

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

Writ Petition No. 26817 of 2016
and
WMP.No.23046 of 2016

A. Ashiba

.. Petitioner

Versus

1. The Secretary
Selection Committee
Commissionerate of Indian Medicine & Homeopathy
Arignar Anna Hospital Complex
Arumbakkam, Chennai - 600 106
2. The Secretary to Government
Health and Family Welfare Department
Government of Tamil Nadu
Secretariat, Chennai - 600 009
3. The Secretary
Department of Ayurvedam, Yoga @ Naturopathy,
Unani, Siddha & Homeopathy (AYUSH)
Government of India
Ministry of Health & Welfare
IRCS Annexe Building
No.1, Red Cross Road
New Delhi - 110 001
4. Tamil Nadu Dr. M.G.R. Medical University
represented by its Registrar
No.69, Anna Salai
Guindy, Chennai - 600 032
5. The Dean
Government Homeopathy Medical College
Thirumangalam, Madurai

Respondents

..

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent to give relaxation of age for 3 months to the petitioner herein for her admission in the first year BHMS

Degree Course, at Government Homeopathy Medical College, Thirumangalam, Madurai, so as to enable her to join in the said college as already almost all 1st year students except the petitioner have been accommodated in the said Government college by the first respondent.

For Petitioner : Mr. Y. Khaja Mohideen

For Respondents : Mr. A.N. Thambi Durai
Special Government Pleader for RR1 & 2

Mr. J. Madhana Gopal Rao for R3

Mr. D. Ravichander for R4

ORDER

The petitioner seeks for issuing a Mandamus directing the first respondent to give age relaxation for 3 months for her admission in the first year BHMS Degree Course, at Government Homeopathy Medical College, Thirumangalam, Madurai, so as to enable her to join in the said college especially when all the first year students have been accommodated in the said Government college by the first respondent, by excluding her.

2. The petitioner joined the S.V.S. Homeopathy Medical College, Kallakurichi on 19.11.2015 to pursue the five year course of BHMS Degree and she has also paid a sum of Rs.2,50,000/- towards capitation fee. While the petitioner was pursuing the course, on 22.01.2016, three female students of the said college died in the private agricultural well opposite to the college campus and in connection with the death of the three students, the Chairman and other officials of the college were arrested by the police and the college was closed down on 25.01.2016. In order to accommodate the students of the said college, the Government has taken steps to relocate the students to some other college. In this context, the petitioner has received a communication dated 01.06.2016 from the first respondent directing her to appear at 11.00 am in the office of the first respondent on 08.09.2016 apparently to relocate her from S.V.S. Homeopathy Medical College to Government Homeopathy Medical College, Thirumangalam, Madurai District. Accordingly, the petitioner appeared before the first respondent on 08.09.2016 and thereafter the petitioner has not heard from the first respondent regarding her re-location to some other college. When the petitioner contacted the office of the first respondent, it was orally stated that as on 31.12.2015, the age of the petitioner was only 16 years and therefore, her admission itself in S.V.S. College of Homeopathy is contrary to the admission procedure. According to the petitioner, had it been properly scrutinised by the college where she was admitted, she would not have joined the course or paid the capitation fee.

Further, at the time of her admission, she was 16 years and 9 months old and after the college was closed and she was sought to be re-located to some other college, she has attained the age of 17 years and become eligible to pursue the course. In such circumstances, the petitioner requested the first respondent to confer age relaxation for three months so as to enable her to pursue the course, but such a request has not been considered. The petitioner has therefore come up with this writ petition.

3. The learned counsel appearing for the petitioner would contend that the college where the petitioner was admitted in the BHMS course has failed to properly scrutinise the documents submitted by the petitioner and hastily admitted the petitioner to the course and also received the capitation fee. In any event, at the time when the students of the college were sought to be relocated to some other college, the petitioner has completed the age of 17 years and therefore the first respondent ought to have given age relaxation in favour of the petitioner without taking note of the age of the petitioner at the time of her admission. At any rate, the first respondent is the competent authority to consider granting age relaxation. The first respondent, inspite of repeated requests, failed and neglected to consider the legitimate claim of the petitioner and therefore, the learned counsel for the petitioner prayed for issuing appropriate direction.

4. The learned Special Government Pleader appearing for the respondents 1 and 2, by placing reliance on the counter affidavit, would contend that at the time of scrutiny of the documents submitted by the petitioner for considering re-location to some other college, the first respondent noticed that the petitioner has not completed 17 years of age on the cut off date of admission before 31.12.2015 as prescribed under clause (3) of the Prospectus notified for the year 2015-2016 and she was under-aged. When the petitioner was admitted without following the guidelines prescribed for admission, she cannot be permitted to pursue the course. As per Regulation for Homeopathy (Degree Course) BHMS, Regulation, 1983, no candidate shall be admitted to the BHMS degree course, unless he or she has attained the age of 17 years on or before 31st December of the year of her admission to the first year of the course. Therefore, as per the above said Regulation, the petitioner is ineligible for being admitted to the BHMS course as she has not attained 17 years of age. When the first respondent has noticed that the petitioner has not reached the prescribed age, the claim of the petitioner for re-location to some other college cannot be considered. In any event, as on the cut off date for admission to the course namely 31.12.2015, the petitioner has not completed 17 years of age and therefore, the refusal on the part of the first respondent to give relaxation with respect to

age in favour of the petitioner is wholly justified and it is not arbitrary.

5. The learned counsel appearing for the third respondent, by placing reliance on the counter affidavit of the third respondent, would reiterate and contend that as per Section 4 (ii) of the Homeopathy (Degree Course) B.H.M.S. Regulation, 1983, the petitioner cannot be admitted to the course when she has not completed 17 years as on 31.12.2015. When the admission procedure requires a candidate to complete 17 years of age as on the cut off date prescribed for admission, the relief sought for by the petitioner cannot be granted and he prayed for dismissal of the writ petition.

6. I heard the learned counsel appearing on either side and perused the materials placed on record. Even as per the averments made in the affidavit filed in support of the writ petition, the petitioner was admitted on 19.11.2015 in S.V.S. Homeopathy Medical College, Kallakurichi for the academic year 2015-2016 to pursue B.H.M.S. Degree. The cut off date prescribed for admission to the said degree course was 31st December 2015. As rightly pointed out by the learned Special Government Pleader appearing for the respondents 1 and 2 as well as the learned Standing counsel for the third respondent, as per Section 4 (ii) of the Homeopathy (Degree Course) B.H.M.S. Regulation, 1983, the petitioner cannot be admitted to the BHMS course when she has not completed 17 years as on 31.12.2015, as per the above said Regulation. When the discrepancy with respect to age of the petitioner at the time of her admission was noticed by the first respondent, the first respondent has not only refused to accommodate the petitioner in some other college as has been done in respect of other students but also rejected the claim of the petitioner to confer relaxation in her favour with respect to prescription of age as it would be contrary to the Regulations. In such view of the matter, I do not find any reason to grant the relief sought for in this writ petition. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

To

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Selection Committee
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Government Homeopathy Medical College
Thirumangalam, Madurai

+2cc to Mr.Madhanagopal, Advocate, S.R.No.49965
+1cc to the Government Pleader, S.R.No.61603

NMI (CO)
RS (03/03/2017)

W.P.No. 26817 of 2016

सत्यमेव जयते

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