

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF OCTOBER 2022

PRESENT

THE HON'BLE MR. JUSTICE ALOK ARADHE

AND

THE HON'BLE MR.JUSTICE S. VISHWAJITH SHETTY

W.P. No.20512 OF 2022 (EDN-RES)
C/W

W.P. NO.20201 OF 2022 (EDN-RES)

W.P.NO.20847 OF 2022 (EDN-RES)

W.P.NO.20910 OF 2022 (EDN-RES)

IN W.P. No.20512 OF 2022

BETWEEN:

1. DR. SWATHI K.S.
W/O DR. T.R. SHYAMPRASAD
AGED ABOUT 39 YEARS
R/AT CHINTAMANI
CHIKKABALLAPURA DISTRICT.
2. DR. BHEEMANNA S. SINNUR
S/O SHIVAPUTRA SINNUR
AGED ABOUT 36 YEARS
R/AT MURKHWAD , HALIYAL TALUK
UTTARA KANNADA DISTRICT -581329.

... PETITIONERS

(BY MR. VIVEK SUBBA REDDY, SR. COUNSEL FOR
MR. CHANDRE GOWDA T.G. ADV.,)

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF HEALTH AND FAMILY WELFARE
VIKAS SOUDHA, BENGALURU -560 001.
2. THE DIRECTORATE OF MEDICAL EDUCATION
REP BY ITS DIRECTOR
HAVING OFFICE AT
ANANDA RAO CIRCLE
BANGALORE -560 009.
3. COMMISSIONERATE OF HEALTH AND FAMILY
WELFARE SERVICES
GOVERNMENT OF KARNATAKA
REP BY ITS COMMISSIONER
HAVING ITS OFFICE AT
AROGYA SOUDHA MAGADI ROAD
BENGALURU -560023.
4. KARNATAKA EXAMINATION AUTHORITY
REP BY ITS EXECUTIVE DIRECTOR
HAVING ITS OFFICE AT 18TH CROSS
SAMPIGE ROAD, MALLESHWARAM
BANGALORE -560012.

... RESPONDENTS

(BY MR. DHYAN CHINAPPA, AAG A/W
MR. LAXMI NARAYANA, AAG FOR R1 & R3
MR. N.K. RAMESH, ADV., FOR R4)

THIS W.P. IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE NOTIFICATION DATED 06.10.2022 VIDE NO.MED 131 RGU 2022 ISSUED BY THE 1ST RESPONDENT PRODUCED AT ANNEXURE-A. ISSUE WRIT OR ORDER IN THE NATURE OF CERTIORARI OR SUCH ORDER THIS HON'BLE COURT MAY DEEM FIT TO QUASH THE SEAT MATRIX DATED 09.10.2022

ISSUED BY 2ND RESPONDENT PRODUCED AT ANNEXURE-B
& ETC.

IN W.P. No.20201 OF 2022

BETWEEN:

1. POOJA G.N.
D/O NARSAPPA G
AGED ABOUT 30 YEARS
WORKING IN ITTAMADU PHC
RAMANAGAR TALUK-562 109
RAMANAGAR DISTRICT.
2. DR. MADHUMITA SWAMY
W/O DR. KISHOR RAO
AGED ABOUT 39 YEARS
WORKING AT GENERAL HOSPITAL
TURVEKERE-572 227
TUMKUR DISTRICT.
3. DR. KAVITHA .M
W/O DYAMANNA .D
AGED ABOUT 34 YEARS
WORKING AT CHC, BELAGUR
HOSADURGA TALUK
CHITRADURGA DISTRICT-577 527.
4. DR. RAMESH N.R.
AGED ABOUT 36 YEARS
S/O REVAPPA GOWDA .N.A.
WORKING AT PRIMARY HEALTH CENTRE
HONNAVARA, DUDDA HOBLI
HASSAN TALUK-573 118.
5. DR. UZMA YASMEEN
AGED ABOUT 35 YEARS
D/O HABIBULLA KHAN
PRIMARY HEALTH CENTRE
HUNASANAHALI
KANAKAPURA TALUK

RAMANAGARA DISTRICT-562 119.

