

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2016

CORAM:

THE HON 'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No.22351 of 2016

and W.M.P.Nos.19062 & 19063 of 2016

Shanker Charan Tripathi

... Petitioner

Vs

- 1.The Secretary to the Union of India,
Ministry of Health and Family Welfare,
Government of India, New Delhi
- 2.The Secretary to the Government of Puducherry,
Department of Medical Education, Puducherry
- 3.The Director, Jawahar Lal Institute of Postgraduate
Medical Education and Research (JIPMER),
Puducherry-605 006
- 4.The Dean (Academic)
Jawahar Lal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-605 006
- 5.The Secretary, Medical Council of India,
New Delhi

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Mandamus directing the respondents to call for counselling for admission to MBBS Course starting in July 2016 (July session) conducted by Jawaharlal Institute of Postgraduate Medical Education and Research (JIPMER) Puducherry-605 006 for the petitioner, who had already appeared for the entrance with Roll No.222080187 as an ex-service man and consequently to admit the petitioner to the said course by reserving one seat as far as this petitioner is concerned based on his representation dated 23.06.2016.

For Petitioner : Mr. A.Ashok Pande
For Respondents : Mr. Su. Srinivasan, ASG, for R-1,
Mrs. Reena Iswarya, AGP., for R-2,
Mr. M.T.Arunan, for R-3 & R-4,
Mr. V.P.Raman, for R-5

O R D E R

Heard Mr.A.Ashok Pande, learned counsel for the petitioner, Mr.Su.Srinivasan, Additional Solicitor General for the first respondent, Mrs.Reena Iswarya, learned Additional Government Pleader for the second respondent, Mr.M.T.Arunan, learned counsel appearing for the third and fourth respondents and Mr.V.P.Raman, learned counsel for the fifth respondent. By consent of the learned counsel for both sides, the writ petition is taken up for final disposal.

2. The petitioner seeks for a direction to the respondents to call for counselling, for admission to MBBS Course starting in July 2016 (July session) conducted by Jawaharlal Institute of Postgraduate Medical Education and Research (JIPMER) Puducherry-605 006 for the petitioner, who has already appeared for the entrance with Roll No.222080187 as an ex-service man and consequently, to admit the petitioner to the said course by reserving one seat, as far as this petitioner is concerned, based on his representation dated 23.06.2016.

3. The following facts, which are not in dispute, are that the petitioner is the ex-service man and he is aged about 58 years as on date and wants to pursue the medical education in the fourth respondent institution.

4. The first ground on which the writ petition is liable to be dismissed is on the ground that the petitioner did not obtain the eligible minimum percentage of 40 and he secured only 20.5%, therefore, the petitioner cannot claim any seat. Secondly, in the light of the stand taken by the JIPMER / respondents 3 and 4, in paragraphs 11 to 13 of the counter affidavit, the petitioner is not entitled to any relief. For useful reference, the same are quoted below:-

"11. It is most respectfully submitted that JIPMER, an Institution of National Importance (INI) under the Ministry of Health & Family

<https://hcservices.ecourts.gov.in/hcservices/> Govt. of India had been previously

admitting candidates under ex-servicemen category. However the list of such candidates was always as per the nominations received from the MOH&FW. Therefore the selection process for ex-servicemen category had always been carried out by MOH&FW for all categories coming under Defense, Paramilitary, Children of Staff of Indian Missions Abroad, etc.,

12. It is most respectfully submitted that as far as any reservation of Defense or Ex-service personnel, this Institution followed only the nominations of such candidates from appropriate Central Authorities. JIPMER never filled these seats directly or independently. However MOH&FW had stopped sending from the year 2014-15 lists of such candidates to JIPMER for admission for various reasons, among which one reason may be the founding of Army College of Medical Sciences in New Delhi since 2008 for children of various Defense Personnel and other categories. The erstwhile established Medical College Armed Forces Medical College at Pune is also providing seats to such candidates.

13. It is most respectfully submitted that the reservation to Defense Personnel, Ex-servicemen etc., had always been under the directions of MOH&FW and there is no separate reservation in JIPMER prospectus. Since, JIPMER followed the directions of MOH&FW regarding the reservation of seat to Ex-servicemen etc., there is no scope of separate reservation for ex-servicemen etc.,"

5. From the above, it is clear that even up to 2014-15, the JIPMER had never provided for any reservation for Ex-serviceman category and nominations were received from the Ministry of Health and Family Affairs and not by JIPMER. Based on the said nominations, the selection was carried out among categories of defence, paramilitary children and staff of Indian Missions Abroad, etc., This practice of nomination has also been stopped on and after 2014-15. Further more, even if there were such nominations, obviously, such nominations cannot be without reference to the marks secured by the candidates and they should have secured marks, on par with the candidates, who are eligible to be selected to the MBBS course in JIPMER based on the merit list.

6. Either way, the petitioner has not made out any case for grant of relief sought for. Hence, the writ petition is dismissed. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to the Union of India,
Ministry of Health and Family Welfare,
Government of India, New Delhi
- 2.The Secretary to the Government of Puducherry,
Department of Medical Education, Puducherry
- 3.The Director, Jawahar Lal Institute of Postgraduate
Medical Education and Research (JIPMER),
Puducherry-605 006
- 4.The Dean (Academic), Jawahar Lal Institute of Postgraduate
Medical Education and Research (JIPMER)
Puducherry-605 006
- 5.The Secretary, Medical Council of India, New Delhi

+2cc to Mr.M.T.Arun,Advocate, S.R.No.54386
+3cc to Mr.M.Purushothaman, Advocate, S.R.No.54333
+1cc to the Government Pleader, pondicherry S.R.No.54554
+1cc to Mr.Srinivasan,Advocate SR.54173
+1cc to V.P.Raman,Advocate SR.No.54315

(CO)SM
CP(21/10/2016)

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