

NEXT DATE OF HEARING 06-04-2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 31ST DAY OF MARCH 2021
PRESENT
THE HON'BLE MR. JUSTICE ARAVIND KUMAR
AND
THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR
WRIT PETITION NO. 6152 / 2021 [EDN-MED-ADM]

PETITIONER:

I. B.S. SUJITH
S/O. B. H. SREENIVAS GUPTA,
AGED 29 YEARS,
R/O. L. S. NURSING HOME
SOMAGUDDU ROAD, NEAR T.B.,
CHALLAKERE, CHITRADURGA TALUK
AND DISTRICT-577 522.



By Sri. MAMATA G. KULKARNI, ADV.,
V/s

RESPONDENT:

1. NATIONAL BOARD OF EXAMINATION
REPRESENTED BY OFFICE OF
JOINT DIRECTOR TRAINING AND MONITORING,
COURT, DABRI-GURGAON ROAD,
NEAR DISTRICT, DWARKA SECTOR 9 RD, PSP AREA,
NEW DELHI, DELHI-110 075.

SRI.N.KHETTY, ADV. FOR RESPONDENT.

Whereas, a Writ Petition filed by the above named petitioner under Article 226 & 227 of the constitution of India, has been registered by this Court.

Read: The interim order granted on 26-03-2021.

After hearing, the Court made the following:

ORDER

(COPY OF THE ORDER DATED 31-03-2021 IS ENCLOSED
SEPARATELY)

AKJ & PSYJ:
31.03.2021

W.P. No.6152/2021

ORDER

AT 2.30pm:

Learned counsel appearing for petitioner has filed a memo stating thereunder that copy of the order was forwarded to the respondent at 12.39 PM with a note intimating to cause arrangements for appearance at 2.30 PM. Hard copy of the mail sent to the respondent is enclosed to the memo.

2. Sri N.Khetty, learned Advocate has appeared on behalf of respondent and has made his submissions. He undertakes to file vakalathnama.

3. We have heard Sri S.P. Shankar, learned Senior counsel appearing on behalf of Smt. Mamatha G.Kulkarni for petitioner and Sri N.Khetty learned counsel appearing for respondent.

4. In response to the notice dated 03.02.2021, Annexure-A, calling for Online Centralized Merit Based Counseling – FNB 2020 Admission Session, petitioner who



had appeared for FET Entrance Test 2020 held during October 2020 had secured 15th rank in the merit list and being eligible for FNB Course, participated in the said Online Counseling. On account of a seat allotted to the petitioner not having been accepted, petitioner opted for 2nd round Counseling, which commenced from 3rd & 4th March 2021 and process of allotment of seat was due to be held on 05.03.2021 and result was to be declared on 06.03.2021.

5. In the second round of Online Counseling, petitioner was allotted a seat in Medical Trust Hospital, Cochin. On the ground of non suitability, petitioner did not accept the said seat and sought for participating in the final (Mop-Up) round of counseling.

6. In the midst of Counseling process, notice dated 11.03.2021 (Annexure-C) came to be issued, which indicates that only registered candidates, who have not been allotted any seat during the first and second round of counseling, will be eligible for final (Mop-Up) round. Candidates, who have been allotted a FNB seat in any of



the two rounds of counseling, but have failed to join the allocated institution shall be ineligible for participation in final (Mop-Up) round of counseling. However, candidates were advised to go through the Flowchart including the process of allotment of FNB seats in the final (Mop-Up) round. Said chart is at Annexure-A.

7. In the light of notice dated 11.03.2021, Annexure-C, petitioner was intimated that on account of allotted seat having been rejected by him, he would not be eligible to participate in the final (Mop-Up) round. On 23.03.2021, (Annexure-F), a clarification came to be issued by the respondent clarifying the candidates who have been allotted FNB seat in first or second round shall not be eligible for final (Mop-Up) round of counseling.

8. Perusal of the Flow chart would clearly indicate that candidates allotted a seat in the first round of counseling, if he/she does not accept the allotted seat or in the event of seat having been allotted does not make payment, such seat would be released to the second round of counseling and such candidate, who had participated in



the first round of counseling is eligible to participate in the second round of counseling. On becoming eligible to participate in the second round of counseling, if the seat is not allotted to the candidate he / she would automatically be eligible to attend the (Mop-Up) round of counseling, if any. If candidate who is allotted a seat in the second round of counseling, does not accept the allotted seat, such a seat would be released for being taken in (Mop-Up) round. Candidate, who participated in the second round of counseling would become eligible for participating in the (Mop-Up) round.

