

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2015

CORAM

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**

W.P. Nos. 35238, 35443, 35593, 35723 and 35895 of 2015

J.Nalini	...Petitioner in W.P. No. 35238 of 2015
K.N.Pavithra	...Petitioner in W.P. No. 35443 of 2015
Navithira Jennifer	...Petitioner in W.P. No. 35593 of 2015
Fatema Abbas	...Petitioner in W.P. No. 35723 of 2015
R.Sara Sauthamini	...Petitioner in W.P. No. 35895 of 2015

Vs.

1. The Government of Tamil Nadu,
Directorate of Indian Medicine and Homeopathy,
Rep by Commissioner,
Selection Committee,
For UG Courses 2015-16,
Arignar Anna Govt. Hospital of Indian,
Medicine Campus, Arumbakkam,
Chennai - 600 106.

2. The Tamil Nadu Dr. MGR Medical University,
Rep. by its Registrar,
69, Anna Salai, Guindy,
Chennai - 600 032.

3. Venkateshwara Homeopathy Medical College,
No. 4/11, Samayapuram Main Road,
Karambakkam, Porur,
Chennai - 600 116.

...Respondents in W.P. Nos. 35238,
35593 and 35723 of 2015.

1. The Secretary,
Selection Committee,
Directorate of Indian Medicine and Homeopathy,
Arignar Anna Govt. Hospital of Indian Medicine Campus,
Arumbakkam, Chennai - 600 106.

2. The Registrar,
Dr.M.G.R. Medical University,
Guindy, Chennai - 600 032.

...Respondents in
W.P. No. 35443 of 2015.

1. The Secretary,
Health and Family Welfare department,
Fort St.george, Chennai -9.

2. The Commissioner,
Indina Medicine and Homeopathy,
Arumbakkam, Chennai -106.

3. The Selection Committe,
Indian Medicine and Homeopathy,
Arumbakkam, Chennai - 106.

...Respondents in
W.P. No. 35895 of 2015.

PRAYER in W.P. Nos. 35238 of 2015: This petition is filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the 1st respondent to issue re-allotment order to the petitioner for the 1st year admission in the 3rd respondent college for Bachelor of Homeopathy Medicine and Surgery (B.H.M.S.) course for the academic session 2015-2016.

PRAYER in W.P. No. 35443 of 2015: This petition is filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondents to allot the petitioner (A.R.No. 4611) for admission to BHMS course in Sri Vengadeswara medical College for homeopathy, Chennai based on merit in the selection with reference to the marks secured by the petitioner under MBC category forthwith.

PRAYER in W.P. Nos. 35593 of 2015: This petition is filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the 1st respondent to issue allotment order to the petitioner for (B.H.M.S.) degree course 2015-2016 in the 3rd respondent College in the counselling scheduled to be held on 17.11.2015 or any other date.

PRAYER in W.P. Nos. 35723 of 2015: This petition is filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the 1st respondent to issue allotment order to the petitioner for first year admission in Bachelor of Homeopathy Medicine and Surgery (B.H.M.S.) degree course 2015-2016 in the 3rd respondent College in the counselling scheduled to be held on

17.11.2015 or any other date.

PRAYER in W.P. Nos. 35895 of 2015: This petition is filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondents 1 to 3 to consider the case of the petitioner as per the merit status and issue selection order for the BHMS (Bachelor of Homeopathy Medicine and Surgery) course in the present academic year 2015-2016.

For petitioner in W.P. No. 35238 of 2015:	M/s. Emily Venkatesan.
For petitioner in W.P. No. 35443 of 2015:	Mr. G.Sankaran,
For petitioner in W.P. No. 35593 of 2015:	Mr. S.Bharatirajan,
For petitioner in W.P. No. 35723 of 2015:	Mr. K.Vaidhyanathan,
For petitioner in W.P. No. 35895 of 2015:	Mr. R.Rajiv Gandhi,

For Respondent No. 1
in W.P. Nos. 35238, 35443,
35593, 35723 and 35895 of 2015:

Mrs.P.Rajalakshmi,
Government Advocate

For Respondent No. 2
in W.P. No. 35238, 35443,
35593, 35723 of 2015:
and for respondents 2 and 3
in W.P. No. 35895 of 2015.

ORDER

As the issue involved in all these writ petitions is one and the same, they have been taken up together and disposed of by a common order.

