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**HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
THURSDAY , THE EIGHTEENTH DAY OF MAY
TWO THOUSAND AND SEVENTEEN**

:PRESENT:
**THE HON'BLE SRI JUSTICE A V SSHA SAI
AND
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL**

**WP(PIL). NO: 130, 131, 132 of 2017 and WP NO. 17102 OF
2017**

WP (PIL) NO. 130 OF 2017:

Between:

- 1 The Healthcare Reforms Doctors Association, (Regd.No.581 of 2017), Rep. by its President Dr.K.Mahesh Kumar, office at Plot No.222, Road No.14, Brundavan Colony, Saroomagar, Hyderabad - 35. (PAN No.BHLPK8310C)
- 2 Osmania Junior Doctors Association, Rep. by its President, P.S. Vijayender Gound, 0/o Osmania Medical College Campus, Koti, Hyderabad.

..... Petitioners

AND

- 1 The State of Telangana, represented by its Special Chief Secretary, Health, Medical and Family Welfare Department, Secretariat Buildings, Hyderabad.
- 2 Kaloji Narayana Rao University of Health Sciences, Warangal, represented by its Registrar.
- 3 Telangana Admission and Fee Regulatory Committee, JNU and FAU Campus, Opp Mahavir Hospital, Masab Tank, Hyderabad represented by its Member Secretary.
- 4 Telangana Private Medical and Dental Colleges Management Association, 8-2-293/82/J-III/565, Coop House Building Society, Jubilee Hills, Hyderabad represented by its President.
- 5 The Medical Council of India, Pocket - 14, Sector 8, Dwaraka, Phase-I, New Delhi, Rep. by its Member Secretary

.....Respondent(s)

Petition under Article 226 praying that in the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus to declaring and setting aside the G.O.Ms.No.40, Health, Medical and Family Welfare (C1) Department dated 9.5.2017 and G O Ms No.41, Health, Medical and Family Welfare (C1) Department dated 9.5.2017 on the file of the first respondent, as illegal, arbitrary, without jurisdiction and violative of fundamental rights and consequently set aside the G O Ms No. 40, Health, Medical and Family Welfare (C1) Department dated 9.5.2017 and G O Ms No.41, Health, Medical and Family Welfare (C1) Department dated 9.5.2017 issued by the 1st respondent.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI TSUJAN KUMAR Advocate for the Petitioners, G.P for Medical and Health (TG) for the Respondent No.1, SRI A. PRABHAKAR for the Respondent No.2, SRI SRINIVAS

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RAO PACHWA for the Respondent No.4, SRI S. VIVEK CHANDRA
SEKHAR REDDY for the Respondent No.5.

WP (PIL) NO. 131 OF 2017:

Between:

Smt. Govind Kumuda Sushma, W/o. Govind Suresh Kumar

..... **Petitioner(s)**

AND

- 1 State of Andhra Pradesh, represented by its Secretary.
Health, Medical and Family Welfare Department,
Secretariat Buildings, Velagapudi, Krishna District. Andhra
Pradesh State.
- 2 N.T.R. University of Health Sciences, Vijayawada, Krishna
District, Rep. by its Registrar.
- 3 A.P. Admission and Fee Regulatory Committee, 1st Floor,
(South Wing), Gagan Vihar, M.J. Road, Hyderabad, rep. by
its Member Secretary.
- 4 A.P. Private Medical and Dental Colleges Managements
Association, No.60-1-2/2, Siddhartha Nagar, Vijayawada
Urban, Vijayawada. Andhra Pradesh-520010. rep. by its
Secretary.
- 5 The Medical Council of India, Pocket-14, Sector-8,
Dwaraka. Phase-1, New Delhi, rep. by its Member
Secretary.

.....**Respondent(s)**

Petition under Article 226 praying that in the High
Court will be pleased to issue a Writ order or orders or direction.
more particularly one in the nature of Writ of Mandamus: (a)
declaring the G.O.Ms.No.72, Health. Medical & Family Welfare
(Cl) Department, dated 03.05.2017. and G.O.Ms.No.74, Health,
Medical & Family Welfare (C.I) Department, dated 03.05.2017.
issued by the 1st respondent. as illegal. arbitrar without
jurisdiction and violative of Fundamental Rights and
consequently set aside the G.O.Ms.No.72, Health Medical &
Family Welfare (C.I) Department. dated 03.05.2017, and
G.O.Ms.No.74, Health. Medical & Family Welfare (Cl).
Department. dated 03.05.2017, issued by the 1st respondent, (b)
and pass such other order or orders as this Hon'ble High Court
may deem tit. just and necessary in the circumstances of the
case. .

