

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Writ Petition No.27913 of 2021

ORDER:

The petitioner seeks writ of mandamus declaring the action of the 3rd respondent in not allowing the petitioner to download the call letter for general counseling for the 6 years integrated B.Tech programme on the ground of her over age as per the norms of the University as illegal, arbitrary and against the principles of natural justice and for a consequential direction to the 3rd respondent to allow the petitioner for counseling.

2. The petitioner applied for common entrance test for six years integrated B.Tech programme offered by Rajiv Gandhi University of Knowledge Technologies (RGUKT) as per notification dated 18.08.2021. She filed application on payment of requisite fee and she was given application No.266999. Her date of birth is 23.09.2003. Her application was successfully uploaded and online entrance test hall ticket No.2111038235 was generated after scrutiny of her personal data under EWS quota. The petitioner appeared for entrance examination dated 29.09.2021 at Rajampet, Government School, YSR Kadapa District and secured general merit rank of 2492 and category merit order 433 under EWS quota. The petitioner was confident to get a seat in B.Tech as per the rank. In anticipation she did not join in any other college for further study.

3. While so, University published the schedule for attending the counseling on different dates as per website rank. The petitioner tried on 15.11.2021 to download the call letter from the website but to her surprise, she got information that she was over aged as per the norms of the University. She contacted the University by helpline phone but the answer was not satisfactory. Hence the writ petition.

4. The 2nd respondent filed counter and opposed the writ petition contending as follows:

(a) While applying for entrance test, the petitioner had read the eligibility criteria and she knew that she was not eligible for admission because, as per clause-VI (1) (c) of the RGUKT CET – 21 notification, one of the eligibility criteria for writing RGUKT CET – 21 is that candidate should not have completed 18 years of age as on 31.12.2021. Even as per petitioner's own admission, she would be aged 18 years 3 months and 10 days by 31.12.2021. Hence, she was not eligible to write the entrance examination. Even then, she has applied for common entrance test which was not the fault of the respondent University. Mere granting the hall ticket, allowing the petitioner to write the common entrance test will not confer her any right of admission in the respondent University. The respondent University has sent call letters to those candidates who are eligible for admission. The University did not send call letter to the petitioner because she is not eligible for admission in view of Clause VI (1) (c) of the detailed Notification – 2021. The University has informed to the petitioner that she is not eligible for

admission when she contacted through helpline phone number. As there were no merits in the writ petition the same may be dismissed.

5. It should be noted that as per order dated 25.11.2021 this Court directed the respondent authorities to reserve one seta in EWS quota in six years integrated B.Tech course until further orders.

6. Heard Sri Janardhana Reddy Ponaka, learned counsel for the petitioner and Sri Pithani Chandrashekar Reddy, learned standing counsel for respondent Nos.2 and 3 and learned Government Pleader for Education representing respondent Nos.1 and 4.

7. Both learned counsel reiterated their pleadings in their respective arguments. While learned counsel for petitioner Sri Janardhana Reddy Ponaka argued that since respondent University has accepted the application of the petitioner to attend entrance test, allotted hall ticket number and permitted her to write the common entrance test and issued rank, it will be unjust on its part to disallow the petitioner from attending the counseling for allotment of the seat on the sole ground that the petitioner was over aged. Learned counsel would vehemently argue that if it is the case of the University that the petitioner was over-aged as per the eligibility criteria of the entrance test notification, the University ought not to have accepted her application, allotted hall ticket and permitted her to write entrance test. By allowing her to do so, the petitioner was under a *bona fide* belief that her application was considered for all purposes and if she gets a decent rank she will get a seat to study six years integrated

B.Tech course offered by the respondent University. In fact she got general merit rank of 2492 and category merit rank of 433 which implies that in all probability she will get the seat if she is permitted to attend the counseling. With that honest belief, the petitioner did not take admission in any other college. In these circumstances, he argued, unjust refusal by the University will cause any amount of mental agony to the petitioner besides the possibility of losing a valuable academic year. He relied upon the decision of Hon'ble Apex Court in **Prince Jaibir Singh v. Union of India** [Civil Appeal No.6983/2021 – Arising out of SLP (C) No.18995/2021).

8. Per contra Sri Pithani Chandrashekar Reddy, learned standing counsel argued that as per Clause VI (1) (c) of the RGUKT CET-21 a candidate who intends to take admission test shall, *inter alia*, fulfill the eligibility condition that he/she has not completed 18 years of age as on 31.12.2021. However, admittedly the petitioner crossed 18 years and she was 18 years 3 months and 10 days by 31.12.2021. Thus she acquired disqualification. Learned counsel vehemently argued that such attaining of disqualification was not because of any subsequent turn of events but the petitioner knew very well on the date of submitting application for entrance test that she was not eligible to write the entrance test. Still she applied and thus the fault wholly lies with her. He would submit that it is wholly immaterial that University permitted her to write the common entrance test. Mere permitting her to write the entrance test due to oversight and improper verification of the eligibility criteria will not

create any right in her to demand a seat. He thus prayed to dismiss the writ petition.

