WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2015

C O R A M

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition (MD) Nos.9977 and 10100 of 2015
and
MP(MD)Nos. 2 and 3 of 2015

J.Jeya Lisha ... Petitioner in W.P(MD)No.9977/2015
Infanto D.Abinav ... Petitioner in W.P(MD)No.10100/2015

Vs.

1.The Secretary to Government,
Higher Education Department, Chennai.

2.The Selection Committee,
Directorate of Medical Education,
162, Periyar EVR High Road,
Kilpauk, Chennai 10. ... Respondents in W.P.No.9977/2015

1.The Secretary to Government,
Health and Family Welfare Department,
Chennai.

2.The Selection Committee,
Directorate of Medical Education,
162, Periyar EVR High Road,
Kilpauk, Chennai 10. ... Respondents in W.P.No.10100/2015

Petitions filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd respondent pertaining to the prospectus for admission to MBBS/BDS courses 2015-2016 session with regard to clause 6(c) and to quash the same with regard to the petitioner as arbitrary and illegal and consequently direct the respondents to permit the petitioner to participate in the selection process for the academic year 2015-2016.

For Petitioners : Mr.S.C.Herold Singh

For Respondents (In both W.Ps) : Mr.R.Anandraj, Government Advocate.

ORDER

Two M.B.B.S students who are undergoing presently second year course have come to this Court challenging the clause 6(c) of the prospectus for admission to M.B.B.S/BDS courses 2015-2016 issued by the Selection Committee, Directorate of Medical Education, Chennai on the ground that the impugned provision of the prospectus is against law insofar as the

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

same violates the principles of equity before law.

2.Mr.S.C.Herold Singh, learned counsel appearing for the petitioners would submit that since the expectation of the petitioners to get a seat in the Government college is going to be infringed by the said clause, they are entitled to challenge the same. He would further submit that J.Jeya Lisha, the petitioner in W.P.(MD)No.9977 of 2015 has secured 199 out of 200 in Physics, 200 out of 200 in Chemistry and 196 out of 200 in Biology and Infanto D.Abinav, the petitioner in W.P.(MD)No.10100 of 2015 has secured 199 out of 200 in Physics, 200 out of 200 in Chemistry and 196 out of 200 in Biology during the academic year 2013-2014. When both the petitioners have secured 197.75 marks which is the cut off mark for medical seats for the academic year 2014-2015, the same cut off marks should also be considered as cut off marks for the academic year 2015-2016 on the basis of the previous cut off marks secured by the petitioners. However, on considering the aforesaid cut off marks, the petitioners were allotted rank numbers 2430 and 2433 respectively. In spite of having secured the above ranking, they were not considered since they did not reach the zone of consideration when the counselling took place on 2014. As a result both the petitioners have got admission in a private medical college.

3.The grievance of the petitioners is that as per the previous cut off marks fixed in the year 2014-15, the petitioners are eligible for this year and therefore, they should be considered for selection to MBBS course in any one of the Government Medical Colleges. However, clause 6 (c) of the prospectus disqualifies the petitioners on the ground that the candidates who are undergoing MBBS course are not eligible to apply for M.B.B.S course. It is further submitted that the candidates who are undergoing M.B.B.S course alone cannot be disqualified to apply for M.B.B.S course.

4.No doubt this argument does not appear to have been placed before the learned single Judge or before the Hon'ble Division Bench of this Court. However, the validity of the very same prospectus has been upheld by the Division Bench of this Court in W.A.No.842 of 2015 dated 26.06.2015 (Minor Kabilan Vs. State of Tamil Nadu) basing reliance on the decision of the Division of this Court in C.Maria Arul Rex and others Vs.The State of Tamil nadu reported in 2007 (4) CTC 553. Paragraph 40 of the said decision is extracted hereunder:

> "The question as to whether the candidates who have been admitted to other professional courses in the previous year be permitted to participate for admission to MBBS/BDS courses in the current year came up for consideration in C. Maria Arul Rex (supra). A Division Bench of this Court, examining Clause 6 of the Prospectus for the academic year 2006-2007, wherein, the candidates who were undergoing any of the professional courses and also those candidates who had dis-continued the professional courses on any ground, were held as ineligible to apply to medical/dental courses, held that the students who have already applied and admitted in different professional courses in the previous years cannot be allowed to compete with the fresh come outs for admission into MBBS/BDS courses for the current academic year".

https://hcservices.ecourts.gov.in/hcservices/

5.In such view of the matter, the issue raised in the present

writ petitions is no longer res integra. Therefore, this Court is not inclined to entertain the writ petitions. Accordingly, the writ petitions fail and the same is dismissed. No costs. Consequently, M.P(MD)Nos.2 and 3 of 2015 are closed.

WEB COPY

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar.

To

1.The Secretary to Government,
Higher Education Department, Chennai.

2.The Secretary to Government,
Health and Family Welfare Department,
Chennai.

3.The Secreaty,
The Selection Committee,
Directorate of Medical Education,
162, Periyar EVR High Road,
Kilpauk, Chennai 10.

+2CC to Mr.S.C. Herold Singh, Advocate, SR.No.48770, 48769
+1CC to The Special Government Pleader, SR.No.48902.

Writ Petition (MD) Nos.9977 and 10100 of 2015
and
MP(MD)Nos. 2 and 3 of 2015
24.08.2015

3P/7C
AM/AAL-MPA/09.09.2015.

https://hcservices.ecourts.gov.in/hcservices/