6. DR. MANJUNATH DALI
AGED ABOUT 30 YEARS
S/O PIRAPPA DALI
PRIMARY HEALTH CENTRE SHIROL
MUDHOL TALUK
BAGALKOT DISTRICT-587 313.
7. DR. LATHA .N.N
AGED ABOUT 38 YEARS
D/O NAGAPPA N.L.
W/O DR. NAVEEN KUMAR H.B.
WORKING AT PRIMARY HEALTH CENTRE
JIGANI, ANEKAL TALUK
BENGALURU URBAN DISTRICT-560 105.
8. DR. SRINIVASA K.C.
S/O CHANDRASHEKARA .A
AGED ABOUT 30 YEARS
WORKING AT PRIMARY HEALTH CENTRE
MATHODU HOSADURGA TALUK
CHITRADURGA DISTRICT-57527.
9. DR. KIRAN ESHWAR
S/O K. ESWAR NAIK
AGED ABOUT 32 YEARS
WORKING AT PHC, MASKAL
HIRIYUR TALUK
CHITRADURGA DISTRICT-577 598.
10. DR. SHAMA B.R.
D/O RAHAMATH TARIKERE
AGED ABOUT 33 YEARS
WORKING AT PHC
KODIYALA KARENAHALLI (BIDADI HOBLI)
RAMANAGARA DISTRICT-562 109.
11. DR. RAGHAVENDRA S.S.
S/O S.R. SAVADATTI
AGED ABOUT 30 YEARS

WORKING AT PHC AIHOLE
HUNAGUND TALUK
BAGALKOTE DISTRICT-587 124.

12. DR. NAKUL M.S.
S/O SHIVANANDA M.C.
AGED ABOUT 30 YEARS
PRIMARY HEALTH CENTRE
DODDATUMKUR
DODDABALLAPURA TALUK
BENGALURU RURAL DISTRICT-561 203.
13. DR. SACHIN H.C.
S/O CHANDRASHEKARA REDDY
AGED ABOUT 28 YEARS
WORKING AT PRIMARY HEALTH CENTRE
MARALENHALLI
DODDABALLAPUR TALUK
BANGALORE RURAL DISTRICT-572 103.
14. DR. CHANDAN KUMAR B.V.
S/O VENKATESH S.D.
AGED ABOUT 33 YEARS
WORKING AT PRIMARY HEALTH CENTRE
BANGALORE
BANGALORE SOUTH TALUK
BANGALORE URBAN-560 082.

... PETITIONERS

(BY MR. VIVEK SUBBA REDDY, SR. COUNSEL FOR
MR. RAVI T.G. ADV.,)

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF HEALTH AND FAMILY WELFARE
VIKASA SOUDHA, BENGALURU-560 001.
2. THE DIRECTORATE OF MEDICAL EDUCATION

REP BY ITS DIRECTOR
HAVING OFFICE AT ANANDA RAO CIRCLE
BANGALORE-560 009.

3. COMMISSIONERATE OF HEALTH AND FAMILY
WELFARE SERVICES
GOVERNMENT OF KARNATAKA
REP. BY ITS COMMISSIONER
HAVING OFFICE AT ARCGYA SOUDHA
MAGADI ROAD, BENGALURU-560 023.
4. KARNATAKA EXAMINATIONS AUTHORITY
REP. BY ITS EXECUTIVE DIRECTOR
HAVING OFFICE AT 18TH CROSS
SAMPIGE ROAD, MALLESHWARAM
BANGALORE-560 012.

... RESPONDENTS

(BY MR. DHYAN CHINAPPA, AAG A/W
MR. LAXMI NARAYANA, AGA FOR R1 & R3
MR. N.K. RAMESH, ADV., FOR R4)

THIS W.P. IS FILED UNDER ARTICLE 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OR ORDER IN THE NATURE OF CERTIORARI OR SUCH ORDER THIS HON'BLE COURT MAY DEEM FIT TO QUASH THE SETA MATRIX DATED 09.10.2022 ISSUED BY THE 2ND RESPONDENT PRODUCED AT ANNEXURE-A. TO DIRECT THE 2ND RESPONDENT TO PREPARE THE SEAT MATRIX OF IN-SERVICE CANDIDATES IN CONSONANCE WITH THE EARLIER NOTIFICATION DATED 09.10.2022 ISSUED BY THE 1ST RESPONDENT PRODUCED AT ANNEXURE-E & ETC.

