

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2017

Coram

The Honourable Mr.Justice RAJIV SHAKDHER
and
The Honourable Mr.Justice ABDUL QUDDHOSE

Writ Appeal No.1008 of 2017
and C.M.P.No.14208 of 2017

Smera Suresh
Minor rep.by mother and natural guardian Sridha C.P
... Appellant/Petitioner

Vs.

1. The Secretary to Government for Education,
Chief Secretariat,
Puducherry.
2. The Chairman,
Centralised Admission Committee,
Puducherry Engineering College Campus,
Puducherry. ... Respondents/Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent
against the order dated 16.08.2017 in W.P.No.21153 of 2017 on
the file of this Court.

WP.No.21153/2017

Writ Petition filed under Article 226 of the Constitution of
India, for issuance of a Writ of Mandamus, to direct the second
respondent to admit the petitioner for the 1st year of the MBBS
Course for the academic year 2017-18 under OBC quota of Mahe/
Puducherry

For Appellant : Mr.Yashod Varadhan
SC for Mr.R.Diwakaran

For Respondents: Mr.J.Kumar G.A., (P)

J U D G M E N T

(Judgment of the Court was delivered by RAJIV SHAKDHER,J.)

1. This is an appeal, preferred against the order of the
learned Single Judge dated 16.08.2017 in W.P.No.21153 of 2017.

1.1. The appellant herein is the original writ petitioner who has sought a Mandamus, qua, the respondent No.2 to admit her to the first year M.B.B.S. course for academic year 2017-2018 under the OBC quota pertaining to Mahe / Puducherry.

1.2. It appears that at the time of filing the application for seeking admission, the appellant had applied under the category, "OBC of other States".

1.3. In other words, the appellant had indicated that she is a migrant OBC. There is no denial that the appellant obtained in the NEET examination a score of 129 and, based on her score and her rank in the merit list, she could not have obtained admission in the Government quota available in the three medical colleges qua which Centralised Admission Committee (in short 'CENTAC') had overseen admission. The three medical colleges being: (i) Pondicherry Institute of Medical Science (in short 'PIMS'), (ii) Sri Manakula Vinayagar Medical College (SMVMC) and (iii) Sri Venkateshwara Medical College (SVMC).

2. As per the affidavit, filed on behalf of the respondents, pursuant to the notice issued, yesterday, the Government quota in all three medical colleges stands fully exhausted.

2.1. It is not disputed before us that reservation for OBC is available only qua Government quota.

2.2. The appellant, however, had approached the learned Single Judge, with a case that she was an OBC who was a resident of Mahe / Puducherry. To establish this fact the appellant obtained a certificate of the Tahsildar on 24.07.2017. However, the first counselling in the three medical colleges, referred to above was undertaken on 23.07.2017.

2.3. It is in these circumstances, that the appellant laid her claim to admission via a representation dated 26.07.2017.

2.4. Given these circumstances, the learned Single Judge dismissed the writ petition on the ground that NEET merit list had already been published and that the counselling was already under way.

3. When the matter came up before us, we tried to ascertain from the learned Government Advocate appearing for the respondents as to whether any seats in the Government quota or the Management quota were available.

3.1. The learned Government Advocate informed us that the Government quota seats stood completely filled up, and that, there were, perhaps, seats available in the aforementioned private medical colleges, in the management quota which are otherwise religious and linguistic minority institutions.

3.2. It is at that juncture, we had queried the learned Government Advocate as to whether the appellant who is, as indicated above, an OBC candidate can be accommodated against the said quota.

3.3. The learned Government Advocate, today, says that this cannot be done and for this purpose, he relies upon the order

dated 09.05.2017, passed by the Supreme Court in W.P.(Civil) No.267 of 2017 (DAR-US-SLAM Educational Trust and Others Vs. Medical Council of India and Others).

3.4. Having said so, the learned Government Advocate submits that after the admission process is over in the aforementioned private medical colleges and, if thereafter, any "stray seats" remain vacant, then, the same could be offered to candidates generally as per their rank in the merit list. This stand is taken by the learned Government Advocate based on the observations made in paragraph 7 of the order dated 09.05.2017, passed by the Supreme Court, to which, we made a reference above.

3.5. For the sake of convenience, the observations contained in the said paragraph of the order are extracted hereafter:

"7. In order to ascertain the number of seats that still remain vacant after the counselling the State Government or the authority designated by the State Government shall conduct manual counselling for allotment of students. After the completion counselling, the State Government shall determine the number of seats that are still vacant and thereafter shall forward a list of students in order of merit, equaling to ten times the number of vacant seats to the medical college so that in case of any stray vacancy arising in any college the said seat may be filled up from the said list."

3.6. In view of the aforesaid circumstances, Mr.Yashod Vardhan, learned senior counsel who appears for the appellant says that he would be satisfied, if the respondents, where to act in accordance with the directions contained in paragraph 7 of the order dated 09.05.2017, passed by the Supreme Court, in W.P.(Civil) No.267 of 2017.

4. Thus, given the aforementioned circumstances, this Court, at this juncture, cannot intercede in the matter and therefore, the appeal is disposed of based on the stand taken by the counsel for the respondents that if any stray seats remain vacant, the same will be filled up in accordance with the directions contained in paragraph 7 of the order dated 09.05.2017, passed by the Supreme Court, in W.P.(Civil) No.267 of 2017. Moreover, while conducting such an exercise, the appellant's case would also be considered having regard to the fact that she claims, based on the Tahsildar's certificate that she is an OBC, residing at Mahe / Puducherry.

5. Nothing further needs to be said. Parties are left to

bear their own costs. Consequently, the pending application shall also stands disposed of.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The Secretary to Government for Education,
Chief Secretariat,
Puducherry.
2. The Chairman,
Centralised Admission Committee,
Puducherry Engineering College Campus,
Puducherry.

+1cc to Mr.R.Diwakaran, Advocate in sr.no.61186

W.A.No.1008 of 2017 and
C.M.P.No.14208 of 2017

NR 24/08/2017



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