The petition coming on for hearing, upon perusing
the Petition and the affidavit filed in support thereof and upon
hearing the arguments of SRI D.S.N.V PRASAD BABU Advocate
for the Petitioners, G.P for Medical and Health (TG) for the
Respondent No.1, SRI TADDI NAGESWAR RAO for the
Respondent No.2, SRI SRINIVAS RAO PACHWA for the
Respondent No.4, SRI S. VIVEK CHANDRA SEKHAR REDDY for
the Respondent No.5.

WP(PIL) NO. 132 OF 2017:

Between:

M/s. Andhra Pradesh Junior Doctors Association, having its
office at Room #22, 1st Floor, Male UG Internees Hostel, SV
Medical college, Tirupati, Andhra Pradesh rep its President Dr. M.
Venkataramana, S/o. Sri. Rama Chandraiah, aged about 29

years, R/o. H. No. 3-121, S.N. Puram, Rajeev Nagar, Tirupati,
Chittoor district, Andhra Pradesh. (PAN card No. AJSPV2161J)

..... **Petitioners**

AND

- 1 The State of Andhra Pradesh., Represented by its Principal Secretary, Health, Medical and Family Welfare Department, Secretariat, Velagapudi.
- 2 Dr. NTR University of Health Sciences, represented by its Registrar, Vijayawada.
- 3 Andhra Pradesh Admission and Fee Regulatory Committee, 1 Floor, (South Wing), Ganga Vihar, M.G. Road, Hyderabad. Represented by its Member Secretary.
- 4 Andhra Pradesh Private Medical and Dental Colleges Association, Door No. 60-1-2/2, Siddarth Nagar, Vijayawada, Krishna District, Andhra Pradesh, represented by its President.
- 5 Medical Council of India, Pocket-14, Sector-8, Dwaraka, Phase-I, New Delhi, represented by its Member Secretary

.....**Respondents**

Petition under Article 226 praying that in the High Court will be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, setting aside G.O.Ms. No. 70 & 72 dated 3.05.2017 issued by the 1st respondent as illegal and arbitrary, without jurisdiction and violative of fundamental rights and pass such other order or orders as are deemed fit and proper in the circumstances of the case. .

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI SAMASANDEEP REDDY Advocate for the Petitioners, G.P for Medical and Health (TG) for the Respondent No.1, SRI TADDI NAGESWAR RAO for the Respondent No.2, SRI SRINIVAS RAO PACHWA for the Respondent No.4, SRI S. VIVEK CHANDRA SEKHAR REDDY for the Respondent No.5.

WP NO. 17102 OF 2017:

Between:

- 1 Dr. Shaik Mastan Shafi, S/o. Sri. Shaik Moulai
- 2 Dr. Gumpana Govind, S/o. Sri. Ramu Naidu
- 3 Dr. Shaik Umar Farooq, S/o. Sri. S.K. Saleem

..... **Petitioners**

AND

- 1 The State of Andhra Pradesh., Represented by its Principal Secretary, Health, Medical and Family Welfare Department, Secretariat, Velagapudi.
- 2 Dr. NTR University of Health Sciences, represented by its Registrar, Vijayawada.
- 3 Andhra Pradesh Admission and Fee Regulatory Committee, 1st Floor, (South Wing), Ganga Vihar, M.G. Road, Hyderabad. Represented by its Member Secretary
- 4 Medical Council of India, Pocket-14, Sector-8, Dwaraka, Phase-1, New Delhi, represented by its Member Secretary.

.....**Respondent(s)**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to issue an appropriate

Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, setting aside G.O.Ms. No. 70 & 72 dated 3.05.2017 and amended G.O.Ms. No. 75 & 77 dated 6.05.2017 issued by the 1st respondent as illegal and arbitrary, without jurisdiction and violative of fundamental rights and consequently direct the respondents to follow the fee structure of the earlier G.O.Ms. No. 116 dated 14.05.2010 and G.O.Ms. No. 92 dated 1.07.2013.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI SAMASANDEEP REDDY Advocate for the Petitioners, G.P for Medical and Health (TG) for the Respondent No.1, SRI TADDI NAGESWAR RAO for the Respondent No.2, SRI S. VIVEK CHANDRA SEKHAR REDDY for the Respondent No.4. The Court made the following:

ORDER

In all these writ petitions challenge is to the orders passed by the State Governments in fixing fee payable for the Post Graduate Medical/Dental Courses in Private Medical/Dental Un-Aided Non-Minority Colleges for the Academic Year 2017-18.