IN W.P. No.20847 OF 2022

BETWEEN:

1. DR. SUMA H
W/O DR. BASAVARAJ C

AGED ABOUT 35 YEARS
PHC, ALAGILAWADA
HARAPANAHALLI TALUK
VIJAYANAGARA DISTRICT-583137.

2. DR. ASJVINI KOPPAD
AGED ABOUT 31 YEARS
D/O D V KOPPAD
R/AT POST NIDAGUNDI TALUK
GAJENDRAGADA (RON)
DISTRICT GADAG-582114.
3. DR. MANJULA MUDIGOUDAR
D/O BASAVARAJ MUDIGOUDAR
AGED ABOUT 29 YEARS
PHC, AGADI, TALUK HAVERI-581110.
4. DR. RAJESHWARI HONGAL
D/O GANGAPPA HONGAL
AGED ABOUT 35 YEARS
PHC LAKKUNDI TALUK
DISTRICT GADAG-582115.
5. DR. RAJESH
S/O RAJU G
AGED ABOUT 40 YEARS
PHC, PONNACHI, HANUR TALUK
CHAMARAJANAGAR DISTRICT-571320,
6. DR. SHAILA V. KOLLI
W/O DR. KOTRESH M
AGED ABOUT 35 YEARS
PHC, KYASAPURA TQ, CHITRADURGA DISTRICT
CHITRADURGA-577501.
7. DR. VINAY KUMAR
S/O LATE BHOJARAJA H
AGED ABOUT 29 YEARS
R/AT 17/207, 1ST CROSS
AVADANI NAGAR
HIRIYUR CHITRADURGA-577598.

8. DR. SUNIL KUMAR S
S/O SIDDARAMU
AGED ABOUT 30 YEARS
CHIKKAMANDYA
MANDYA-571402.
9. DR. MONISHA B
W/O SANDEEP SINGH H
AGED ABOUT 28 YEARS
PHC, KTHALLY
PAVAGADA TQ, TUMKUR DIST
PIN CODE-572116.
10. DR. VINOD HADIMANI .P
S/O PANDAPPA
AGED ABOUT 30 YEARS
PHC, SHIRUR TALUK
DISTRICT BAGALKOT-587156.
11. DR. CHETAN KUMAR H R
S/O RAJAPPA M
AGED ABOUT 30 YEARS
PHC, M C HALLI, TARIKERE TALUK
CHIKKAMAGALUR-577228.
12. DR. ROOPASHREE K C
W/O ARUN G
AGED ABOUT 32 YEARS
PHC MACHOHALLI
BENGALURU URBAN-560091.
13. DR. ONKARAMURTHY S R
S/O RAJANNA S D
AGED ABOUT 30 YEARS
PHC, GANGANAHALLI, KADUR TALUK
CHIKKAMAGALURU DISTRICT-577182.
14. DR. SHASHIKALA N V
W/O MANJUNATH D
AGED ABOUT 30 YEARS
PHC, SULIBELE, HOSAKOTE TALUK

BANGALORE RURAL-562129.

