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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 752/2022**

**BODDU MANISHA**

..... Petitioner

Through: Mr. Peeta Raman and Ms. Mamta  
Sharma, Advocates.

versus

**INDIAN COUNCIL OF AGRICULTURAL RESEARCH  
THROUGH ITS SECRETARY & ORS.**

..... Respondents

Through: Mr. Harsha Peechara, Ms. Bharti  
Reddy and Mr. Rama Krishna,  
Advocates for R-3.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

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**06.09.2022**

**CM APPL. 39180/2022** *(for early hearing)*

1. For the grounds and reasons stated in the application, the same is allowed and disposed of.
2. With the consent of counsel for the parties, the petition is taken up for hearing and disposal today itself.

**W.P.(C) 752/2022**

3. The present petition seeks following prayers:

*"I. To Set Aside Clause 4.0 of AIEEA (UG) Of Online Counselling Brochures, 2021 (Annexure P-1) Reproduced Hereunder:*

***"4.0 FILLING OF VACANT SEATS AFTER THE COUNSELLING***

*The ICAR quota seats after the final/mop-up round of online counselling, if remain vacant, shall automatically stand released to the Agricultural University concerned for filling up at their level and as per the procedure in vogue at the respective university. These seats will no more be called as ICAR seats and treated as university seats. Once the counselling/admission process is over, filling up of any subsequent vacancies created due to any reasons, shall not be the responsibility of ICAR. No correspondence in this regard will be entertained either from the universities or from any candidate.”*

*II. Direct Respondent No. 1 to provide offline/spot counselling opportunity to the Petitioner in Respondent no. 3 university to take admission in B.Sc. Agriculture Course on the basis of AIEEA-UG 2021;.”*

4. In order to appreciate the challenge laid by Petitioner, a brief narration of the facts is necessary. Petitioner, aged 25 years, desires to pursue higher education in B.Sc (Agriculture) course. She appeared in All India Entrance Examination for Admission (UG) [*hereinafter, “AIEEA UG”*] conducted by Respondent No. 1 – Indian Council of Agricultural Research [*“ICAR”*] in the years 2020 and 2021 and qualified for online counselling process, but no seat was allotted to her. However, she asserts right over vacant seats released by ICAR to State universities in terms of clause 4.0 of AIEEA UG of Online Counselling Brochure, extracted hereinabove as part of the prayer clause.

5. Petitioner alleges that even after three regular rounds of counselling and a mop-up round, there were 22 seats in academic year 2020-21 and 9 seats in academic year 2021-22 in Respondent No. 3-University that remained vacant. She contends that the afore-noted seats should have been offered for admission through ICAR counselling only. Even when seats are released to the State university, they remain unfilled and go waste, leading to denial of

opportunity to meritorious students like her, besides being a waste of national resources.

6. Before adverting to afore-noted contentions of Petitioner, it would be apposite to take note of the history leading to this second round of litigation at the instance of Petitioner. On earlier occasion, Petitioner filed W.P.(C) 994/2021 urging same grievances in respect of academic session 2020-21. This Court, *vide* order dated 2<sup>nd</sup> March, 202 passed the following directions while allowing said petition:

*“12. In view of the aforesaid, I am inclined to allow the petitioner’s prayer for a further round of counselling to be held. The request of the petitioner for a direction to ICAR to conduct a further round of counselling is, however, unmerited. The stipulations quoted above make it clear that the ICAR quota would revert to the recognised institutions, to be filled at their level. I therefore consider it appropriate to direct the University, and not ICAR, to fill the vacant seats.*

*13. It may be mentioned that Mr. Lingwal and Mr. Shanker Kumar Jha, learned counsel appearing for the ICAR and Union of India respectively, do not resist such an order being passed against the University.*

*14. In the absence of any justification being shown by the University for adopting such a course, the petition is allowed, and the University is directed to conduct a further round of counselling to fill up vacant seats in the course in question. The University will take steps to conduct the aforesaid counselling within a period of four weeks from today.*