In W.P.(PIL) No.130 of 2017 on 11.05.2017 this Court granted interim stay only in relation to collection of enhanced fee for a period of four (04) weeks, while making it clear that the said order would not preclude either the Government or the Colleges to accept the applications and process the same. To vacate the said order, W.V.MP.No.8 of 2017 in W.P.(PIL) No.130 of 2017 is filed by the Telangana Private Medical and Dental Colleges, Management Associations, represented by its President, respondent No.4 in the said writ petition.

The case of the writ petitioners in all these writ petitions is that the impugned Governmental Orders are highly illegal, arbitrary, unreasonable and without jurisdiction and that before fixing fee, the Government did not refer the issue to the Fee Fixation Committee. It is further submitted that in the absence of any report from the said Committee, the very fixation is bad in the eye of law.

Learned Senior Counsel appearing for the petitioners, in support of his submissions and contentions, placed reliance on the Judgment of the Honourable Apex Court in **P.A.Inamdar and others v. State of Maharashtra and others**¹.

¹ MANU/SC/0482/2005

On the other hand, it is contended by the learned Additional Advocate General appearing for the State of Telangana that there is no illegality or infirmity in the impugned action and taking into consideration the prevailing circumstances, the State Governments issued the impugned Governmental Orders.

On the other hand, it is submitted by the learned counsel appearing for the private institutions that the State Governments fixed the fee under challenge duly taking into consideration the various aspects including the existing circumstances and the expenditure which colleges need to incur for imparting the medical education.

In fact, various issues raised in the writ petitions are required to be gone into at the time of hearing the writ petitions.

Having heard the learned Advocates, learned Additional Advocate General, and keeping in view the interest of all the stakeholders including the candidates, this Court deems it appropriate to pass the following order for the present, in furtherance of the order already passed by this Court on 11.05.2017 in W.P.(PIL) No.130 of 2017.

There shall be a direction to the respondents to proceed with the process of admissions into Post Graduate Medical Courses and the respondents shall complete the process of filling up of seats subject to collecting half of the fee fixed by the Government by virtue of impugned Governmental Orders for all the categories and by obtaining necessary bonds from the candidates for the rest of the amount.

This arrangement is subject to outcome of the writ petitions.

Accordingly, the order dated 11.05.2017 passed in W.P.(PIL) No.130 of 2017 is modified.

Post after Summer Vacation, 2017.