15. DR. SANA HARISH
S/O VENKATARAMANA S
AGED ABOUT 29 YEARS
PHC KORALA, KORTEGERE TALUK
TUMKUR DISTRICT-572129.
16. DR. LAVANYA T
AGED ABOUT 32 YEARS
W/O NITHIN U
PHC, NERALLKERA, MADHUGIRI TALUK
TUMKUR DISTRICT-572132.
17. DR. PAVITHRA C T
D/O THIMMARAJU T
AGED ABOUT 31 YEARS
PHC, GOMARADANAHALLI, SIRA TALUK
TUMKUR DISTRICT-572139.
18. DR. SAMBRAM B
AGED ABOUT 29 YEARS
PHC, BADAVANAHALLI, DODEN HOBLI
MADHUGIRI TALUK
TUMKUR DISTRICT-572112.
19. DR. RAKSHITHA
W/O PRAVEEN C. PATIL
AGED ABOUT 33 YEARS
PHC MUDDENAHALLI, MADHUGIRI TALUK
TUMKUR DISTRICT-572127.
20. DR. ADITHYA SUEHEN R
S/O RAMACHENDRE
AGED ABOUT 30 YEARS
PHC THONDAGERE
TUMKUR DISTRICT-572101.
21. DR. APOORVA K A
D/O ANNAPPA K
AGED ABOUT 29 YEARS

PHC OTURU, TUMKUR-577431.

22. DR. MUTHYA LAKSHMI
D/O M. RAVI KUMAR
AGED ABOUT 34 YEARS
R/AT PHC, VENKATAPURA
PAVAGADA TALUK
TUMKUR DISTRICT.

... PETITIONERS

(BY MR. VIVEK SUBBA REDDY, SR. COUNSEL FOR
MR. GIRISH KUMAR R, ADV.,)

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF HEALTH AND FAMILY WELFARE
VIKASA SOUDHA, BENGLAURU-560001.
2. THE DIRECTORATE OF MEDICAL EDUCATION
REP. BY ITS DIRECTOR
HAVING OFFICE AT ANANDA RAO CIRCLE
BANGALORE-560009.
3. COMMISSIONERATE OF HEALTH AND FAMILY
WELFARE SERVICES
GOVERNMENT OF KARNATAKA
REP. BY ITS COMMISSIONER
HAVING OFFICE AT AROGYA SOUDHA
MAGADI ROAD, BENGALURU-560023.
4. KARNATAKA EXAMINATION AUTHORITY
REP. BY ITS EXECUTIVE DIRECTOR
HAVING OFFICE AT 18TH CROSS
SAMPIGE ROAD, MALLESHWARAM
BANGALORE-560012.

... RESPONDENTS

(BY MR. DHYAN CHINAPPA, AAG A/W

MR. LAXMI NARAYANA, AGA FOR R1 & R3
MR. N.K. RAMESH, ADV., FOR R4)

- - -

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IN W.P. No.20910 OF 2022

BETWEEN:

1. DR. RAKESH D.S.
AGED ABOUT 33 YEARS
S/O SIDLEGOWDA
PHC ANOOR, CHIKAMAGALUR TALUK
CHIKAMAGALUR DISTRICT 577101.
2. DR. PRAVEEN
AGED ABOUT 35 YEARS
S/O BASAVARAJ
PHC, HEDGAPUR
AURAD TALUK, BIDAR DISTRICT 585436.
3. DR. PRADEEP K N
AGED ABOUT 38 YEARS
S/O NANJUNDAPPA K G
PHC, BISLEHALLI, CHIKAMAGALUR
KADUR TALUK 577548.
4. DR. NAGESH
AGED ABOUT 30 YEARS

PHC KODUMBAL, CHITAGUPPA TALUK
BIDAR DISTRICT 585412.

5. DR. SUDHEER KUMAR
AGED ABOUT 31 YEARS
S/O SHIVAKUMAR KONDAGULE
PHC DONGAON, KAMALNAGAR TALUK
BIDAR DISTRICT 585417.
6. DR. JUVERIA TASNEEM SAHIK
AGED ABOUT 26 YEARS
D/O ABDUL RASHEED
PHC MANAGALI, BASVANA BAGWADI TALUK
VIJAYAPUR DISTRICT 586122.
7. DR. MANOJ H D
AGED ABOUT 32 YEARS
PHC, JAYACHAMARJAPURA
C N HALLI TALUK, TUMAKURU DISTRICT 572214.
8. DR. HARSHA H A
AGED ABOUT 33 YEARS
PHC, TATANAHALLI
HOLENARSIPUR TALUK
HASSAN DISTRICT 573210.
9. DR. RAGHAVENDRA M
AGED ABOUT 34 YEARS
S/O MURALIDHAR N S
PHC, GENERAL HOSPITAL, BEGUR
HASSAN DISTRICT 573115.
10. DR. BASAVARAJ HEBBAR
AGED ABOUT 38 YEARS
S/O VEERABHADRAPPA
PHC, GULEDAGUDDA
BAGALKOT DISTRICT 587203.
11. DR. RAGHAVENDRA T
AGED ABOUT 30 YEARS
PHC, NAVALI, KANAKAGIRI TALUK

KOPPA DISTRICT 583229.