*15. The petitioner will be eligible to participate in the counselling. However, it is accepted by Mr. Gupta that this does not amount to a direction upon the University to grant admission to her. She will be entitled to participate and claim a seat on her own merits, if she is otherwise entitled to it.*

*16. The ICAR is also directed to take the matter up with the University and ensure that the stipulations in the Online Counselling Brochure published by it are followed.*

*17. The writ petition is allowed, alongwith the pending application, in the*

*terms aforesaid.”*

7. Subsequently, on a review petition filed by Respondent No. 3-University, following order was passed on 6<sup>th</sup> August, 2021:

*“1. This review petition has been filed by the Professor Jayashankar Telangana State Agricultural University [“the University”], which was arrayed as the respondent No. 4 in the captioned writ petition, seeking review of an order dated 02.03.2021.*

*2. The University did not enter appearance in the writ petition despite several opportunities. The writ petition was, therefore, disposed of by the order under review in its absence, and a direction was passed for the University to conduct a further round of counselling to fill up the vacant seats in Bachelor Degree Program in Agriculture and Allied Sciences, for which the writ petitioner was an aspirant.*

*3. Mr. R.M. Tewari, learned counsel who appears for the writ petitioner, states that the order under review has worked itself out, inasmuch as the writ petitioner has not secured a place at the University due to the fact that she had not qualified in the Engineering, Agriculture and Medical Common Entrance Test [“EAMCET”].*

*4. In view of the submission of Mr. Tewari, it is not necessary to enter into the controversy raised in this review petition. It is made clear that the order dated 02.03.2021 was passed in circumstances where the University failed to enter appearance pursuant to notice. The contentions raised by the University in the review petition are left open for adjudication in an appropriate case.*

*5. The review petition, alongwith the pending application, is disposed of in these terms.”*

8. It emerges that the Petitioner could not secure a seat in the academic year 2020-21 at Respondent No. 3-University as she had not qualified the Engineering Agricultural and Medical Common Entrance Test [“**EAMCET**”], which is the qualifying exam for securing admission in State universities in respect of seats falling under the State quota. The instant petition is in respect of academic year 2021-22; Petitioner now 25 years old

is not eligible to appear for EAMCET having crossed the upper-age limit of 22 years. Nonetheless, she still remains eligible for admission against 15% seats under the ICAR quota by qualifying the AIEEA UG, for which, no upper age-limit has been prescribed. Considering that, she insists that unfilled ICAR quota seats should not be released to State universities after final round of counselling in accordance with clause 4.0, and instead, ICAR should be directed to hold another round of offline/spot counselling for the vacant seats.

9. In terms of clause 4.0, the seats which are released to State universities, are treated as seats of concerned university, instead of ICAR, and admission against such seats is governed by prevalent rules of concerned university. As noted above, Petitioner is not eligible for admission to Respondent No. 3-University, hence the challenge to clause 4.0. It must also be noted that the Court is not seized with the challenge to fixation of age-limit criteria for appearing in EAMCET; what has been assailed is the release of ICAR seats to State universities. In that respect, ICAR submits that seats are released in accordance with established guidelines and all candidates were made aware of this stipulation *vide* AIEEA UG Online Counselling Brochure. The admission process has also been finalised and an extra round of counselling will disrupt the entire academic cycle.

10. It has been highlighted by ICAR and Respondent No. 3-University that Petitioner in fact never appeared for the mop-up round of counselling for ICAR released seats. The petition is also woefully silent on this aspect, and no explanation is given for non-participation in the said round. Petitioner,

having not availed an opportunity to secure a seat in the mop-up round, at this belated stage, requests for a direction for fresh round of counselling, which cannot be allowed. Regardless of Petitioner's merit, she ought to have availed the opportunity of securing a seat in the mop-up round particularly since ICAR does not stipulate a cut-off rank for participation in counselling process in order to accommodate more students.

