

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2017

CORAM

THE HON'BLE MRS.JUSTICE **PUSHPA SATHYANARAYANA**

W.P.No.6482 of 2017 and
WMP.No.7000 of 2017

Neeti Rebecca Paul

.. Petitioner

VS

1. Union of India,
rep. by its Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, Maulana Azad Road,
New Delhi-110 011.
2. Central Board of Secondary Education,
rep. by its Secretary,
"Shiksha Kendra",
No.2, Community Centre,
New Delhi-110 092.
3. The Deputy Secretary (Examinations),
National Eligibility-cum-Entrance Test
Unit, Central Board of Secondary Education,
"Shiksha Kendra",
No.2 Community Centre,
New Delhi-110 092.
4. Veterinary Council of India,
rep. by its Secretary,
2nd Floor, August Kranti Bhawan,
Bhikajicama Place,
New Delhi-110 066.

.. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd and 3rd respondents to permit the petitioner to pay the fees and submit her application for NEET (UG) 2017, to enable the petitioner to write the NEET (UG) 2017.

For Petitioner : Mr.V.Vijayshankar

For Respondents : Mr.Su.Srinivasan for R1 &R4
Mr.C.Nagarajan,
Standing Counsel for CBSE
for R2 and R3

ORDER

This Court once again called for to judicially scrutinize and review the admission procedure to the MBBS/BDS-UG Courses. However, a peculiar situation has arisen this time with the aspirants of Veterinary Science also seeking to fit in the NEET Examination (UG) 2017. Therefore, it has now become the need of the hour to clarify the admission procedure by this Court.

2. The petitioner has completed her +2 Course in CBSE pattern in 2016. It is stated that she has developed a love for animals and it is her passion to be a Veterinary Doctor. Hence, she decided to apply for the AIPVT Examination conducted by the Veterinary Council of India, namely, the 4th respondent herein, for admission to 15% of the reserved seats in the various Veterinary Colleges in the country. The petitioner is also said to have been taking a special coaching for the same. Usually, the AIPVT Examination will be conducted in the month of May. While so, suddenly on 3rd March, there was an Article Online in NDTV dated 22.02.2017 stating that the AIPVT Examination would not be held this year and that the students who wanted admission for Veterinary Courses in the 15% All India Quota should write the NEET (UG) 2017 examination conducted by the 2nd respondent. Immediately, the petitioner had browsed the website of Veterinary Council of India and found that on 22.02.2017, a Public Notice in F.No.16-25/2017-VCi dated 20.02.2017 had been posted by the 4th respondent. As per the said notification, due to

administrative reasons, the Veterinary Council of India was advising all the students desirous of taking admission into BVSc. and AH Courses to appear in NEET (UG) 2017 to be conducted by the 2nd respondent on 07.05.2017. However, the said notification was not very clear and the 4th respondent was contemplating to use the merit list of the NEET (UG) 2017 Examination for allocation of seats under the 15% All India Quota.

3. Admittedly, the said notification was not given wide publicity. However, when the petitioner tried to apply it Online and pay the fees, it was not possible as the last date for online application was closed on 1st March itself. The petitioner has now come before this Court seeking to issue a Writ of Mandamus, directing the 2nd and 3rd respondents to permit her to pay the fees and submit her application for NEET (UG) 2017, to enable her to take up the NEET (UG) 2017 Examination.

4. It is the contention of the learned Counsel for the petitioner that when the Veterinary Council of India has decided for the first time deviating from the routine from conducting AIPVT Examination and decided to use the merit list of NEET (UG) 2017, the same should have been given wide publicity so as to reach the public and aspirant students. Consequently, the students like the petitioner had only six clear days from the date of publication of the notice in the website which could not have been seen by many whereas the NEET (UG) 2017 Examination for students seeking admission in medical/dental Colleges was notified in January, 2017 and it was open till 01.03.2017 midnight. It is further contended that the 4th respondent should have taken a decision to cancel the AIPVT well in advance and given wide publicity. Sufficient time also should have been given to the aspiring students to enable them to apply for the NEET (UG) 2017 Examination. In fact, the NEET (UG) 2017 admission notice only indicated admission to MBBS/BDS Courses and did not include Veterinary Course. Therefore, the students have no clue

that Veterinary Council of India was also included in NEET (UG) 2017 after cancelling AIPVT Examination. Hence, the petitioner sought for permission to pay the fees and submit her application for NEET (UG) 2017 for admission into Veterinary Science.

