

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.09.2017

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THE HON'BLE MR.JUSTICE RAJIV SHAKDHER
AND
THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.A.No.1116 of 2017

J.Lakshanaa .. Appellant/Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health & Family Welfare Department,
Secretariat, Fort St. George, Chennai - 600 009.
2. The Director of Medical Education,
Kilpauk, Chennai - 600 010.
3. The Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.
4. The Secretary,
Medical Council of India,
Durga Phase, New Delhi. .. Respondents/Respondents

Prayer : Appeal filed under Clause 15 of Letters Patent, against the Order dated 05.09.2017, passed in W.P.No.23567 of 2017.

WP.No.23567 of 2017:filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the Respondents 1 to 3 to grant admission to the petitioner in MBBS course in Government Medical College/Government Quots in Private Medical College under State Quota under Most backward Class (MBC) category based on merit in selection following the marks secured in National Entrance cum Eligibility Test Neet (UG) 2017-2018 forthwith.

For Appellant : Mr.G.Sankaran
For Respondents 1 to 3: Mr.P.S.Shiva Shanmugasundaram
Special Government Pleader
For Respondent 4 : Mr.Sheshadri for
Mr.V.P.Raman, SC for MCI
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J U D G E M E N T

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

1. Issue notice. Mr.P.S.Shiva Shanmugasundaram, learned Special Government Pleader, accepts notice on behalf of respondent No.1 to 3 and Mr.V.P.Raman, learned standing counsel accepts notice on behalf of respondent No.4. The learned counsel for the respondents says that they do not wish to file counter affidavits and instead would advance submission in the matter based on record presently available.

1.1. Thus, with the consent of counsels for parties, the Writ Appeal is taken up for final hearing and disposal.

2. This is an appeal preferred against the order dated 05.09.2017, passed by the learned Single Judge in W.P.No.23567 of 2017.

3. The learned Single Judge has dismissed the writ petition, based on the judgement and order of the Supreme Court, dated 09.05.2017, passed in a batch of cases, the lead case being: W.P.(Civil) No.267 of 2017.

3.1. To be noted, the appellant, before us, evidently sat for the NEET examination and, thereafter, applied for admission to MBBS / BDS course in the all India quota.

3.2. The appellant, on the basis of the marks obtained in the NEET examination was issued a provisional allotment letter dated 10.08.2017, for the BDS course in Sri Ramachandra Dental College and Hospital, Chennai qua academic year 2017-2018.

3.3. Sri Ramachandra Dental College and Hospital, Chennai, admittedly, is a Deemed University.

3.4. The appellant avers that since the last date for payment of fees for BDS course was 19.08.2017, she had no other choice but to seek admission in the aforementioned college.

3.5. It appears that the respondents announced dates for counselling for admission to MBBS / BDS courses in respect of academic year 2017-2018, vis-a-vis Government quotas and

Government quotas in private medical colleges only on 25.08.2017.

3.6. The appellant avers that she was issued a call letter for counselling, and that, she participated in the counselling conducted on 27.08.2017. The appellant claims that she was been informed by the third respondent i.e. Selection Committee of the Directorate of Medical Education, Kilpauk, Chennai that she cannot secure admission in Government medical colleges or against Government quota in private medical colleges in the MBBS course as she had already secured admission in the BDS course in a Deemed University.

4. The learned Single Judge, as noted by us, has accepted this stand of the respondents and, accordingly, dismissed the writ petition.

4.1. The problem of the appellant has been compounded by the fact that last date for seeking admission i.e. 04.09.2017 has been crossed. In fact we are told that 04.09.2017 was frozen as the last date for admission upon an extension being given in that behalf.

5. Mr.P.S.Siva Shanmugasundaram, learned Special Government Pleader, who appears for the respondents 1 to 3 says, that having regard to the fact that dead line being crossed, the appellant cannot secure admission, at this stage.

5.1. This indeed is a limiting factor qua which we have no leeway.

6. The counsel for the appellant, however, says that there is likelihood of vacancies arising on account of failure on the part of some students to produce nativity certificate.

6.1. Mr.P.S.Siva Shanmugasundaram says that there is no material on record with respect of this assertion advanced on behalf of the appellant.

7. However, we may bring to the attention of the respondents the observations made by the Supreme Court in paragraph 7 of the order dated 09.05.2017, passed by the Supreme Court. The respondents may, if the appellant's case otherwise, falls within the said ambit and scope of those directions contained therein, consider her case for admission.

8. The appeal is accordingly disposed of in the
aforementioned terms. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health & Family Welfare Department,
Secretariat, Fort St. George, Chennai - 600 009.
2. The Director of Medical Education,
Kilpauk, Chennai - 600 010.
3. The Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.
4. The Secretary,
Medical Council of India,
Durga Phase, New Delhi.

+1 cc to Mr.G.Sankaran Advocate sr 65380
+1 cc to Mr.V.P.Raman advocate sr 65353

W.A.No.1116 of 2017

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