

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD****W.P. No. 28463 of 2023****Between:**

Dr. Shaik Moiza

... Petitioner

And

State of Telangana and others

... Respondents

**JUDGMENT PRONOUNCED ON: 26.02.2024****THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : Yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes  
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes  
see the fair copy of the Judgment?

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**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P. No. 28463 of 2023****% 26.02.2024****Between:**

Dr. Shaik Moiza

... Petitioner

And

State of Telangana and others

... Respondents

&lt; Gist:

&gt; Head Note:

!Counsel for the Petitioner: Mr Dr M.P.Kashyap

^counsel for Respondent No. 1: G.P. for Medical Health

^counsel for Respondent No.2 : Mr A.Prabhakar Rao

? Cases Referred:

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P. No. 28463 of 2023

**ORDER:**

Heard Learned Counsel Mr. P. Kashyap appearing on behalf of the Petitioner, Learned Assistant Government Pleader appearing on behalf of 1<sup>st</sup> Respondent and Mr. A. Prabhakar Rao, learned standing counsel appearing on behalf of the 2<sup>nd</sup> Respondent and Learned Standing Counsel on behalf of 3<sup>rd</sup> Respondent.

2. **The Petitioner approached the Court seeking prayer as under :**

"to issue writ order or direction more particularly one in the nature of writ of Mandamus declaring the rejection proceedings issued by respondent No.2 vide Lr.No.00538/AC4/KNRUHS/2023 dated 04.09.2023 by not treating the petitioner on par with similarly situated students, for PG Diploma in CH-Paediatrics 2017 batch as illegal, arbitrary, contrary to law and violation of Fundamental Rights guaranteed under the Constitution of India and consequently set aside the same and direct the respondents to permit the petitioner to pursue the course by condoning the delay of 720 days, on par with similarly situated students who were readmitted by the 2<sup>nd</sup> respondent."

**PERUSED THE RECORD :**

**3. The order impugned dated 04.09.2023 vide Lr.No.00538/AC4/KNRUHS/2023, of the 2<sup>nd</sup> respondent, reads as under :**

**“Sub:** KNRUHS – PG Degree course Dr.Shaik Moizn, PG Diploma in DCH Paediatrics, Kakatiya Medical College, Warangal. 2017-18 batch – readmission of the student after break of study cannot be considered – reply – reg.

**Ref:**

1. G.O.Ms.o.27 IIM&FC)C1) Dept. dt.10.04.2017.
2. From the Principal, Kakatiya Medical College Lr No.NIL, dt 18.02.2020 received on 19.02.2020.
3. Representation of Dr Shaik Moiza, DCH-Paediatrics dt 19.02.2020.
4. Representation of Dr Shaik Moiza DCH-Paediatrics dt 12.10.2020.
5. This office letter Lr.No.0563/KNRUHS/ Academic/ 2021, dt 01.02.2021 to Secretary to Government (I/C) HM&FW Dept.
6. Representation of Dr Shaik Moiza DCH-Paediatrics dt 20.02.2021.
7. Representation of Dr Shaik Moiza DCH-Paediatrics dt 24.03.2021.
8. From the Special Secretary to Government (I/C) HM&FW Dept. Lr.No.1295/C1/2021, dated 25.03.2021.
9. Representation of Dr Shaik Moiza DCH-Paediatrics dt 29.06.2021.
10. Representation of Dr Shaik Moiza DCH-Paediatrics dt 29.06.2021.
11. Representation of Dr Shaik Moiza DCH-Paediatrics dt 19.07.2021.
12. Representation of Dr Shaik Moiza DCH-Paediatrics dt 16.11.2021.
13. This office letter Lr.No.2373/KNRUHS/ Academic/ 2021, dt 18.12.2021 to Secretary to Government (I/C) HM&FW Dept.
14. From the Special Secretary to Government HM&FW Dept. Lr.No.1295/C1/2021, dated 09.03.2022.