2. The petitioners have come forward to file these writ petitions claiming seats in the Government quota available with the respondent No. 3 namely, Venkateshwara Homeopathy Medical College, Porur, Chennai. This situation has arisen in view of the earlier order passed by this Court extending the number of seats. The facts governing the case can be summed up by reproducing para No. 9 of the counter affidavit filed by the first respondent in W.P. No. 35443 of 2015, which is reproduced as follows;

"9. With reference to the averments made in the para 6 and 7, it is submitted that all the 65 Government quota seats have been filled up in the Venkateswara Homoeopathic Medical College on 28.10.2015 itself and 58 candidates have joined the college on or before the cutoff date extended up to 06.11.2015. The Department of AYUSH, Government of India vide Ir.No.F.No.R11011/10/2013-EP(IM-1) dated 30.10.2015 have extended the cut off admission in UG/PG courses in the ASU & H Colleges till 21.11.2015 for the academic session 2015-16 as a one-time measure. All the wait listed candidates including the petitioner will be called for Movement and Wait list counselling on 17.11.2015 for the available vacancies that exists on that date and allotment shall be done based on the merit and

choice of the candidates."

3. Now it appears that there are seven seats vacant with the Venkateshwara Homeopathy Medical College, Porur, Chennai under the Government quota. These seats, though surrendered to the said college, could not be filled up and therefore, they have been reverted back to the Government. The learned Government Advocate submitted that the counselling is fixed on 17.11.2015 and the following are the available vacancies;

Sl. No.	A.R. No.	Name	Community	Mark
1	3959	V.VIJAYA	BC	175.50
2	2848	R.M.KEERTHANA	BC	171.75
3	2532	V.HEMAPRIYA	BC	169.00
4	236	R.SUGAPRIYA	SCA	167.25
5	2849	K.KARAN KUMAR	SC	153.25
6	1390	S.SAMSON	BC	151.25
7	2901	M.DIVYA	MBC	148.75

4. In so far as the petitioner in W.P. No. 35238 of 2015 is concerned, this Court already passed an order on 30.10.2015 in the following manner;

" 2. The learned counsel appearing for the second respondent submitted that it was done so because of

the order passed by this Court. Originally, the intake was 50 and thereafter, by the orders of the Court, it was extended to 100. Thus, the remaining students have been inducted.

3. The learned Government Advocate appearing for the first respondent submitted that 50 seats have been filled up and the students have been allotted the seats with the third respondent.

4. In view of the peculiar situation, this Court is unable to lend its helping hand to the petitioner. The other students not being parties have joined. However, in the event of any vacancy available in the Government quota, the respondent Nos. 1 and 2 shall consider the case of the petitioner, if it is otherwise permissible in law.

5. The writ petition stands disposed of accordingly. No costs. Consequently connected miscellaneous petition is closed."

5. Thereafter, on the mentioning made by the learned counsel for the petitioner, the matter is posted once again before this Court, claiming she was not allotted the college of her choice keeping in view the available vacancies as it existed at the relevant point of time. Even

in the said order dated 30.10.2015, this Court has stated that in the event of any available vacancy in the Government quota, she can be considered. Thus, she can also be allowed to participate in the counselling scheduled to be held tomorrow. In such matter, the prospectus would not come in the way of the said petitioner being considered. In the event of the said petitioner being considered, in any one of the seven vacancies mentioned above, the vacancy available in pursuant to the same in the college originally allotted to the petitioner at Maria Homoeopathy Medical College, Kanyakumari District will have to be filled up with the other eligible candidate who would be called for the counselling.

6. In so far as the petitioner in W.P. No. 35723 of 2015 is concerned, unfortunately she comes under the open category, though placed in the waiting list. Thus, she cannot be considered for the seven seats. However, it is made clear that if no other person has come for the above said seats, then the said petitioner can be considered as the seat shall not go waste without being filled up. Similar is the situation in respect of the petitioner in W.P. No. 35895 of 2015. In the said case, the petitioner has been put in waiting list of S.V.S. College, as of now. Though the counsel for the said petitioner submitted that she has

been allotted to S.V.S. College, the same is disputed by the Learned Government Advocate. This Court is not willing to go to the said issue, suffice to direct the respondents to permit the petitioner to take part in the counselling to be held tomorrow and her fate will be known based upon her standing on merit.

7. Accordingly, the writ petitions stand disposed of making it clear that the counselling shall go on tomorrow, i.e. 17.11.2015, as fixed. It is needless to state that all the petitioners can participate in the counselling as the said participation will not give them any vested right since it is for the respondents to consider their respective admissions as per law. No costs. Consequently, the connected miscellaneous petitions are closed.

16.11.2015

Note: Registry is directed to issue order copy today.

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Index : Yes/No
Internet: Yes/No

To

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Rep by Commissioner,
Selection Committee,
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Government of Tamil Nadu,
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M.M.SUNDRESH,J.

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W.P. Nos. 35238 of 2015 etc batch

16.11.2015