12. DR. SYED SALEEM
AGED ABOUT 32 YEARS
S/O SYED MAQBOOL
PHC, ALUHATTI, DAVANAGERE TALUK
DAVANAGERE DISTRICT 577512.
13. DR. PURASHNRAM RAYABAG
AGED ABOUT 33 YEARS
S/O FAKIRAPPA
PHC, INAMHONGA
SAVRADATTI TALUK
BELGUM DISTRICT 591123.
14. DR. VISHWAMURTHY H A
AGED ABOUT 34 YEARS
S/O H N ARKACHARY
PHC, KARUR, RANEBENNUR HAVERI 581123.
15. DR. SANTOSH B. NIRWANI
AGED ABOUT 33 YEARS
PHC, HULLOLI ,KUKKERI TALUK
BELAGAVI DISTRICT 591305.
16. DR. RIYAZ M M
AGED ABOUT 32 YEARS
S/O MOHAMMED HANIF
PHC, UGARGOL, SAVADATTI TALUK
BELGAVI DISTRICT 591126.
17. DR. ASHA LATHA H R
AGED ABOUT 30 YEARS
PHC, GOPANAHALLI, HASSAN TALUK
HASSAN DISTRICT 573201.
18. DR. GURUPRASAD D N
AGED ABOUT 32 YEARS
S/O NAGARAJA D B
PHC, BOMALAPURA, KOPPA TALUK
CHIKAMAGALURUR DISTRICT 577120.

19. DR. BANU MALLIKA CHANDRA M
AGED ABOUT 33 YEARS
D/O LATE H.D. MALLIKARJUNA SWAMY
PHC, DASANUR, NANJUANGUD TALUK
MYSUR 571316.
20. DR. HARISH KUMAR K
AGED ABOUT 28 YEARS
S/O KAREHANUMAIAH
PHC, THEERTHAPUR, C N HALLI TALUK
TUMKUR DISTRICT 572214.
21. DR. PRAVEEN KUMAR S
AGED ABOUT 33 YEARS
S/O SIDDAPPA
PHC, PAVLAMATTI, CHANNAGIRI TALUK
DAVANGERE DISTRICT 577213.
22. DR. MARULASIDDDESHWARA C R
AGED ABOUT 34 YEARS
S/O REVANASIDDAPPA C M
PHC, ASAGODER, JAGALURU TALUK
DAVANAGERE DISTRICT 577005.
23. DR. LAVANYA C
AGED ABOUT 38 YEARS
D/O H.M. CHANDRAIAH
PHC, KAMAGERE, KOLLEGALA TALUK
CHAMARAJANAGAR DISTRICT 571443.

... PETITIONERS

(BY MR. VIVEK SUBBA REDDY, SR. COUNSEL FOR
MR. GIRISHKUMAR R, ADV.,)

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF HEALTH AND FAMILY WELFARE
VIKASASOUDHA, BENGALURU 560001.

2. THE DIRECTORATE OF MEDICAL EDUCATION
REP. BY ITS DIRECTOR
HAVING OFFICE AT ANANDA RAO CIRCLE
BENGALURU 560009.
3. COMMISSIONERATE OF HEALTH AND FAMILY
WELFARE SERVICES
GOVERNMENT OF KARNATAKA
REP BY ITS COMMISSIONER
HAVING OFFICE AT AROGYA SOUDHA
MAGADI ROAD, BENGALURU 560023.
4. KARNATAKA EXAMINATIONS AUTHORITY
REP. BY ITS EXECUTIVE DIRECTOR
HAVING OFFICE AT 18TH CROSS, SAMPIGE ROAD
MALLESHWARAM, BANGALORE 560012.

