

A.P.STATE COUNCIL OF HIGHER EDUCATION
MASAB TANK, HYDERABAD

FILLING UP OF CATEGORY 'B' (Management) SEATS IN PROFESSIONAL INSTITUTIONS
FOR THE YEAR 2010-2011

NOTIFICATION

The students who are interested in seeking admission in 'B' category seats (30% of total seats) in Private Unaided Engineering, Pharmacy, Architecture, MBA & MCA colleges in the state are hereby informed that the seats in the colleges shall be filled on the basis of merit of students following interim orders of Hon'ble High court of A.P in W.P.No.17385/2009 dt:18.09.2009, rules of admissions and guidelines issued in relevant Government Orders. Information on the guidelines may be obtained from the website www.apsche.org.

Hyderabad
Dt:19.08.2010

SECRETARY
APSCH

GUIDELINES FOR FILLING UP OF CATEGORY-B SEATS (MANAGEMENT SEATS) IN PRIVATE UN-AIDED PROFESSIONAL COLLEGES (Engineering, Pharmacy, Architecture, MBA & MCA) IN A.P.

- Category B seats shall be thrown open for admission to all the eligible candidates on the basis of merit from within the State, other states, Union territories and NRI/NRI sponsored candidates
- Category B Seats (Management Seats) were provided to an extent of 30% of seats within the sanctioned intake in Private unaided Minority and Minority Engineering, Pharmacy & Architecture colleges vide G.O.Ms. No.53 & 54 Higher Education (EC.2) Department dt:10.05.2006 and Private unaided Minority/Non Minority colleges offering MBA/MCA courses vide G.O.Ms.No.59 HE (EC.2) Department dt: 26.05.2006.
- Guidelines issued in G.O.Ms.No.61 Higher Education Dept dt: 13.05.2008 are to be followed scrupulously by the Managements of the colleges while making admissions.
- The Category-B seats are to be filled by not giving a total go by to merit.
- Out of the 30% quota of Category B Seats, seats not exceeding 15% of the sanctioned intake in each course shall be filled on merit basis with NRI/NRI sponsored candidates (vide G.O.Ms.No.140 HE Dept dt: 31.07.08), who have passed qualifying examination with not less than 50% of aggregate marks or Cumulative Grade Point Average (CGPA) equivalent to 5 on a scale of 10.
- The remaining 15% of seats and the leftover seats after filling NRI /NRI Sponsored candidates shall be filled with candidates from within state as per the merit order (EAMCET/AIEEE) interpreted by a Division Bench of Hon'ble High Court of AP in W.P.No.17385/2009 dt:18.09.2009, which is put on Website. Only thereafter if any still remain unfilled the colleges can fall back upon the option of filling up such vacant seats with candidates who have qualified at the qualifying examination.
- No attempt shall be made by the college to fill up the entire 30% quota of category B seats with candidates who have qualified at the qualifying examination. No disregard should be shown to the rank obtained by the candidates at EAMCET or AIEEE.

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

EIGHTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND NINE

W.P.No.17385 OF 2009

Between:

K.Harish Reddy, S/o K.P.V.Subba Reddy,
R/o F-1, Siddarth Heights; 77/B, Vengalrao Nagar, Hyderabad

Petitioner

AND

1. Government of A.P, Rep by its Principal Secretary, Higher Education ,
Department, Secretariat Buildings, Saifabad, Hyderabad
2. A.P.State Council of Higher Education, Opp: to Mahavir Hospital, Masab Tank,
Hyderabad, rep by its Secretary
3. The Commissioner of Technical Education, A.P, Hyderabad
4. Jawaharlal Nehru Technological University, Kukkatpally, Hyderabad rep by its
Registrar
5. Osmania University, Hyderabad, Rep by its Registrar
6. The Principal, Chaitanya Bharathi Institute of Technology (CBIT), Gandipet,
Hyderabad-75
7. The Principal, Mahatma Gandhi Institute of Technology (MGIT), Gandipet,
Hyderabad-75
8. The Principal, VNR Vignana Jyothi Institute of Engineering & Technology,
Bachupalli (via) Kukkatpally, Hyderabad-90

Respondents

ORDER:

Per the Hon'ble Sri Justice Ghulam Mohammed

This writ petition has been instituted by a student, who solicits admission into Electronics and Communication Engineering Branch of B.E/B.Tech, course offered by any of the leading Engineering and Technological colleges affiliated to the 4th and 5th respondent in the writ petition. He challenges the amendments brought about to Rule 6 (ii) (4) and Rule 6 (4) (iv) of the Andhra Pradesh Unaided Non Minority Professional Institutions (Regulation of Admissions into Under Graduate Professional courses through Common Entrance Test) Rules, 2006, (henceforth referred as “the under Graduate Admission Rules” for brevity).

