

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

WP.No.28226/2015 & MP.No.1/2015

S.Apsara

.. Petitioner

-Vs-

- 1.The Director General of Health Services  
Union of India, Ministry of Health and Family  
Welfare, New Delhi.
- 2.The Secretary,  
Medical Council of India,  
New Delhi 110077.
- 3.The Secretary to Government  
Government of Tamil Nadu  
Health and Family Welfare Department  
Secretariat, Chennai 600 009.
- 4.The Director of Medical Education  
Chennai 600 010,.
- 5.The Dean  
Government Theni Medical College  
Theni.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to restore the Medical seat already allotted to the petitioner at Theni Government Medical College, Theni, in which the petitioner has already been admitted by issuing appropriate orders.

For Petitioner : Mr.M.Ravi  
For R2 : Mr.V.P.Raman  
For RR3 to 5 : Mr.K.Karthikeyan, GA

O R D E R

The petitioner is a young girl student and she has been given provisional allotment by the 1<sup>st</sup> respondent on 23.08.2015. As per the marks obtained by her, she was allotted to the Government Medical College, Theni, under the All India quota. She is said to be the first graduate from her family. The admission letter issued to her by the 5<sup>th</sup> respondent on 26.08.2015 also indicates as to whether the petitioner is willing to participate in the 2<sup>nd</sup> and 3<sup>rd</sup> round, for which, the petitioner has stated "Yes". However,

accepting the allotment letter, she paid the fees on 26.08.2015. Appropriate orders have been passed on the very same day by the 5<sup>th</sup> respondent, by issuing the admission slip.

2.The petitioner wanted to cancel the willingness given by her earlier in view of the two admitted facts, viz., the payment of fees by her and the admission letter issued by the 5<sup>th</sup> respondent. As there was no provision for cancellation and the on-line system having been introduced for the first time, it appears that by inadvertence, the petitioner's sister, in the absence of the petitioner, had pressed the column with respect of surrendering of the seat. Though technically there cannot be any surrender after admission is over, the entry was made apparently without the knowledge of the petitioner. This can be seen from the fact that she went to the College of the 5<sup>th</sup> respondent for the purpose of joining along with her family members on 03.09.2015. To her shock and dismay, she was informed that the computerised records shows that she has surrendered the seat. Thereafter, she sent a E-mail on 04.09.2015 stating that it was done due to ignorance and therefore, the allotment will have to be restored. As it was not done, the petitioner has come forward to file this writ petition.

3.The facts narrated above have been reiterated by the learned counsel for the petitioner.

4.When the matter came up for hearing yesterday, this Court while adjourning the matter to today, passed an order directing the respondents to keep one seat vacant and the learned Government Advocate was directed to get instructions.

5.Learned Government Advocate, on instructions, would submit that there is no difficulty in petitioner participating the ensuing 3<sup>rd</sup> counselling proposed to be held on 09.09.2015 [tomorrow]. Based upon the counselling, she would be given allotment as the surrendered seat has gone back to the All India Quota. In other words, the learned Government Advocate submitted that there is no bar for the petitioner to be considered once again and in view of the technical problem in seat being restored back to the All India Quota, she has to go through the process once more.

6.By way of reply, the learned counsel for the petitioner would submit that such stage is crossed and the question of surrendering or the petitioner exercising the option would come before admission preceded by the payment of fees. Once the petitioner has paid the fees, which was duly acknowledged, she becomes the student of the 5<sup>th</sup> respondent/College and therefore, there is no question of surrendering the seat, even if she wants to.

7.This Court finds considerable force in the submission made by the learned counsel for the petitioner. The facts narrated above would show that for the inadvertent mistake committed by the petitioner, she cannot be penalised on the technical ground and

that too, when the 5<sup>th</sup> respondent has accepted her fees and took her as its student. Thus, exercising the option, viz., to go for counselling once again, no longer is available. It is not in dispute that on-line system has come into being for the first time in this year. Thus the operation has got its own difficulties to be understood by a young student. The merit of the petitioner was never been in doubt. Admittedly, she has been selected on merit in All India Quota. The case of the petitioner is also strengthened by the payment of fees as accepted by the 5<sup>th</sup> respondent and her subsequent conduct in appearing before the said respondent on 03.09.2015. Considering the above facts, this Court is not inclined to make the petitioner to go through the process of appearing before the Counselling once again, particularly, in the light of the discussion made above.

8. Accordingly, this writ petition is allowed and the respondents are directed to treat the petitioner as an admitted student with the 5<sup>th</sup> respondent. The respondents cannot treat the admission made to the petitioner as a vacant one and consequently, there cannot be any surrendering of the seat adding to the availability of the vacancy under the All India quota qua petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP  
To

1. The Director General of Health Services  
Union of India, Ministry of Health and Family  
Welfare, New Delhi.
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4. The Director of Medical Education  
Chennai 600 010,.
5. The Dean, Government Theni Medical College  
Theni.

+1cc to Mr.V. P. Raman, Advocate, S.R.No.48824  
+1cc to Mr.M. Ravi, Advocate, S.R.No.48554  
+1 cc to Government Pleader, sr.49099(11/09/2015)

W.P.No.28226/2015

PA(CO)  
EU(09/09/2015)