**15.** This office letter Lr.No.0583/Aead/BDS/KNRUHS/2021-22, dated 04.04.2022 to Principal KMC, Wgl.

**16.** Orders of the Hon'ble High Court for the State of Telangana on W.P.No.357 of 2023, dated 31.01.2023.

**17.** Representation of Dr Shaik Moiza dated 27.04.2023 submitted to University on 27.04.2023.

**18.** Representation of Dr Shaik Moiza dated 31.05.2023 submitted to University on 31.05.2023.

With regard to the subject, as ordered by Hon'ble High Court for the State of Telangana, I am by direction to inform you that, the request for re-admission vide reference 18<sup>th</sup> cited of Dr **Shaik Moiza, PG diploma in DCH-Paediatrics, at KMC, 2017-18 batch** cannot be considered, as it is against the G.O.vide reference 1<sup>st</sup> cited regarding admission into Post Graduate Medical Courses, as the duration for completion of course by the candidate was already lapsed.

The same may be communicated to the candidate and you are hereby requested to follow the discontinuation procedure and submit the compliance within one week.

**4. Letter dated 01.02.2021 of the 2<sup>nd</sup> respondent addressed to the Secretary HM&FW Department vide Lr.No.000563/KNRUHS/Academic/2021, reads as under :**

"I am by direction to inform you that vide reference 1<sup>st</sup> and 2<sup>nd</sup> cited, Principals of Kakatiya Medical College, Warangal and Osmania Medical College, Hyderabad forwarded the representations of the following students for Readmission into their respective courses.

Sl. No.	Name of the PG Student and	College	Date of Joining the	Duration of break of study	Reasons for the

	Department Course		course		period of break of study
01.	Dr Shaik Moiza (PG Diploma DCH- Pediatrics)	KMC, Warangal	31.05.2017	01.03.2018 to 19.02.2020	Personal reasons (720 days)
02.	Dr. Soumya (PG in MD Anaesthesiology)	OMC, Hyderabad	2018-19	12.07.2020 To 09.12.2019	Medical reasons (516 days)

In this connection, I invite your kind attention vide reference 3<sup>rd</sup> cited, the Government of Telangana issued orders as follows:

"Candidates who are absent for a continuous period of one year or more without permission, shall be deemed to have forfeited the admission into the course and the studentship shall stand cancelled without any future notice. University regulations from time to time are applicable in this regard."

In this regard, the representations of above candidates were placed before Executive Council in its meeting held on 03.11.2020. The Executive Council resolved as follows:

1. Recommended to forward the applications to the government.
2. To form a sub committee to review the existing GO Ms.No.27 and rule position regarding this.

In the circumstances stated above, while enclosing copies of representations vide reference 1<sup>st</sup> and 2<sup>nd</sup> cited, I request you to consider the representations as per the recommendations of the Executive Council and issue necessary orders at the earliest.

5. The additional counter affidavit filed by Respondent No.2 on 03.02.2024, and in particular, paras 3 to 6, reads as under:

"3. It is submitted that the 2nd Respondent University has already filed the Counter Affidavit in the above Writ Petition. It is submitted that Petitioner Dr. Shaik Moiza was admitted into Post Graduate Diploma course in Paediatrics (DCH) at Kakatiya Medical College for the academic year 2017-2018. The Petitioner joined the course on 31-05-2017. The Petitioner attended the college upto 28-02-2018 and was absent from 01-03-2018 onwards. Petitioner has submitted an application to the University on 19-2-2020 requesting the 2nd Respondent University for re-admission into PG Diploma in Paediatrics (DCH) citing that she could not continue the course due to family problems.

4. It is submitted that the 2nd Respondent University examined the representation of the Petitioner in accordance with the Government Orders on Rules of Post Graduate Medical Admissions vide G.O.Ms.No. 27 of HM& FW Dept. Dated 10-4-2017 which states as follows:

Rule 10 Admission Rules,

**Clause(vi) SANCTION OF LEAVE OF ABSENCE BEYOND 3 MONTHS & TERMINATION OF STUDENTSHIP:**

Every candidate after his admission shall attend the classes (Theory, Practical and Clinical) on all the working days unless the candidate is granted leave of absence by the Principal, if a student absents continuously for a period of 91 days or more and seeks permission to attend the course before one year after discontinuation the candidates application in the prescribed proforma shall be forwarded to the Registrar with the recommendations of the Principal with requisite fees. If the Vice-Chancellor is satisfied with the reasons, he may grant leave of absence attaching such conditions, as he may be deemed necessary. Candidates who are absent for a continuous period of one year or more without permission, shall be deemed to have forfeited the admission into the course and the studentship shall stand cancelled without any future notice. University regulations from time to time are applicable in this regard.