5. The 2nd respondent, who is the Central Board of Secondary Education, has filed its counter contending that the writ petition is not maintainable as the Eligibility-cum-Entrance Examination is meant only for the aspirants of MBBS/BDS Courses. Further, as per the approval of the Ministry of Health and Family Welfare, Government of India, the applications were launched for NEET (UG) 2017 from 31.01.2017 to 01.03.2017. The entire online application was developed based on the requirement of NEET. The CBSE also had expressed its difficulty in preparation for conducting of this examination which started almost a year ahead. Therefore, any change in the administrative set up of this examination is said to be not feasible. The 2nd and 3rd respondents also contended that the cancellation of

AIPVT examination by the 4th respondent is not binding on them and that the 4th respondent Veterinary Council of India cannot suo motu issue any notification for utilising the rank list of NEET (UG) 2017 without even informing the CBSE. The 2nd and 3rd respondents have also very clearly stated that they are not at all concerned with the cancellation of AIPVT Examination by the 4th respondent or the public notice issued by the Veterinary Council of India regarding the use of merit list of NEET (UG) 2017 for allocation of seats to the recognized Veterinary Colleges. Therefore, the learned Counsel very clearly intimated that when the Online application is closed as early as on 01.03.2017, the petitioner cannot be permitted to submit her application beyond the due date.

6. The 4th respondent Veterinary College of India submitted that the Veterinary Council of India has got no objection for granting permission to the petitioner to make application to undergo NEET (UG) 2017 Examination as a special case, if the CBSE is permitted to do so. Further, it is

stated by the Veterinary Council of India that they are confronted with many administrative reasons. It is stated that the pattern of question papers, eligibility criteria and the syllabus are same for both the AIPVT and NEET UG Examination. It was decided by the Veterinary Council of India to use the merit list of NEET (UG) 2017 aligning with the National Policy of the Central Government. The Election of the President and Vice President of Veterinary Commission of India is under challenge before the Hon'ble High Court of Madhyapradesh at Jabalpur. There were also financial and administrative irregularities pertaining to AIPVT. Therefore, Veterinary Council of India decided to cancel the AIPVT Examination and use the merit list of NEET (UG) 2017. It is also stated that in the year 2015 and 2016, the CBSE has provided question papers to the Veterinary Council of India for the AIPVT Examination. As Veterinary Council of India did not have proper infrastructure including man power for the conduct of AIPVT, it was decided to go through the NEET merit list. As Veterinary Council of India does not intend to conduct

separate AIPVT Examination as had been held in the previous years, the petitioner can be allowed to apply for only 2nd and 3rd respondents agree for the same.

7. The above facts, though, are very simple, it raises considerable importance and application. For the first time, the Veterinary Council of India is also facing such kind of situation. The question which now raises for consideration is whether the petitioner is entitled for applying for the BVSc. and AH Courses through NEET (UG) 2017?

8. The contention of the learned Counsel for the petitioner is that if the 4th respondent had given wide publicity about the important notification affecting thousands of students well in advance, the petitioner would not have been driven to this situation. The cancellation of All India Pre Veterinary Test was not made known to public by the Veterinary Council of India. The public notice simply states that those students desirous of taking admission to

BVSc. and AH Courses on All India Basis are advised to appear for NEET (UG) 2017 to be conducted by the CBSE on 07.05.2017 and it was further intimated that Veterinary Council of India is contemplating to use the merit list of NEET (UG) 2017 for allocation of seats to the recognized two colleges for admission and 15% All India Quota.

9. The Counsel on behalf of the petitioner conceded that the said notification was only uploaded in the net on 22.02.2017 and the last date for closure of the Online was on 01.03.2017. When those aspirants of MBBS/BDS Courses were having more than a month's time and had knowledge about the date of opening of the Online and the closure of the Online, the petitioner was deprived of the same information. Even otherwise, the petitioner had only six days to apply.