11. Now classes for the academic session 2021-22 (for which admission is sought) has already commenced from the first week of April, 2022. At this stage, for this Court to direct conduction of a fresh round of counselling, would only upset the academic calendar and entire process of admission, which has since attained finality. The Supreme Court in several decisions has reiterated that there should be finality in admission process and merely because there are certain vacant seats, cannot be a basis for the Court to direct a fresh round of counselling.<sup>1</sup>

12. Release of seats is a policy decision taken by ICAR as per established rules and guidelines. ICAR is an autonomous body functioning under the Department of Agricultural Research and Education, Ministry of Agriculture and Farmers Welfare, Government of India established for coordination and management of research and education in agriculture and related fields. For this purpose, it conducts AIEEA UG in coordination with National Testing Agency for admission to bachelor programmes in agriculture and allied disciplines against allocated seats of State universities for admission. In the

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<sup>1</sup> *St. Stephens Hospital College of Nursing v. Union of India and Ors.*, SLP (C) No. 10571/2022; *Neelu Arora and Ors. V. Union of India and Ors.*, AIR 2003 SC 1082.

opinion of the Court, seats belong to State universities and ICAR conducts the admission process *qua* them. After exhausting the counselling sessions, ICAR has to imperatively release the same to State universities. There is thus, no cogent reason to set-aside clause 4.0 in absence of any manifest arbitrariness or illegality demonstrated by Petitioner.

13. There is however, merit in Petitioner's contention that vacant seats burden national resources and meritorious students must not be denied an opportunity to pursue desired courses. This grievance has been substantially redressed in light of the additional affidavit filed by ICAR pursuant to order dated 4<sup>th</sup> July, 2022. ICAR has now decided to hold another round of counselling from academic year 2022-23, as confirmed by paragraph 12 of said affidavit reproduced hereinbelow:

“12.

*x - x - x*

*However, ICAR has already taken note of the situation and it has been decided to have an additional 4<sup>th</sup> round of Counselling followed up by mop up round from the Academic session 2022-23 and onwards. Therefore, during current Academic Year 2022-23 and onwards there will be total 5 rounds (4+1) of counselling.”*

14. The afore-noted decision of ICAR would only ensure that no vacant seats remain to be released to State universities. However, if despite the above, seats still remain vacant and are consequently released to the State universities, such universities are bound to conduct counselling in terms of stipulations pertaining to filling up of vacant seats in B.Sc. Hons. Agriculture in ICAR AIEEA (UG) online counselling brochure. On this aspect, counsel for Petitioner has drawn the attention of the Court to the fact that despite release of seats, Respondent No. 3-University has not conducted

any counselling for admission against them for the academic year 2020-21, as stated in its counter affidavit in following terms:

*“7. I submit that there are no specific instructions as to whether the counselling has to be done based on the ranks obtained in AIEEA or EAMCET (State rank) conducted by the State. If the unfilled seats of the ICAR quota are to be added and filled by the University there would be change in the EAMCET stream seat matrix and it becomes difficult to implement various reservations for the left over seats.”*

15. Mr. Harsha Peechara, counsel for Respondent No. 3-University, attempts to justify non-conduction of counselling for admission to released seats on the ground that it would have disturbed entire admission process since 85% of seats under the State quota, had already completed. Additionally, he argues that time constraints are also to be factored in as counselling for State quota seats runs parallelly with ICAR counselling sessions.

16. Nonetheless, in the opinion of the Court, the State universities must ensure that seats released back to them do not go waste. Indeed, ICAR has *vide* communication dated 16<sup>th</sup> March, 2021 (annexed as Annexure A-2 to additional affidavit) requested Respondent No. 3-University to ensure strict compliance with ICAR AIEEA UG online counselling brochure. Since clause 4.0 categorically stipulates that once seats are released, they would not be regarded as ICAR seats, but would be treated as State university seats, filling up of such vacant seats becomes responsibility of State universities. The State universities are therefore, directed to take said stipulation into consideration and devise a mechanism for conduct of additional counselling session to ensure that seats do not go to waste. ICAR is directed to intimate this order to all concerned State universities for

appropriate actions.

17. In light of the foregoing, Petitioner is not entitled to any relief as sought.

18. With the above directions, the present petition is disposed of along with pending application(s).

19. The date already fixed *i.e.*, 4<sup>th</sup> November, 2022, stands cancelled.

**SANJEEV NARULA, J**

**SEPTEMBER 6, 2022**

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