... RESPONDENTS

(BY MR. DHYAN CHINAPPA, AAG A/W
MR. LAXMI NARAYANA, AGA FOR R1 & R3
MR. N.K. RAMESH, ADV., FOR R4)

THIS W.P. IS FILED UNDER ARTICLE 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE WRIT OR ORDER IN THE NATURE OF CERTIORARI OR SUCH ORDER THIS HON BLE COURT MAY DEEM FIT TO QUASH THE NOTIFICATION DATED 06/10/2022 VIDE NO.MED 131 RGU 2022 ISSUED BY THE 1ST RESPONDENT PRODUCED AT ANNEXURE-A. ISSUE WRIT OR ORDER IN THE NATURE OF CERTIORARI OR SUCH ORDER THIS HON BLE COURT MAY DEEM FIT TO QUASH THE SEAT MATRIX DATED 09/10/2022 ISSUED BY 2ND RESPONDENT PRODUCED AT ANNEXURE-B & ETC.

THESE W.Ps. COMING ON FOR FURTHER HEARING IN 'B' GROUP, THIS DAY, **ALOK ARADHE J.**, MADE THE FOLLOWING:

ORDER

The seminal issue involved in these bunch of petitions is with regard to validity of notification dated 06.10.2022 issued by Government of Karnataka, by which seats earmarked for in-service candidates for PG-NEET examination 2022 was reduced from 30% to 15%. In order to appreciate the grievance of the petitioners, relevant facts need mention, which are stated infra.

2. The petitioners are Doctors who are working in various primary health centers under the Department of Health and Family Welfare. Every year the State Government earmarks the seats for admission to various PG courses for in-service candidates. By a notification dated 19.01.2022, the State Government had earmarked 30% of the seats for in-service candidates. Thereafter, by a notification

dated 31.01.2022, 392 seats in various post graduate courses were earmarked for in-service candidates.

3. The Commissioner of Health and Family Welfare services had issued a circular dated 04.02.2022 which enables the petitioners to make applications for post graduate courses as against in-service quota on the basis of the marks secured in PG-NEET entrance examination. The petitioners applied for admission to the post graduate course. The Director of Medical Education issued a merit list on 29.09.2022 of 130 candidates who were found eligible to appear for counseling for admission to post graduate course.

4. The State Government on 06.10.2022 issued a notification for counseling in respect of post graduate courses wherein out of total number of government post graduate seats in government as

well as medical colleges, 85% of the seats are earmarked for non in-service candidates, whereas, 15% of the seats were earmarked for in-service candidates. The Karnataka Examination Authority on 08.10.2022 issued a calendar of events. On the basis of the notification dated 06.10.2022, the Director of Medical Education on 09.10.2022 issued a list of seat matrix.

5. The petitioners who are in-service candidates being aggrieved by the reduction of seats from 30% to 15% filed a writ petitions. In W.P.No.20512/2022 a division bench of this court passed an interim order dated 14.10.2022. The division bench of this court prima facie found that when 30% of seats were reserved for in-service candidates on 09.01.2022, there appears to be no justification for reducing the same to 15%. The respondents therefore, were directed not to

precipitate the matter further including announcing the result of seat matrix in respect of in-service candidates till the next date of hearing and the matter was directed to be posted on 18.10.2022.

6. However, despite the aforesaid interim order, the Karnataka Examination Authority by a notification dated 15.10.2022 advanced the date of publication of first round real allotment on 14.10.2022 and announced the result. Therefore, this court by an order dated 17.10.2022 directed the respondents not to admit any candidate to post graduate courses in pursuance of results declared after first round real counseling till the next date of hearing. In the aforesaid factual background, these writ petitions arise for our consideration.