A candidate registered for MD/MS Degree Examinations should clear the examination with in 4 years of date of completion of course and the candidate registered for a P.G. Diploma Course should be clear examination within 2 years from



the date of completion of course. If the candidate fails to pass the examination within the period of specified above, the candidate shall not be allowed to appear to the examination thereafter and qualify for the award of MD/MS Degree or PG Diploma. The candidate admitted into PG Degree/Diploma course shall complete the course within the double the period of course study.

5. It is submitted that the Petitioner's application for re-admission has been disallowed based on above Rules of Admission. In reply to para 7 of the affidavit the Petitioner has specifically contended that one student with Roll No. 18132004001 was admitted into PG Diploma in Otorhinolaryngology in the year 2018 has completed the course in June, 2023 and the University permitted some students for re-admission and permitted the course completion in 2023. The contention of the Petitioner is incorrect. Candidate with Roll No. 18132004001 namely Ameera Nazia Begum was admitted into Diploma Course in Otorhinolaryngology (DLO) in the year 2018 and the candidate has never discontinued the course and has completed the required attendance to appear for the final examination without any break. The candidate has not been re-admitted and the candidate's appearance in the final

examination is not relevant to the Petitioner's contention with regard to re-admission.

6. It is submitted in the instant case, the candidate namely Ameera Nazia Begum with Roll No. 18132004001 has been admitted into PG Diploma in Otorhinolaryngology DLO course and has completed the DLO course within the specified time and registered for final examination in June, 2020 and did not complete the examination. The candidate once again registered for final examination in October, 2020 and did not complete the examination (Copies of Hall tickets of the candidate are enclosed). The candidate did not apply for University examination subsequently till June, 2023. It is further submitted that though the candidate had completed the course within the specified period, she could not pass the PG Diploma in DLO course within 4 years from the period of admission into the course i.e., double the period of course. The candidate did not apply for University examination subsequently till June, 2023 when she had applied to appear for examination and was permitted to appear for the final examination by the University for reason stated below.

**6. The case of the Petitioner as per the averments made in the affidavit filed in support of the present writ petition is as follows :**

**a) The Petitioner is a Doctor by Profession and resident of Nandyal. The Petitioner was admitted into P.G. Diploma Course in DCH Paediatrics for the academic year 2017-19 in Kakatiya Medical College, Warangal, and the duration of the Diploma Course is for a period of 2 years. Owing to Petitioner's mother's ill health and also due to personal problems Petitioner had to remain absent in the said course from 01.03.2018 to 18.02.2020 and after recovery of Petitioner's mother from ill health on 18.02.2020, the Petitioner made an application requesting the 2<sup>nd</sup> Respondent University to permit the Petitioner to rejoin the course and further permit the Petitioner to complete the Diploma course in DCH-Paediatrics in Kakatiya Medical College, Warangal. But the Petitioner's request was not considered by the 2<sup>nd</sup> Respondent University vide proceedings dt. -04-2022. Challenging the same Petitioner filed W.P.No.357 of 2023 and the said writ petition was disposed of by a**

**Division Bench of this Court vide its orders dated 31.01.2023 observing at Para 5 and 6 as under :**

"5. On the other hand, learned Standing Counsel appearing for the 2nd respondent-University contended that as per Rules governing the field issued in G.O.Ms.No.27, dated 10.04.2017, the candidate could not be absent for more than one year. **Admittedly, in the instant case, the petitioner was absent for 720 days. Therefore, the respondent-University has rightly rejected the case of the petitioner.** However, let the petitioner submit fresh representation and the respondents will consider the same and pass appropriate orders in accordance with law.

6. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the view that the ends of justice would be met, if the present writ petition is disposed of directing the petitioner to submit the fresh representation to the respondents seeking a direction to permit the petitioner to join the course and on such representation being received, the 2nd respondent-University shall consider the same and pass appropriate orders in accordance with law. This Court has passed above direction keeping in view of the fact that the seat to which the petitioner was allotted shall be going waste, this factor should be taken into account by the 2nd respondent-University and appropriate orders has to be passed on the representation submitted by the petitioner."

b. It is further the case of the Petitioner in pursuance to the orders of this Court dt. 31.01.2023 passed in W.P.No.357 of 2023 the Petitioner submitted fresh representations dated 27.04.2023, 31.05.2023 and 17.08.2023, but however, the grievance of the Petitioner is that the 2<sup>nd</sup> Respondent did not consider any of the said representations on the ground that it is against to the G.O.Ms.No.27 HM & FW (C1) Department, dated 10.04.2017 and issued impugned proceedings Lr.No.00538/AC4/KNRUHS/2023, dated 04.09.2023 addressed to the 3<sup>rd</sup> Respondent to intimate the rejection of Petitioner' representation.

c. It is further case of the Petitioner that Petitioner's absence was not intentional or deliberate and she had to discharge the duty of taking care of her mother and the Petitioner had submitted an application to the 2<sup>nd</sup> Respondent in the Month of February, 2020 itself. The Petitioner at para 10 of the affidavit filed in support of the present Writ Petition gave 3 specific examples and contended that in the said cases readmission of students was permitted by the Respondents after break

study of 539 days, 569 days and 516 days, but however, the Petitioner was discriminated and aggrieved by the same the Petitioner filed the present writ petition.

7. The learned Counsel appearing on behalf of the Petitioner mainly puts forth the following submissions :

a) The Petitioner submitted application for readmission on 18.02.2020 by paying necessary fees and had the 2<sup>nd</sup> Respondent had given the permission in time, the Petitioner would have completed Petitioner's DCH course in the year 2021 itself.

b) The 2<sup>nd</sup> Respondent permitted some of the students with similar issues but denied Petitioner's request for readmission and the same is illegal.

c) Some students admitted in the year 2018 had been permitted to complete their respective courses in 2023.

d) Based on the aforesaid submissions the learned counsel appearing on behalf of the Petitioner

**contended that the writ petition should be allowed as prayed for.**

8. The learned standing counsel appearing on behalf of the 2<sup>nd</sup> Respondent mainly puts-forth the following submissions :

i) Petitioner was admitted into Post Graduate Diploma Course in Paediatrics (DCH) at Kakatiya Medical College, for the academic year 2017-18.

ii) The Petitioner joined the course on 31.05.2017 and attended college upto 28.02.2018 and was absent from 01.03.2018 onwards.

iii) Petitioner had submitted an application to the University on 19.02.2020 requesting the 2<sup>nd</sup> Respondent University for re-admission into P.G. Diploma in Paediatrics (DCH) citing that she could not continue the course due to family reasons.

iv) The 2<sup>nd</sup> Respondent University examined the representation of the Petitioner in accordance with the Government Orders on Rules of Post Graduate Medical Admissions vide G.O.Ms.No.27 of HM & FW Department, dated 10.04.2017. As per the said G.O. a candidate

admitted into P.G.Diploma Course should clear the examination within 2 years from the date of completion of course and since the Petitioner was admitted into P.G. Diploma DCH – Paediatrics Course at KMC, Warangal in the year 2017-18 which is a two years course and the study period started from 01.05.2017, the completion of the course period is 30.04.2019 and the Petitioner shall pass the course by April/May 2021, hence Petitioner's application for permission to joining the course and sanction of leave from 01.03.2018 to 18.02.2020 was not considered by the 2<sup>nd</sup> Respondent University as per the relevant Rules of admission and prospectus dated 04.04.2022.

v) It is false and incorrect to state that few candidates in similar situations like the Petitioner have been considered and the Petitioner had been discriminated is false and incorrect, in the said cases the said candidates were permitted within the purview of amended rules for re-admission, whereas Petitioner's case was contrary to the Rules of admission in force and hence Petitioner's request to allow and



permit the Petitioner to attend the classes in Kakatiya Medical College, Warangal, in P.G. Diploma in DCH Paediatrics could not be considered and hence there is no illegality in the rejection proceedings issued by Respondent No.2 dated 04.09.2023.

