

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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**WRIT PETITION Nos.25947, 25950, 26644 and
26646 of 2015**

Between:

Rajiv Kumar Agarwal and others.

....Petitioners

and

The State of Andhra Pradesh,
Represented by its Principal Secretary,
School Education Department,
Secretariat, Hyderabad,
And others.

....Respondents

DATE OF JUDGMENT PRONOUNCED: 21.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? **Yes/No**
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? **Yes/No**
3. Whether His Lordship wishes to
see the fair copy of the Judgment? **Yes/No**

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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**WRIT PETITION Nos.25947, 25950, 26644 and
26646 of 2015**

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COMMON ORDER:

All these Writ Petitions are being disposed of at the admission stage in view of the urgency in the matter, after hearing the learned Senior Counsel for the petitioners, learned Government Pleader for School Education and the learned Standing Counsel for the Acharya

Nagarjuna University.

It is the admitted case that the petitioners-students, who are seeking relief in these four Writ Petitions, were admitted in the respective colleges of education during the academic year 2014-2015 beyond the permitted intake. The colleges were granted approval by the National Council for Teacher Education (NCTE) and affiliation by the Nagarjuna University permitting them to admit 100 students in respect of each institution. The petitioners were admitted beyond that capacity for the reasons best known to them. Now, the present Writ Petitions are filed challenging the inaction of respondent Nos.2 and 3 in issuing hall tickets in favour of the petitioners for appearing for B.Ed., annual examination in spite of receiving the examination fee and affiliation fee from the institutions and seeking permission to appear for B.Ed., annual examination scheduled to be commenced with effect from 17.08.2015 and 25.08.2015.

Learned Senior Counsel appearing for the petitioners submits that, in identical circumstances, this Court passed an order in W.P.M.P.No.31948 of 2015 in W.P.No.24602 of 2015, dated 06.08.2015. He also relied on **Vishnu Traders v. State of Haryana**^[1] and **State of Uttar Pradesh v. Hirendra Pal Singh**^[2]. He submits that there should be consistency in approach by this Court. Learned Standing Counsel for the University as well as the learned Government Pleader, on the other hand, relied on an order of the Division Bench of this Court in W.P.No.462 of 2015 and batch dated 23.07.2015 and submit that the petitioners shall not be allowed to appear for the examination when their intake was not approved by the concerned authority, including the University. They also submit that the hall tickets were issued to the students, who were permitted to be admitted pursuant to the list of approval granted way back in September, 2014.

In view of the admitted facts in this case, this Court is not inclined

to go into the merits of the case and deal with them elaborately. The petitioners were admitted by the institutions beyond the permitted intake for the reasons best known to them, eventhough the list of approval in respect of the permitted intake was communicated in September, 2014, itself. The petitioners were not approved to be admitted by anyone including the University. The only ground that is advanced is that the students are innocent, they have prosecuted their studies and before the fag end of attending the examinations, the hall tickets are denied to them. Though another learned single Judge of this Court granted interim direction in another case and the learned Senior Counsel relied on the aforesaid decisions, this Court is not inclined to follow the same in the name of consistency. The law should prevail over consistency. The Supreme Court as well as the Division Bench of this Court in the above decisions categorically held that the jurisdiction of the Court under Article 226 of the Constitution of India should not be frittered away for such a purpose and directed the management to refund the fee/incidental charges collected by them from the students with interest at 6% per annum. However, the learned Senior Counsel distinguishes the said order stating that those cases arose out of absence of recognition/affiliation in respect of those institutions and in these cases, the institutions are being run with proper approval from NCTE and affiliation from concerned University, but only the intake exceeded the permissible strength fixed by the University.

I am unable to make a distinction merely because the facts can be distinguished on the ground of excess intake. Excess intake even in the face of a communication in September, 2014, by the concerned University is glaring irregularity committed by the institutions. This Court should not come to the aid of such students, who were admitted without verifying the antecedents or the regularity of such admission in the institutions. It is not known under what circumstances the petitioners, who are from outside the State, are lured to take admission beyond the permitted intake. This is a clear case of commercialisation

and this Court should not come to aid in such a situation.

In the circumstances, all these Writ Petitions are dismissed. It is left open to the concerned authority to take appropriate criminal action, if it is possible to take, in accordance with law against the institutions for admitting the students beyond their intake and putting the students' life in jeopardy. The miscellaneous petitions pending in these Writ Petitions, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

21.08.2015

Note: Issue C.C today.

B/o.

vs

[\[1\]](#) 1995 Supp (1) SCC 461

[\[2\]](#) (2011) 5 SCC 305