7. Learned Senior counsel for the petitioners submitted that petitioners after passing the MBBS

examination have served under the Department of Health and Family Welfare in rural areas for a period of three years before appearing in PG-NEET examination. It is further submitted that the petitioners on their admission to post graduate course are required to furnish a bond for serving the State Government for a period of ten years. It is also submitted that in case, petitioners resign from the services of the State Government before the expiry of ten years, they have to pay a sum of Rs.50 Lakhs. It is also urged that the sanctioned posts can be only in ten streams viz., general medicine, surgery, obstetrics and gynecology, ENT, dermatology and venereal diseases, anesthesia, pediatrics, ophthalmology, orthopedics and radiology. Therefore, the petitioners have to seek admission in the aforesaid streams.

8. It is further submitted that by a notification dated 19.01.2022, even though 86

candidates were eligible, the State Government had provided a quota of 30% seats i.e., 392 seats. However, for academic year 2022-23, even though 113 in-service candidates are eligible to participate in the counseling, a number of in-service candidates have been reduced to 206. It is further submitted that out of 206 seats, only 96 seats are clinical seats. It is also urged that the decision to reduce the quota for in-service candidates for admission to post graduate courses from 30% to 15% suffers from the vice of non application of mind. It is also urged that the relevant factors for deciding the quota for in-service candidates have not been taken into account the impugned notification, therefore, is liable to be quashed as the same are arbitrary.

9. On the other hand, learned Additional Advocate General has submitted that in previous year i.e., academic session 2021-22, 392 seats were

earmarked for in-service candidates, whereas, only 86 in-service candidates were eligible to participate in the process of counseling. It is contended that since, the number of candidates for the academic session 2022-23 is less than the seats, therefore, a conscious decision was taken in the meeting held on 29.09.2022 to reduce the quota and therefore, a notification dated 06.10.2022 was issued. It is further submitted that the aforesaid notification has been issued with an object to provide admission to meritorious candidates in post graduate course.

10. We have considered the submissions made on both sides and have perused the record. The object and purpose of providing separate source of admission for in-service candidates was noticed by Hon'ble Supreme Court in '***K.Duraisamy vs. State of T.N. (2001) 2 SCC 538***', '***State of M.P. vs. Gopal D Tirthani***', (2003) 7 SCC 83, '***Sudhir N. vs. State***

***of Kerala'*, (2015) 6 SCC 685 and 'State of U.P. vs. Dinesh Singh Chauhan', (2016) 9 SCC 749** and it was held that there is a legitimate and rational basis for providing a separate channel / source of entry for in-service candidates in order to encourage them to offer their services in rural areas. It was further held that there was sufficient nexus with larger role of equalization of educational opportunities. It was also held tht in the absence of such a incentive, there would be serious dearth of qualified post graduate Doctors to meet the requirement of common public. The aforesaid decisions were also referred to with approval in **'T.N. MEDICAL OFFICERS ASSN. VS. UNION OF INDIA', (2021) 6 SCC 568** and it was held in para 17.1 as under:

the action of the State to provide inservice quota is in the discharge of its positive constitutional obligations to promote and provide better health care facilities for its citizens by upgrading the qualifications

of the existing inservice doctors so that the citizens may get more specialized health care facility. Such action is in discharge of its constitutional obligations as provided in Article 47 of the Constitution of India which is the corresponding fundamental right of the citizens protected under Article 21 of the Constitution of India

11. The State Government in discharge of its aforesaid positive constitutional obligation, by a notification dated 19.01.2022, had earmarked 30% of the seats for in-service candidates for admission to post graduate medical courses in the State of Karnataka. However, subsequently by a notification dated 06.10.2022, the aforesaid quota has been reduced to 15%.

12. It is trite law that public orders publicly made in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by decision making authority. The validity of an

order has to be adjudged on the grounds on which it is made. [See: ***Mohinder Singh Gill and Another vs. Chief Election Commissioner, (1978) 1 SCC 405 and Bhikhubhai Vithlabhai Patel and Others vs. State of Gujarat and Another', (2008) 4 SCC 144***].

13. Undoubtedly, the petitioners have served the Department of Health and Family Welfare of Government of Karnataka in rural areas for a period of three years. In case of their admission to post graduate courses the petitioners are required to furnish a bond to serve the State Government for a period of ten years. It is also pertinent to note that the petitioners have to take admission in eighteen streams viz., general medicine, surgery, obstetrics and gynecology, ENT, dermatology and venereal diseases, anesthesia, pediatrics, ophthalmology, orthopedics and radiology etc. as the post of senior

medical officers are available only in aforesaid streams.