**DISCUSSION AND CONCLUSION :**

9. A bare perusal of the proceedings dt. 01.02.2021 of the 2<sup>nd</sup> Respondent addressed to the 1<sup>st</sup> Respondent clearly indicates that the Petitioner joined the course of P.G. Diploma (DCH) Paediatrics at KMC, Warangal on 31.05.2017 and due to personal reasons underwent break of study for a duration of 720 days for the period from 01.03.2018 to 19.02.2020.

10. **Government Orders issued in G.O.Ms.No.27 HM & FW (C2) Department, dt. 10.04.2017, Clause (xiii) deals with duration of course and the same reads as under :**

**Clause (xiii) Duration of Course :**

- a) The duration of Post Graduate diploma and degree courses are for 2 years and 3 years respectively. No exemptions shall be given from the above period of training either for doing Houseman ship or any other experience or service or diploma.
- b) A candidate registered for MD / MS Degree Examinations should clear the examination within 4

years of date of completion of course and the candidate registered for a P.G. Diploma Course should be clear examination within 2 years from the date of completion of course. If the candidate fails to pass the examination within the period of specified above, the candidate shall not be allowed to appear to the examination thereafter and qualify for the award of MD / MS Degree or PG Diploma.

**11. The Post Graduate Medical prospectus for the academic year 2017-18 of the Respondent University states the following :**

“11.4 A Candidate registered for MD/MS Degree Examinations shall clear the examinations within 4 (four) years after completion of the course and the candidates registered for P.G. Diploma courses should clear the examination within 2 (two) years after completion of the course. If he / she does not pass the examination within the period specified above, he / she shall not be permitted to appear for examinations thereafter.”

**A bare perusal of the above mentioned Clauses in the Rules of Admission and the prospectus dt. 04.04.2022, relevant in respect of the subject issue clearly indicates that since Petitioner was admitted in the P.G. Diploma DCH-Paediatrics Course at KMC, Warangal, in the academic year 2017-18 which is a two years course and since the study period started from**

01.05.2017 the completion of the course period is 30.04.2019 and the Petitioner ought to have completed the course by April or May 2021 which admittedly did not take place in the present case and hence since the Petitioner was absent continuously for 720 days from 01.03.2018 to 18.02.2020, the Petitioner's admission was forfeited in accordance with the Rules of Admission.

12. A bare perusal of the averments at para 5 and 6 of the additional counter affidavit filed by the 2<sup>nd</sup> Respondent on 05.02.2024 clearly indicates that the Petitioner's plea as put forth in respect of a student with Roll No.18132004001 who was admitted for Diploma in Otorhinolaryngology in 2018 is totally false and incorrect since the said candidate had never discontinued the course and had completed the required attendance to appear for the final examination without any break and the candidate was not readmitted, hence the plea of arbitrariness as projected by the Petitioner in the affidavit filed by the Petitioner at paras 10 and 13 and also in the reply affidavit at

para 8 is without any basis and the same is untenable and hence rejected.

13. This Court is of the firm opinion that there must be a judicially enforceable right for the enforcement of which mandamus will lie. The Petitioner has no existing legal right in the present case. In State of Kerala vs. A. Lakshmi Kutti reported in (1986) 4 SCC 632, the Apex Court observed as under :

*“There must be a judicially enforceable right for the enforcement of which mandamus will lie. The existence of a right is the foundation of the jurisdiction of the court to issue a writ of mandamus”.*

14. This Court opines that no mandamus lies contrary to the regulations and there is no illegality in the rejection proceedings issued by Respondent No.2 vide Lr. No. 00538/AC4/KNRUHS/2023, dated 04.09.2023.

15.. Taking into consideration of the above said facts and circumstances of the case and duly considering the averments made in the counter affidavit and the additional counter affidavit filed by the 2<sup>nd</sup> Respondent

**and in the light of the discussion as arrived at as above the writ petition is dismissed since the same is devoid of merits. However, there shall be no order as to costs.**

Miscellaneous petitions, if any, pending shall stand closed.

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**SUREPALLI NANDA, J**

Dated: 26.02.2024

Note: L.R. copy to be marked  
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