

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2015

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P.No.34354 of 2015

and

M.P.No.1 of 2015

A.Hemalatha

... Petitioner

Vs.

1. The State of Tamilnadu,
represented by its Secretary,
Department of Health
and Family Welfare,
Secretariat, Fort St.George,
Chennai - 600 009,
2. The Director of Indian
Medicine & Homeopathy,
Arumbakkam, Chennai - 600 106,
3. The Secretary,
Selection Committee,
Indian Medicine & Homeopathy,
Arumbakkam,
Chennai - 600 106,
4. T.N. Dr.M.G.R.Medical University,
represented by its Registrar,
No.69/40, Anna Salai,
Guindy, Chennai - 600 032.

... Respondents

Prayer: Writ Petition is filed under Article 226 of The Constitution of India praying for the issuance of a Writ of mandamus to forbear the 3rd respondent from conducting the movement counseling for MD (Yoga and Naturopathy) course to the petitioner by holding the vacant 1 seat and consequently direct the 3rd respondent to select the petitioner for the MD (Yoga and Naturopathy) course admission 2015-2016 considering the meritorious performance.

For Petitioner : Mr.B.Muthu Kannan

For Respondents : Mr.S.V.Duraisolaimalai,
AGP for RR.1 to 3
Mr.Sanjay Ramasami for R.4

ORDER

The petitioner is one of the candidates, appeared for entrance examination held on 26.9.2015 for MD (Yoga and Naturopathy) course for the academic year 2015-16. Totally 54 candidates have appeared and the General Merit List was published on the very same day. The petitioner secured 42.45% and was placed in the 26th rank. On 26.9.2015, the petitioner like others was informed through SMS to her mobile bearing Number 9003055488 about the examination to be held on 26.9.2015 followed by the counselling on 28.9.2015. Unfortunately the petitioner could not attend the counselling. Had she attended the counselling she would have got admission, as the candidates, who scored higher marks than her, did not opt for the course fully. The conditions stipulated in the prospectus for the said Course with reference to the issue involved is extracted hereunder:

"40. Personal appearance during counseling along with all original certificates is compulsory for all candidates who are all called for counseling. No separate letter for counseling will be issued after the announcement of results of the Entrance Examination. Merit list arrived after the Entrance Exam will be uploaded in the website and in the notice board at the office of the Director of Indian Medicine and Homeopathy, Chennai - 106. Candidates who are absent at the time of counseling will not be considered for selection and no request will be admitted in this regard."

2. Now the petitioner has come forward to file the writ petition stating that she was informed only on 26.9.2015 on which date she was in her native place - Sivakasi and when she reached the destination on the next day, she was informed that the seats have been filled up, though she was otherwise qualified. Learned counsel appearing for the petitioner also submitted that there is another seat vacant in which the petitioner can be accommodated.

3. Learned Additional Government Pleader appearing for respondents 1 to 3 on instructions submitted that due intimation was given on 24.9.2015 and the publication of the results have been made on 26.9.2015 itself for all the 54 candidates. As the petitioner was aware of the counselling date, clause 40 of the prospectus has been applied and the seats have been duly filled up. Insofar as the unfilled seat in Scheduled Caste category are concerned, as per the roster, it would go to a Backward Class community student. Now there are five students of Backward Class community and among them, one would likely to get the seat. Thus, even otherwise, there is no vacancy as on today.

4. Though the case of the petitioner appears to be an unfortunate one, this Court is unable to lend its helping hand. The petitioner is bound by clause No.40 of the prospectus. The date of entrance examination and the date of counseling were duly informed to the petitioner through SMS as was the case with the other students. For the failure on the part of the petitioner, though it can be termed as negligence, the respondents cannot be faulted with. Admittedly, there is no seat vacant as of now.

5. Therefore, the writ petition stands dismissed. However, in the event of any vacancy that would arise in the near future, the petitioner should be called and accommodated by taking into consideration of her standing in the merit list. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,

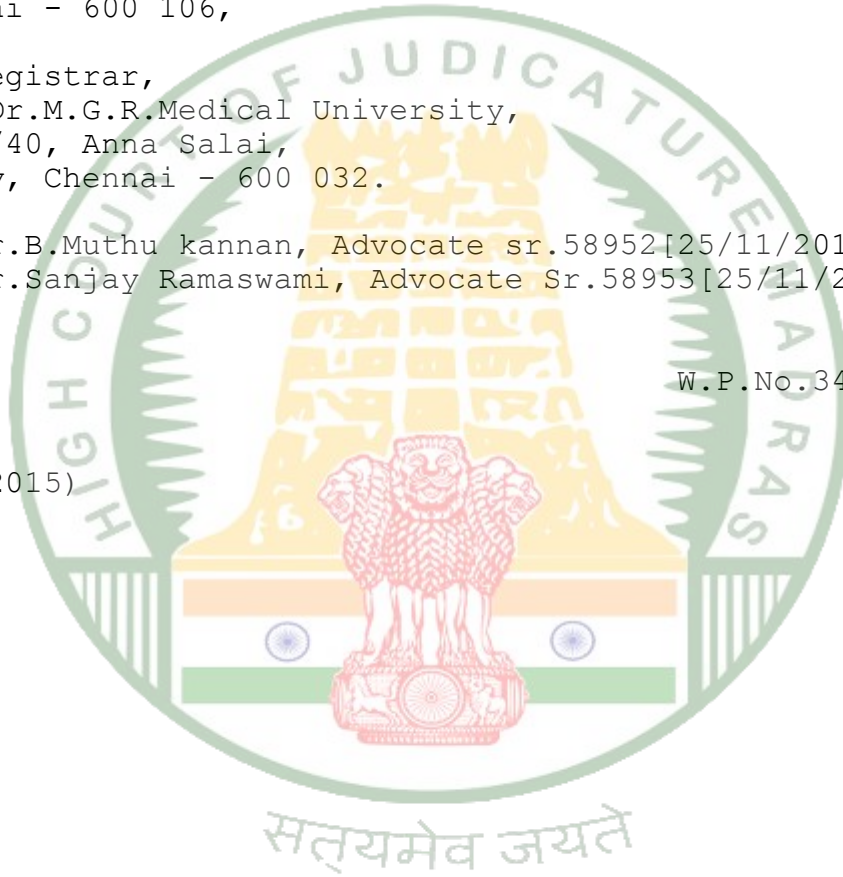
Department of Health and Family Welfare,
Secretariat, State of Tamilnadu,
Fort St.George,
Chennai - 600 009,

2. The Director of Indian Medicine & Homeopathy,
Arumbakkam, Chennai - 600 106,
3. The Secretary,
Selection Committee,
Indian Medicine & Homeopathy,
Arumbakkam,
Chennai - 600 106,
4. The Registrar,
T.N. Dr.M.G.R.Medical University,
No.69/40, Anna Salai,
Guindy, Chennai - 600 032.

+1cc to Mr.B.Muthu kannan, Advocate sr.58952[25/11/2015]
+1cc to Mr.Sanjay Ramaswami, Advocate Sr.58953[25/11/2015]

W.P.No.34354 of 2015

SKV(CO)
CA(05/11/2015)



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