-14

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

ORDER

H.G.RAMESH, J. (Oral):

Whether online uploading of admission statement on the University's website along with students' photos before the date and time stipulated in the admission time schedule notified by the Rajiv Gandhi University of Health Sciences, Karnataka, is mandatory? This is the question that needs determination in these writ petitions.

2. These writ petitions by a Dental College and its two students are directed against the communication dated 03.07.2015 (Annexure-A) issued by *Rajiv Gandhi University of Health Sciences ('the University')* disapproving admission of petitioner Nos.2 and 3 to I Year BDS Course for the academic Year 2013-2014 in petitioner No.1-college on the ground that their names were not uploaded online on *the University's* website before the stipulated date and time.

3. I have heard Sri A.Lobo, learned Counsel appearing for the petitioners and perused the record.

4. The impugned communication of *the University* dated 03.07.2015 reads as follows:

" Ref..... Date:
RGUHS/AC2-ADM/BDS/2014-15/D041 03.07.2015
To
The Principal
Vydehi institute of D Sciences & research Centre,
#82, EPIP Area, White field,
Bangalore- 560 066.

Sub: Non – Approval of UG admission of students of 2013-14 batch.

Adverting to the above, I write to inform you that after verifying the documents submitted by you, the data of the following students were not uploaded online in to the RGUHS website within the calendar of event

1. Rehee Ingtipi
2. Hesamodin G Hafaris

WP Nos.28966-28968/2015

You are here by informed to discharge the students from the college immediately and the action taken report in this regard may be submitted to this University at the earliest.

Yours faithfully,

Sd/- 03.07.15
(Dr S.Sacchidanand)
REGISTRAR "

5. The notification dated 03.07.2013 (Annexure-B) issued by *the University* prescribing *admission time schedule* for the academic year 2013-14 is extracted below:

" Rajiv Gandhi University of Health Sciences, Karnataka
4th 'T' Block, Jayanagar, Bangalore- 560 041

Ref: UA/UG-CE/BDS/12/2013-2014.

Date: 03.07.2013

NOTIFICATION

- Ref: 1. MCI Letter No.23(1)/ 2003-MED/26637 dated: 28.01.2005
2. SLP No.14919/2000-(2002) 7/SCC/258 dated: 11.09.2002 of Hon'ble Supreme Court of India, in the case of MCI VS Madhu Singh and others
3. Judgment on civil appeal no:4318 & 4319/2012 of Hon'ble Supreme Court of India, in the case of Priya Gupta Vs. State of Chhatishgadh and others.

Calendar of events for admission to BDS Course for the academic year **2013-14** is hereby notified as below

Sl No.	Admission schedule	Target Date/Week
1	Last date of joining allotted college after first round of counseling (as per the directions of Hon'ble Supreme Court of India)	31.07.2013
2	Last date for admission	31.07.2013
3	Commencement of academic session.	01.08.2013
4	Last date of joining allotted college after second round of counseling (as per the directions of Hon'ble Supreme Court of India)	31.08.2013
5	Last date upto which students can be admitted against vacancies arising due to any reason.	30.09.2013 5.30 PM
6	Online uploading of admission statement on RGUHS website www.rguhs.ac.in along with the students photos.	Upto 30.09.2013 Before 5.30 PM
7	Submission of list of candidates admitted, by email to rguhsregistrar@gmail.com & rguhsadmissions@gmail.com .	30.09.2013 By 5.30 PM
8	Submission of online entered and printed admission statement of candidates along with originals and Xerox copies of the required documents, including eligibility certificates be submitted in person to the Registrar.	07.10.2013 Before 5.30 PM
9	Tentative last date for sending approved list to the institutions.	31st December 2013
10	Tentative date of First Year Examination.	June 2014

Note: 1) If above dates fall on a holiday, the subsequent working day will be taken as the last date.

- 2) List of students admitted must be submitted through E-M to a) registrarrguhs@gmail.com & b) rguhsadmissions@gmail.com within 17.00 hours of last date of admission.
- 3) Hard copy of the list of the students admitted must be submitted to the Registrar RGUHS in person in duplicate on the next working date of the last date of admission and an acknowledgement be obtained from this office.
- 4) Online Uploading of admission statement can be done till the last date of admission.
- 5) The same calendar of events with appropriate changes in the year shall be maintained for subsequent years. Changes in date and month, if any, will be notified separately.

By Order
Sd/-
(Dr.D.Prem Kumar)
Registrar"

6. As could be seen from *the University's* notification dated 03.07.2013 prescribing the *admission time schedule* for admission to BDS Course for the academic year 2013-14, which is extracted above, online uploading of admission statement on *the University's* website along with students' photos should be completed before 5.30 p.m. on 30.09.2013. Similarly, list of candidates admitted shall be sent by e-mail to *the University* by 5.30 p.m. on 30.09.2013. *Note (3)* in the notification states that hard copy of the list of students admitted must be submitted in duplicate to the Registrar of *the University* in person on the next working day after the last date of admission and an acknowledgement in that behalf shall be obtained from *the University's* office.

7. It is not the case of petitioner No.1-college that the names of petitioner Nos.2 and 3 were uploaded online on *the University's* website before the stipulated date & time i.e. before 5.30 p.m. on 30.09.2013. It is also not the case of petitioner No.1-college that it submitted the names of petitioner Nos.2 & 3 to *the University* through e-mail by 5.30 p.m. on 30.09.2013.