9. The point for consideration is whether there are merits in the writ petition to allow?

10. I gave my anxious consideration. Most of the facts in this case are admitted ones. A perusal of booklet styled Detailed Notification of RGUKT CET – 21 issued by Rajiv Gandhi University of Knowledge Technologies, Andhra Pradesh, a copy of which is filed by the petitioner along with the material papers, shows that the 2nd respondent University proposed to conduct Common Entrance Test designated as “RGUKT CET-21” for the academic year 2021-22 for admission into 6 years integrated B.Tech course offered by RGUKT in its four campuses located at Nuzvid, R.K. Valley, Ongole and Srikakulam. The test was proposed to be conducted on 26.09.2021. The eligibility criteria mentioned in Clause VI reads thus:

“VI. ELIGIBILITY CRITERIA FOR WRITING RGUKT CET-21:

- a) Candidate should have passed in **First attempt** SSC (10th Class) or any other equivalent examination recognized by the Governments of A.P. State & Telangana State / CBSE / ICSE conducted in 2021.
- b) The candidate should have completed 15 years of age as on 31st December, 2021. Age exempted candidates by Board of Secondary Education, AP (if less than 15 years of age) are also eligible provided they have passed the examination in first attempt.
- c) **Candidates should not have completed 18 years of age as on 31st December, 2021 (21 years in case of students belonging to SC/ST category).**

- d) International students shall be of Indian Nationality / Persons of Indian Origin (PIO) / Overseas Citizen of India (OCI) Card Holders.
- e) Candidates should belong to the state of Andhra Pradesh / Telangana. The candidates should satisfy Local / Non-Local status requirements as laid down in the Andhra Pradesh / Telangana Educational Institutions (Regulation of Admission) order, 1974 as subsequently amended.”

11. Then coming to the petitioner, she was born on 23.09.2003 and hence by 31.12.2021, she would be aged 18 years 3 months and 10 days. The petitioner thus over aged considering the eligibility criteria fixed by the University. However, it appears, knowingly or unknowingly the petitioner applied for common entrance examination and the respondent University also without proper verification of the eligibility criteria, with reference to her age, allotted her the entrance test hall ticket No.2111038235 and permitted her to write entrance examination, whereby she appeared and obtained general merit rank of 2492 and category merit rank of 433 under EWS quota. In the above back drop when petitioner's case is scrutinized, as rightly argued by the learned standing counsel for respondent University, the petitioner cannot claim any legitimate right for grant of a seat for the main reason that the petitioner having full knowledge about the eligibility criteria fixed in the entrance test notification and also knowing that she was over aged by 31.12.2021, still applied for entrance test. It is not a case of her acquiring disability on a subsequent turn of events. Therefore, the petitioner cannot blame the University for refusing to accommodate her for the counseling. The

petitioner cannot bank upon the mistake of the University, as she was very much aware of the fact that she was over aged even on the date of submitting application for entrance test. The decision relied upon by the petitioner can be distinguished on facts. In that case the petitioner therein was eligible in all respects and in fact he was allotted seat in 4 years B. Tech Degree Course in Civil Engineering at IIT, Bombay. In the matter of payment of fee through online, due to technical error in the server, the petitioner was unsuccessful and therefore was unable to pay the fee within the stipulated time. In that backdrop, for the ends of justice, the Hon'ble Apex Court exercised jurisdiction under Article 142 of the Constitution and directed the respondent authorities to create supernumerary seat for the petitioner. The facts in the instance case are totally different. The petitioner was ineligible to writ entrance test at the inception itself. Therefore she cannot take advantage of respondent University's improper verification of her eligibility criteria. Therefore, at the outset the petitioner has no legal right to claim a seat.

(a) However, when the matter is considered in the larger perspective, it must be stated that there is some fault on the part of the respondent University also for not making proper verification of the eligibility criteria of the petitioner at the inception. Had the respondent University scrutinized the application of the petitioner in proper manner, her application ought to have been rejected at the threshold and agony would have been averted to her.

12. In these circumstances, though not as a matter of right, equality requires that the respondent authorities shall consider the case of the petitioner with sympathy in the light of reserving one seat by order of this Court.

13. Accordingly, this writ petition is disposed of with a direction to the respondent authorities to accommodate the petitioner in the seat reserved in EWS quota pursuant to the direction dated 25.11.2021 of this Court, provided no other eligible candidate proposes to take admission for that seat. This exercise shall be completed within four (4) weeks from the date of receipt of a copy of this order. This judgment shall not be taken as a precedent in future cases. No costs.

As a sequel, interlocutory applications, if any, pending for consideration shall stand closed.

U.DURGA PRASAD RAO, J

07.02.2022
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THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

W.P No.27913 of 2021

07th February, 2022

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