9. In the instant case, petitioner was allotted a seat in the first and second round of counseling had not accepted the same and he had not even paid the fees as contended in Paragraphs 3 and 4 of the writ petition. Thus, he had become eligible to participate in the (Mop-Up) round.

10. In that view of the matter the impugned endorsement at Annexures-E and F, prima facie, would be contrary to the notice dated 03.02.2021 (Annexure-A).



11. Learned counsel appearing for petitioner has filed a memo today enclosing the notice dated 25.03.2021 along with the seat allotment details / FNB final (Mop-Up) round Online Centralized Merit Based Counseling - FNB 2020 Admission Session, which would indicate that in the Chart at Sl. Nos. 13, 14 & 15 candidates with ranks 63, 67 & 80 have been allotted seats in three different institutions for speciality in "Sports Medicine" which stream petitioner had also opted. The details of which are as under:

Sl. No.	Roll Number	Rank	Specialty	Name of the Institute / State Hospital
13	20778700432	63	Sports Medicine	Ganga Medical Centre and Hospital 313 Mettupalyam Road Coimbatore 641043 Tamilnadu
14	2077870101	67	Sports Medicine	Medical Trust Hospital MG Road Kochi-682016 Kerala
15	2077870402	80	Sports Medicine	Artemis Health Institute Sector 51 Gurgaon 122001 Haryana



As could be seen from the above chart, candidates with ranking of 63, 67 and 80 have been allotted seats as against All India Ranking of petitioner being '15', who is higher in ranking on comparison of above referred three (3) candidates .

12. In view of our view expressed hereinabove which is to the effect that chart appended to notice dated 03.02.2021, Annexure-A, disclosing that candidate who does not accept the allotted seat and has not paid fees of the seat allotted in the first or second round of counseling being eligible to participate in mop-up round counseling, the denial of a seat to the petitioner by not permitting him to participate in mop-up round of counseling under impugned endorsement would be contrary to the notice dated 03.02.2021 (Annexure-A).

13. Today being the last date for admission, in the fitness of things, it would be appropriate to direct the respondent herein to permit the petitioner to be admitted to Ganga Medical Centre and Hospital, 313, Mettupalayam Road, Coimbatore-641043, Tamilnadu, to which institute /



hospital, the candidate with ranking of '63' has been allotted.

14. However, we make it clear that in the event of said candidate with the ranking of 63 if having been already admitted, said admission shall not be disturbed for the present and if the said candidate, namely, candidate having ranking of '63' would seek for admission before the expiry of the date and time fixed under notice dated 25.03.2021, ie., today 31.03.2021, he shall also be admitted to said institution, which would be subject to final result of this writ petition. Further, this Court would also examine whether there is need and necessity for directing the respondent to hold counseling afresh insofar as all the three seats of Sports medicine ie., Mop-up round of counseling is concerned, on account of other candidates, namely, those with the lower ranking ie., 67 and 80 are also required to be adjusted / displaced in the seat allotment depending upon their allotment based on ranking.



15. Registry to ensure hand delivery of the copy of this order and learned counsel for petitioner shall forward a copy of this order to the respondent by e-mail and file an acknowledgement by 05.04.2021 for having forwarded the e-mail.

16. The seat allotted to the candidate having ranking of 67 and 80, shall not be disturbed for the present, but all these admissions including that of admission of the candidate having rank of 63 and also the petitioner would be subject to the final result of this writ petition.

17. Respondent is directed to web-host this order in its web-site.

18. Respondent is hereby directed to furnish the name and address of the candidate of ranking 63, 67 and 80, whose names are found at Sl. Nos.13, 14 and 15 in the final mop-up round allotment of FNB seats 2020 Admission Sessions list to the petitioner by next date of hearing and petitioner is directed to implead them.



10

Re-list this matter on 6th April 2021.

Sd/-
JUDGE

Sd/-
JUDGE

COPY

M.v. Sushree 31/3/2021
Assistant Registrar
High Court of Karnataka
Bengaluru - 560 001

31/3/21

31/3/2021