10. The Veterinary Council of India has clearly intimated that the current status of the Council was not in a position to take decision in the matter of AIPVT 2017 as

there is no President or Vice President for Veterinary Council of India. Further, it is stated that the conduct of AIPVT involves infrastructure including manpower and financial power. In the absence of office bearers, the Veterinary Council of India was not in a position to take a call on conducting the AIPVT Examination. It is also fairly conceded that they have got no objection for allowing the petitioner to take up the NEET (UG) 2017 examination, however, subject to the CBSE who is conducting the AIPMT and Pre Dental Examination. The CBSE has very clearly stated that they are only an examination body for NEET. All the rules and regulations and schemes fall under Medical Council of India, Veterinary Council of India and the Ministry of Health and Family Welfare. Even CBSE is not instructed by Veterinary Council of India to conduct the examination on behalf of them also. The CBSE in its counter in para16 has specifically stated that the 4th respondent Veterinary Council of India cannot suo motu issue any notification for utilising the rank lists, that too, without informing CBSE. The CBSE also has stated that they have got nothing to do

with the cancellation of AIPVT examinations being conducted by the 4th respondent nor concerned about the public notice issued by the Veterinary Council of India regarding the Veterinary Council of India contemplating to use the merit list of NEET (UG) 2017 for allocation of seats to the recognized Veterinary colleges. In these circumstances, it has to be seen whether the petitioner can be given the relief sought for by her.

11. The CBSE has expressed its difficulty that it has to adhere to the time schedule and the same cannot be extended as any change in the atmosphere or set up is not feasible and it will affect the admission to MBBS/BDS Courses. But, here is the case where the petitioner cannot be blamed as no fault is attributable to her. She is now denied even admission to apply online because of the action of the Veterinary Council of India to take a decision unilaterally at the eleventh hour. When the petitioner is not at fault, the cut off date cannot be used as a tool to deny her even to apply for the examination.

12. The learned Counsel appearing for the CBSE brought to the notice of this Court about the order passed by the Hon'ble Supreme Court in **Raj Sabyasachi and another vs. Union of India in W.Ps. (Civil) 98/2017 and 194/2017 dated 31/03/2017**. The said case dealt with quashing of the admission notice which stipulated the maximum age of 25 years as eligible candidates to undergo NEET Examination. While extending the time for application for those students above 25 years of age till 05.04.2017, the Hon'ble Supreme Court has stated that if any High Court has passed any order contrary to the present order, the CBSE shall be bound by the order passed by this Court, as far as cut off date is concerned.

13. In this regard, it is argued by the learned Counsel for the CBSE that more than 11.35 Lakhs candidates have applied for the NEET (UG) 2017 Examination and the CBSE Board has made arrangements/preparations for MBBS/BDS Courses as per

the Indian Medical Council Act and Dentist Act. When all the rules and regulations and schemes fall under Medical Council of India and Dentist Council of India and Ministry of Health and Family Welfare, the CBSE holding the NEET examination based on an approved scheme. Therefore, the Veterinary Council of India without the concurrence of CBSE should not have taken the unilateral decision of considering the NEET merit list. At least, the Veterinary Council of India should have taken a decision well ahead of time when the CBSE governed only by the scheme approved by the Medical and Dental Council of India based on which the time extension was restricted by the Hon'ble Supreme Court of India.

14. So far as the case on hand is concerned, it is with respect to the Veterinary Council of India. This is the first occasion even the CBSE is said to have been confronted with such kind of situation. It is not only unfortunate, but it is unfair that the petitioner, being even denied an opportunity to apply for the examination. The

Courts have always taken a considerate view, at least in rarest of rare cases and in exceptional case to mould the relief. Admittedly, there is no fault attributed to the candidate in this case. As stated earlier, this petitioner has been taking special coaching for appearing in the AIPVT Examination and by not allowing her even to apply for the same, the legitimate rights of the petitioner stands frustrated because of the inaction or improper action on the part of the 4th respondent.

15. In the light of the above facts, the Writ Petition is disposed of on the following directions:

1. The 4th respondent shall recommend the name of the petitioner to be included for the NEET Examination (UG) 2017-18 by accepting her application;

2. The petitioner shall forward her application to the respondents 2 and 3 and also to the 4th respondent;

3. The 2nd and 3rd respondents shall consider the mode in which the application of the petitioner along with necessary fee be accepted enabling her to appear for the NEET Examination (UG) 2017-18 scheduled to be conducted on 07.05.2017; and

4. The above exercise has to be completed within 10 days from today.

No costs. Consequently, connected Miscellaneous Petition is also closed.

17.04.2017

Issue order copy on 17.04.2017

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Index: yes/No

Internet: yes

To

1. The Secretary,
Union of India,
Ministry of Health and Family Welfare,
Nirman Bhawan, Maulana Azad Road,
New Delhi-110 011.

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2nd Floor, August Kranti Bhawan,
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PUSHPA SATHYANARAYANA,J.,

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