SD/- T. SRINIVAS
ASSISTANT REGISTRAR

//TRUE COPY//


For ASSISTANT REGISTRAR

To

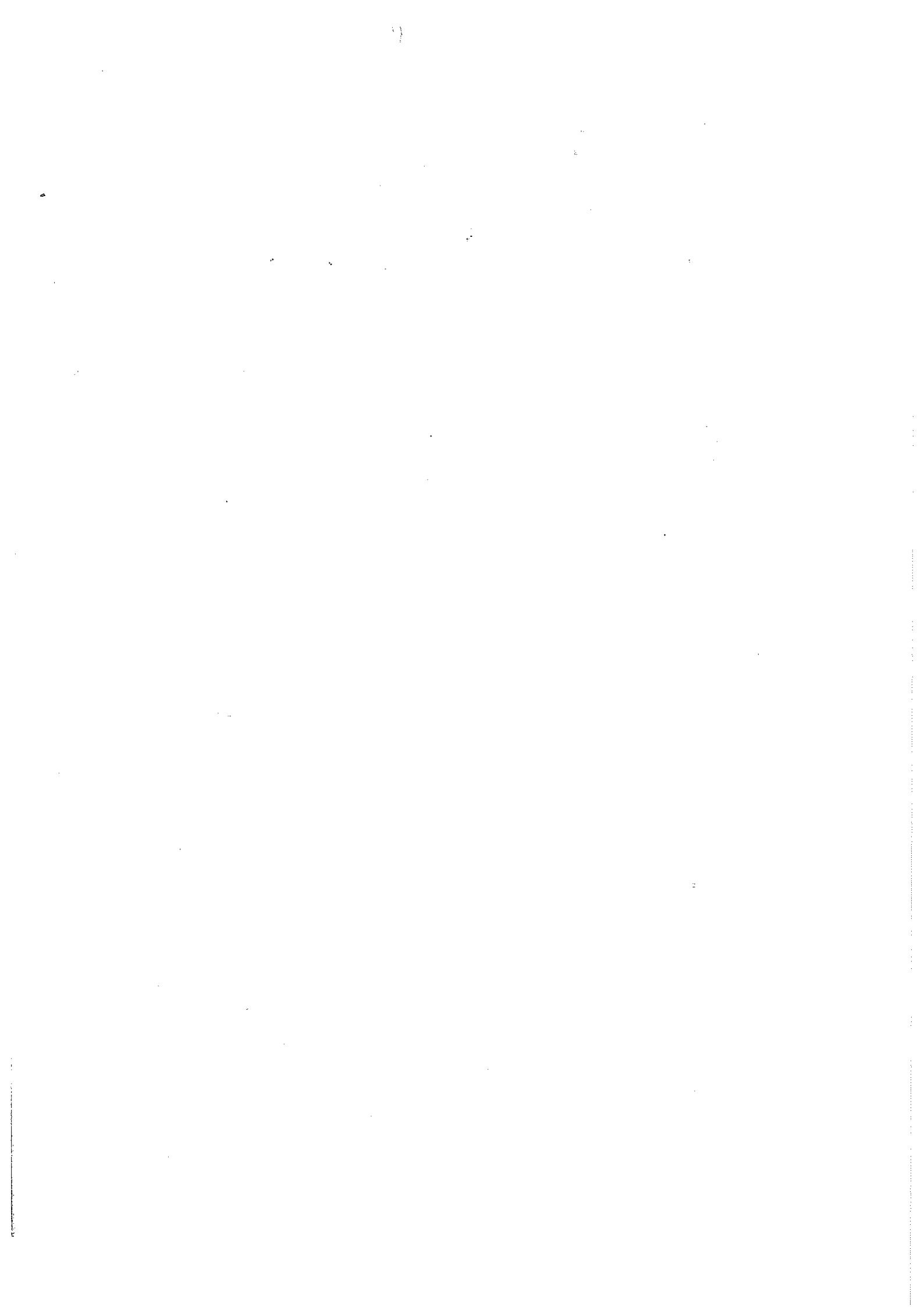
- 1 The Special Chief Secretary, Health, Medical and Family Welfare Department, State of Telangana, Secretariat Buildings, Hyderabad.
- 2 The Registrar, Dr. NTR University of Health Sciences, Vijayawada.

- 6
- 3 The Secretary, Health, Medical and Family Welfare Department, State of Andhra Pradesh, Secretariat Buildings, Velagapudi, Krishna District. Andhra Pradesh State.
 - 4 The Registrar, Kaloji Narayana Rao University of Health Sciences, Warangal
 - 5 The Member Secretary, Telangana Admission and Fee Regulatory Committee, JNU and FAU Campus, Opp Mahavir Hospital, Masab Tank, Hyderabad
 - 6 The President, Telangana Private Medical and Dental Colleges Management Association, 8-2-293/82/J-III/565, Coop House Building Society, Jubilee Hills, Hyderabad
 - 7 The Member Secretary, Medical Council of India, Pocket - 14, Sector 8, Dwaraka, Phase-I, New Delhi

Sl no. 1 to 6 by RPAD

- 8 One CC to Sri T. SUJAN KUMAR REDDY, Advocate (OPUC)
- 9 One CC to Sri SRINIVAS RAO PACHWA, Advocate (OPUC)
- 10 One CC to Sri SAMA SANDEEP REDDY, Advocate (OPUC)
- 11 One CC to Sri TADDI NAGESWAR RAO, Advocate (OPUC)
- 12 One CC to Sri S. VIVEK CHANDRA SEKHAR REDDY, Advocate (OPUC)
- 13 One CC to Sri D.S.N. PRASAD BABU, Advocate (OPUC)
- 14 One CC to Sri. A PRABHAKAR RAO, Advocate (OPUC)
- 15 Two CC to G.P for Medical and Health (TG), High Court at Hyderabad (OUT)
- 16 Two CC to Advocate General (TG), High Court at Hyderabad (OUT)
- 17 Two Spare Copies.

Avs



HIGH COURT

AVSSJ & MSKJJ

DATED: 18.05.2017

ORDER

WP(PIL). NO: 130, 131, 132 of 2017
and WP NO. 17102 OF 2017

18 MAY 2017

DIRECTION