The all important admission process in to the category B seats of 30% of the intake in each course in these Unaided Non Minority Professional Institutions, has been spelt out in Sub Rule (iii) of Rule 3, in the following words;

“(iii) The category B seats shall be 30% of the total intake of seats in each course in respect of Unaided Non Minority Professional Institution, which shall be open for admission to all the eligible candidates on merit basis including candidates belonging to other States and Union Territories of India and NRIs, following the provisions of sub rules (i) of Rule 6. Within Category B, seats not exceeding 15% of the total intake of seats may be filled, at the discretion of the institution, with NRIs.”

Out is detail in Rule-4, Sub Rule (iii) of Rule 4, reads as under:

“(iii) The candidate should have passed the qualifying examination (10+2) or equivalent on the date of his/her counseling for admission, and secured a rank at the Common Entrance Test and should also satisfy other conditions laid down in these Rules.

Provided that the Category B seats as specified in Rule 3 (iii) above shall be filled either on the basis of the rank obtained in the Common Entrance Test or on the basis of the rank obtained in All India Engineering Entrance Examination (AIEEE) conducted by the Central Board of Secondary Education,

Provided further that the NRI seats shall be filled with candidates who have passed the qualifying examination with not less than 50% of aggregate marks or Cumulative Grade Point Average (CGPA) equivalent to 6 on a scale of 10”.

Sub-rule (iv) thereof reads as under:

“(iv) The vacant seats, if any, may be filled with the candidates securing not less than 50% marks in aggregate or in group subjects in the qualifying examination duly ensuring merit and transparency.”

In contrast, the learned Additional Advocate General would contend that pursuant to the judgment rendered by the Supreme Court in T.A.Pai, ISLAMIC EDUCATION and INAMDAR, there should be certain amount of autonomy and flexibility to be shown by the State while regulating the process of admission to Category –B seats. But, at the same time, the State has ensured that a very transparent procedure is adopted by all such institutions and that for that very purpose, framed and notified the guidelines through G.O.Ms.No.61, Higher Education (EC.2) Department, dt: 13.05.08, and further, the admission process is sought to be strictly regulated on the basis of the merit of the candidates and it has not been left out for the discretion of any institution concerned.

We have examined the above rival contentions in good detail.

To our mind, as at presently advised, Rule 3 (iii) made it very clear that the Category B seats shall be thrown open for admission to all the eligible candidates and they be filled in or merit basis. The category B seats can comprise of NRI/NRI sponsored candidates not exceeding 15% of the total intake. The rest of the candidates can be drawn from the State of Andhra Pradesh as well as from other States and Union Territories. However, the admission to NRI/NRI sponsored candidates can be regulated only on the basis of the marks secured by them at the qualifying examination , namely, (10+2) or Intermediate or its equivalent. If so far as all other seats are concerned, every institution shall endeavour and strive to fill them up with 'eligible candidates', which expression has been crystal clearly defined in 2 (g) as meaning; the candidates, who is eligible for admission as per the eligibility criteria prescribed under Rule 4. First Proviso to Sub-rule (iii) of Rule 4, offers key to understand the question. It was spelt out therein that category B seats shall be filled either on the basis of the rank obtained at EAMCET or AIEEE. Only in the event of some seats still remaining unfilled and vacant, then Sub-rule (iv) of Rule 4 would come into operation. Such vacant seats may be filled with candidates, who are eligible and also those who have qualified at the qualifying examination.

To our mind, it is clear that the question of filling up the vacant seats would only arise when the college concerned first attempts to fill up the quota of NRI/NRI sponsored candidates, which shall not exceed 15% and the rest of the 15% seats should be attempted to be filled in with those candidates, who have secured rank either at EAMCET or AIEEE. Only thereafter, if any seats still remain unfilled, the colleges can fall back upon the option of filling up such vacant seats with candidates, who have qualified at the qualifying examination. But, no attempt should be made by the colleges to fill up the entire 30% quota of B category seats with candidates who have qualified at the qualifying examination. No disregard should be shown to the rank obtained by the candidates at EAMCET/AIEEE.

Pending further consideration of this writ petition it would also be appropriate to direct the 2nd respondent Andhra Pradesh State Council of Higher Education, not to accord approval to the admissions carried out to category B seats in Private Unaided Non Minority Institutions affiliated to 4th and 5th respondents, so long as they have not filled up the seats first in accordance with Rule4 (iii) followed up by the procedure of filling in vacant seat, if any, in accordance with Rule 4 (iv).

(EXCERTS OF THE ORDER IN W.P.NO.17385 OF 2009 DT:18.09.09)