8. To examine as to whether strict adherence to the *admission time schedule* is mandatory, it is relevant to refer to the following observations made by the Supreme Court in *Priya Gupta v. State of Chhatisgarh [(2012)7 SCC 433]*:

"78.4. With all the humility at our command, we request the High Courts to ensure strict adherence to the prescribed time schedule, process of selection and to the rule of merit. We reiterate what has been stated by this Court earlier, that except in very exceptional cases, the High Court may consider it appropriate to decline interim orders and hear the main petitions finally, subject to the convenience of the Court. We may refer to the dictum of this Court in *Medical Council of India v. Rajiv Gandhi University of Health Sciences [(2004)6 SCC 76]*, SCC para 14 in this regard."
(underlining and emphasis supplied)

9. The following observations made by a *three judge bench* of the Supreme Court in *Mridul Dhar v. Union of India [(2005)2 SCC 65]*, also require to be noticed:

"32. Having regard to the professional courses, it deserves to be emphasized that all concerned including

Governments, State and Central both, MCI/DCI, colleges – new or old, students, Boards, universities, examining authorities, etc. are required to **strictly adhere to the time schedule wherever provided for**; there should not be midstream admissions; admissions should not be in excess of sanctioned intake capacity or in excess of quota of anyone, whether State or management. The carrying forward of any unfilled seats of one academic year to next academic year is also not permissible.”
(emphasis supplied)

10. In the light of the observations made by the Supreme Court in the two decisions referred to above, strict adherence to the *admission time schedule* is mandatory. Accordingly, online uploading of admission statement on *the University's* website along with students' photos before the date and time stipulated in the *calendar of events* notified by *the University* is mandatory. Hence, I find no legal infirmity in the impugned communication dated 03.07.2015 issued by respondent No.2-University to warrant interference by this Court.

11. Having come across several matters relating to disapproval of admissions to BDS Course, I deem it appropriate to make certain observations relating to functioning of Rajiv Gandhi University of Health Sciences, before parting with this case. In the present case, as per the *calendar of events*, the tentative last date stipulated for

sending the approved list of admissions to the institutions was 31.12.2013, but *the University* has sent the communication disapproving the admission of petitioner Nos.2 and 3 in the month of July 2015. The impugned communication does not state as to whether *the University* had sent any communication earlier, disapproving the admission of petitioner Nos.2 and 3. Why *the University* issued the communication belatedly i.e. one and a half years after the last date? Who enquired about the approval of admission of petitioner Nos.2 and 3? What caused *the University* to issue such a bald communication without referring to any previous correspondence of the college relating to admission of petitioner Nos.2 and 3? Is it only to provide some document to the college to approach this Court? The Vice Chancellor shall look for the concerned officials to elicit answers to the above questions.

12. I have come across several belated communications issued by *the University* disapproving admissions, just prior to commencement of I year BDS examinations. In none of those matters, *the University* had sent the disapproved list of students to the respective colleges on or before the date

(31st December) stipulated in the *calendar of events*. The concerned colleges also had not enquired about it with *the University* immediately after the last date stipulated for sending the approved list of admissions. However, in some of the matters, *the University* had sent the communications to the concerned colleges in the months of February, March and April 2014, but the colleges did not approach this Court immediately after receipt of the communications. The colleges, barring a few, approached this Court only a week or a day prior to commencement of the examinations. This appears to be a regular annual affair for some of the Dental Colleges in Karnataka.

13. Why *the University* does not send the approved and disapproved list of admissions to the institutions on or before the stipulated date needs to be enquired into. Sending a bald communication without any previous reference, just before the commencement of the examinations, like the one impugned in these writ petitions, looks very strange. This appears to be part of a *well thought out arrangement* between some of the Dental colleges in Karnataka and some of the officials in *the*

University dealing with admissions to BDS Course. To know who are all involved in this *well thought out arrangement*, a proper enquiry is necessary. A perusal of the nature of the communications that were impugned before this Court and their date will reveal a lot. The malfunctioning is evidenced by the nature of the communications and the timing of their issue. This malfunctioning by some of the officials of *the University* has to be stopped by the Vice Chancellor who is at the helm of affairs in *the University*. Under Section 13 of *the Rajiv Gandhi University of Health Sciences Act, 1994*, the Vice Chancellor shall exercise general supervision and control over the affairs of *the University*, and shall be responsible for the proper administration of *the University*. It appears that there is no effective supervision in respect of admissions to BDS course. Immediate corrective steps are necessary to set right this conscious malfunctioning of certain officials in the admission section of *the University* relating to BDS course. The Vice Chancellor shall make appropriate changes in the admission Section concerning BDS Course and he shall see that *the University* shall strictly adhere to the *calendar of events* as directed by the

Supreme Court in the two judgments referred to above. If *the University* does not strictly adhere to the *calendar of events*, it will be a clear case of failure of administration in *the University* and the Vice Chancellor will become directly responsible for the failure, as in law, he shall be responsible for the proper administration of *the University*.

14. *The University* shall, on or before the last date stipulated for approval of admissions, make available on its website, *course wise & college wise*, the names of the students approved for admission and the names not approved, with a specific note that no other name was sent by the college for approval. This information shall be made available on *the University's* website till completion of I year or I semester examinations of the course concerned. This procedure shall be followed in respect of all the courses that require approval by *the University*. This will bring in transparency in the functioning of *the University* and the colleges affiliated to it. By this, the students will come to know as to whether their admissions have been approved by *the University* or not. They will not be kept in dark till the commencement of the examinations as it is happening now.

The University shall also direct the concerned colleges to communicate to the student in writing, if his/her admission is disapproved by *the University*. The Vice Chancellor shall also consider taking other appropriate steps, with the use of technology, to make the functioning of *the University* and the affiliated colleges more transparent by making available all the relevant information to all the stakeholders at *the University's* website.

15. Registry shall send a copy of this order to the Vice Chancellor, Rajiv Gandhi University of Health Sciences, for taking immediate corrective measures as stated above.

Petitions dismissed.

**Sd/-
JUDGE**

KSR