

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF OCTOBER 2017

PRESENT

**THE HON'BLE MR.H.G.RAMESH
ACTING CHIEF JUSTICE**

AND

THE HON'BLE MR. JUSTICE P.S.DINESH KUMAR

WRIT PETITION NO.46686/2017(EDN-MED-ADM)

BETWEEN:

DR.SAVITHA R
D/O N.RAMANNA
AGED ABOUT 36 YEARS
WORKING AS SENIOR MEDICAL OFFICER
(AYURVEDA) GRADE-I
EMPLOYEES STATE INSURANCE CORPORATION
MEDICAL COLLEGE AND POST GRADUATE
INSTITUTE OF MEDICAL SCIENCE AND RESEARCH
& MODEL HOSPITAL, RAJAJI NAGAR
BENGALURU-560 010

...PETITIONER

(BY SRI V.R.SARATHY, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS SECRETARY
DEPARTMENT OF HEALTH AND FAMILY
WELFARE (MEDICAL EDUCATION)
VIKAS SOUDHA
BENGALURU-560 001
2. THE DIRECTOR
DIRECTORATE OF AYUSH
DHANAVANTHRI ROAD
ANANDA CIRCLE
BENGALURU-560 009

3. THE EMPLOYEES STATE INSURANCE
CORPORATION, MEDICAL COLLEGE AND
POST GRADUATE INSTITUTE OF MEDICAL
SCIENCE AND RESEARCH & MODEL HOSPITAL
REP. BY ITS DIRECTOR
RAJAJI NAGAR, BENGALURU-560 010
 4. THE KARNATAKA EXAMINATION AUTHORITY
REP. BY ITS EXECUTIVE DIRECTOR
MALLESHWARAM, 18TH CROSS
BENGALURU-560 003 ...RESPONDENTS
- (BY SRI SRIDHAR N. HEGDE, HCGP FOR R1 & R2;
SMT GEETHA PAPANNA, ADVOCATE FOR R3;
SRI N.K.RAMESH, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO STRIKE DOWN THE RULE-2(K) IN SO FAR AS NOT INCLUDING THE 'BOARDS AND CORPORATIONS INCLUDING ESIC' IN THE DEFINITION OF IN-SERVICE AND AS WELL AS RULE-11(1)(b) IN SO FAR AS NOT INCLUDING THE ESIC CORPORATION IN THE IMPUGNED RULES OF THE ADMISSION TO POST - GRADUATE DEGREE COURSES IN AYURVEDA, YOGA, NATUROPATHY AND HOMEOPATHY RULES, 2013, NOTIFICATION, GAZETTED ON 27.6.2013 AT ANNEX-B IN SO FAR AS IT CONCERNED TO THE PETITIONER ETC.

THIS WRIT PETITION, HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 16.10.2017, COMING ON FOR PRONOUNCEMENT OF ORDERS, THIS DAY, **P.S.DINESh KUMAR J.,** PRONOUNCED THE FOLLOWING:-

ORDER

1. Petitioner, a Senior Medical Officer (Ayurveda) Grade-I, working in the Employees State Insurance Corporation, Medical College and Post Graduate Institute of

Medical Sciences and Research & Model Hospital, Bengaluru (for short 'ESI Corporation') has, *inter alia* sought for a direction to the ESI Corporation to forward her application for post graduate degree course in Ayurveda to the Karnataka Examination Authority (for short 'KEA').

2. We have heard Shri V.R. Sarathy, learned Counsel for the petitioner, Shri Sridhar N. Hegde, learned HCGP for respondents No.1 and 2, Smt. Geetha Papanna, learned Counsel for respondent No.3 and Shri N.K.Ramesh, learned Counsel for respondent No.4.

3. Petitioner was selected through direct recruitment and appointed as an Insurance Medical Officer, Grade-II (Ayurveda) on 30.6.2009. Her probationary period was declared as satisfactory. She has put in 8 years of service. She has applied for post-graduate degree course in Ayurveda.

4. Petitioner claims that her application was not forwarded by the ESI Corporation, on the premise, that the ESI Corporation is not included in Rule-2(k) of the Post

Graduate Degree Courses in Ayurveda, Yoga, Naturopathy and Homeopathy Rules, 2013 (for short '2013 Rules').

5. Shri V.R.Sarathy, learned Counsel for the petitioner, argued that by a Notification dated 22.12.2012 (Annexure-H), the ESI Corporation has been included in Rule 2(g) of the Karnataka Conduct of Entrance Test for Selection and admission to Post Graduate Medical and Dental Degree and Diploma Courses Rules, 2006 (for short '2006 Rules'). Therefore, the petitioner is entitled for consideration of her case.

6. It is not in dispute that admission to the post-graduate courses in Ayurveda, Yoga, Naturopathy and Homeopathy is governed by 2013 Rules.

7. Rule-2(k) of 2013 Rules, reads as follows:-

“(k) ‘In service Candidates’ means persons belonging to Department of AYUSH working in the Teaching and Physicians cadre of Karnataka State Civil Services;”

8. It is clear that ESI Corporation is not included in Rule 2(k) of 2013 Rules. The contention that ESI Corporation is included in 2006 Rules would not lead the case of the

petitioner any further nor does it enure to the benefit of the petitioner in any manner.

9. Resultantly, this writ petition must fail. However, it is open to the State Government to consider the petitioner's representation dated 4.3.2017 which is produced as Annexure-J.

10. We trust and hope that the State Government will bestow their attention to the petitioner's representation objectively.

11. Petition disposed of.

12. We make no order as to costs.

**Sd/-
ACTING CHIEF JUSTICE**

**Sd/-
JUDGE**

cp*/Yn.