14. Before proceeding further, it is apposite to take note of the proceedings held on 29.09.2022 which culminated in issuance of notification dated 06.10.2022 reducing the quota. The relevant extract of the meeting reads as under:

1. *Secretary, briefed in the meeting regarding the PGET 11(1) rule (Health & Family Welfare Secretariat Notification No.HFW 44 MPS 2003(1) Bangalore dated 3rd July 2003) with respect to reservation of number of seats for in-service candidates. As per the previous year statistic the total number of seats available under Government quota were 1322 and as per the Government notification 30% of the seats were earmarked for in-service candidates. On basis of that total 396 post graduate seats along with 35 diploma and 14 DNB seats in clinical subjects were*

available for in-service candidates. The number of eligible in-service candidates were 83. After the conduct of counseling and allotting seats to these 83 candidates the remaining 313+ seats were de-categorized for the second round of counseling and made available for General category students (non in-service). Multiple complaints were received from non in-service meritorious students for blocking more number of seats for in-service candidates as the number of eligible in-service candidates are less and the seats reserved are more which prevented the non in-service candidates to select the seats of their choice in the first round of counseling.

2. For the years 2022-23, there are total 133 in-service candidates are eligible to participate in the counseling and as per existing 30% reservation policy, the number of seats available are 420. Hence, based on the statistics of 2021-22 and 2022-23, members present in the meeting opined that instead of earmarking 30% of seats, 15% of

Government quota seats to be earmarked for in-service candidates. By doing so it will help non in-service candidates to choose the available seats based on their merit. For example, in case 30% of the seats are reserved for in-service candidates, the number of seats available are more compared to number of candidates eligible. This will lead to blocking of the clinical subject seats to the non in-service students by depriving the meritorious non in-service students from getting seats as per their merit. However, in the second round of counseling the in-service quota sets are decategorized and made available for the general category students, but by the time second round of counseling starts, the non in-service students must have taken seats in the first round itself and joined the college. This will prevent these non in-service meritorious students to participate in the second round of counseling for the seats which are available after decategorizing in-service quota seats.

To provide justice to these non in-service meritorious students to get the seat as per their merit it was decided to earmark 15% of the Government quota seats to in-service candidates.

15. The only issue, which arises for consideration is whether the action of the State Government in reducing the quota from 30% to 15% for admission to post graduate courses for in-service candidates is justified. The only explanation offered on behalf of respondents is that the number of seats are more than the number of candidates. However, the aforesaid reason is not forthcoming from the minutes of meeting dated 29.09.2022 referred to in preceding paragraph. The decision to reduce the quota from 30% to 15% has been taken to provide non in-service meritorious students to get the seat as per their merit. The aforesaid criteria is wholly irrelevant for reduction of seats. The relevant criteria

is the number of seats as well as the number of in-service candidates who have qualified to participate in the counseling. The in-service candidate need to have a better ratio of choice. For the preceding year, the ratio of choice for in-service candidates was better and the ratio of choice in respect of seats was 1 : 5, i.e., 1 candidate had at the option of choosing 1 out of 5 available seats, which has been reduced to this year to virtually 1 : 1 i.e., a candidate has to choose 1 seat which is available. The quota for in-service candidates has been reduced without assigning any cogent reasons and the decision appears to have been taken in a casual and cavalier manner. The relevant facts while reduction of quota from 30% to 15% have not been considered by the State Government while reducing the quota. The impugned notification dated 06.10.2022 suffers from the vice of non application of mind and is arbitrary.

For the aforementioned reasons, the same is quashed. Accordingly, the seat matrix dated 09.10.2022 issued by Director of Medical Education is also quashed. Needless to state that State Government shall be at liberty to prescribe the quota for in-service candidates afresh while taking into account relevant criteria and to fill up the seats.

In the result, the petitions are allowed.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

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