

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2017

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.10696 of 2017 and

W.M.P.No.11650 of 2017

1. M.Mugunthan
rep. by his father G.Mathiyalagan
2. Murugesan Sivan
rep. by his father Sivan
3. Janani Saminadan
rep. by her father P.Saminadan
4. Vickram Durai
rep. by his father Durai
5. Jothimani Murugan
rep. by his father Murugan
6. Kaviarasu Murugan
rep. by his father Murugan
7. Sujith Shanmugam
rep. by his father Shanmugam
8. Aafrin Ismail
rep. by his father I.Ismail
9. Nandhini Govindaraj,
rep. by her father Govindaraj
10. Rubashree Palani
rep. by her father Palani
11. Veeramani Muniyappan
rep. by his father C.Muniyappan
12. Devipriya Arumugam
rep. by her father Arumugam
13. Geethanjali Murugan
rep. by her father Murugan
14. Anbarasi Rajendran
rep. by her father Rajendran
15. Preethi Prakash
rep. by her father Prakash

- 16.Privinkumar Duraisamy
rep. by his father Duraisamy
- 17.Jeyasurya Vijayan
rep. by his father Vijayan
- 18.Vignesh Poongavanam
rep. by his father Poongavanam
- 19.Dhinesh Selvam
rep. by his father Selvam
- 20.Udhya Kumar
rep. by his father Annadurai
- 21.Vijayasurya Subramani
rep. by his father Subramani
- 22.Aarthi Sivaji
rep. by her father Sivaji
- 23.Mohanapriya Manivel
rep. by her father Manivel
- 24.Agathiya
rep. by her father Sivakumar
- 25.Hema Nagalingam
rep. by her father Nagalingam
- 26.Sangavi Murugan
rep. by her father Murugan
- 27.Pooja
rep. by her father Nagabusanaiah
- 28.Arthi Perumal
rep. by her father Perumal
- 29.Dhayalan Madhaiyan
rep. by his father Madhiayan
- 30.Tamizharasan Samikkannu
rep. by his father Samikkannu
- 31.K.H.Praveenbabu
rep. by his father Harikesavan
- 32.Hritish
rep. by his father Saravanakumar

33.Arun Deepakraj
rep. by his father Rajkumar

34.Bharathi Murugan
rep. by her father Murugan

35.Harish L S
rep. by his father Lakshmipathi

36.Bhaskaran Gnanasekaran
rep. by his father Gnanasekaran

37.Nathiya Raja
rep. by her father Raja

38. Sonali S
rep. by her father Sabari N .. Petitioners

vs

Central Board of Secondary Education,
Shiksha Kendra,
No.2-Community Centre,
Preet Vihar, Delhi-110 092. ... Respondent

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to receive the examination fee from the petitioners through alternate method to enable the petitioners to appear for the National Eligibility Entrance Test scheduled on 07.05.2017 on the basis of the petitioners' application which was submitted in time.

For Petitioners : Mr.M.S.Krishnan,
Senior Counsel
for Mr.M.A.Muthalakan

For Respondent : Mr.K.Sasindran
for Mr.G.Nagarajan
CGSC

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ORDER

This is yet another batch of cases arising out of the National Eligibility-cum-Entrance Test (NEET)-UG-2017. The petitioners' wards have given their XII Standard Board Examination under the Tamil Nadu State Board Scheme and have been aspiring for MBBS Course. As there was a confusion in the State about the Separate Entrance Test for Tamil Nadu, many of the students were awaiting the assent of the President for the

Tamil Nadu Admission to Post Graduate Courses in Medicine and Dentistry Bill, 2017 with keeping their fingers crossed. As nothing was forthcoming and there was no specific announcement in that regard, the children of the petitioners had applied for the NEET Examination Online.

2. These aspirants are from different districts and many of them do not have Internet facility at home. The last date for submitting the application for NEET-UG-2017 was on 01.03.2017. The procedure for payment of fees is that after filling up the application form, an One Time Password will be sent to the Registered Mobile Number from the bank which is valid only for few minutes. After the receipt of the OTP, payment has to be remitted either through Online Banking or through credit card. As the petitioners did not receive the OTP on their registered Mobile Numbers within time, the window for payment was automatically closed. However, their application numbers were registered as Registration Nos. 81106481, 81133420, 80993145, 81127656, 80971790, 80990862, 81094197, 80993701, 80967098, 81055895, 81088064, 81007897, 80967724, 80995389, 80984649, 81100020, 81122312, 81131868, 81085543, 81131935, 81148449, 81065830, 80993640, 80993197, 80968100, 81049880, 80967013, 80994618, 81130119, 81040324, 81131905, 81040353, 81131610, 81134119, 81023780, 81154001, 81037479, 80934702 respectively. Therefore, it is evident that the applicants had submitted their Online application Form within time. But the payment of fees Online could not be made as instructed for the reason stated above. There is no instruction indicating any other provision in the Online Window for making the payment of fees for the application which has already been filled up and submitted. The several attempts made by these candidates were unsuccessful. It is also stated that the server developed error, due to which, the payment could not be completed.

3. On enquiry, it was found that there is only a provision for Online correction of the data entry in the application form, but, there is no provision for making payment after the deadline for the submission of the Application Form. It is also stated in the affidavit that when the candidates attempted to contact the officers of the respondent, they were informed that there is no provision for payment of fees, after the deadline, which expired on 01.03.2017. As the candidates have applied Online and their application forms have been registered, it is only the non-payment of fees, that is now disqualifying them from taking up the examination. It is stated that in many of the rural areas in Tamil Nadu, candidates either do not have a computer to access or they are not proficient in handling the same. They have to depend on the private net centres, where also, they have several problems due to connectivity, power supply etc. Therefore, these Writ Petitions came to be filed seeking a

Mandamus to direct the respondent to receive the examination fees from the candidates who have already applied through Online, but, could not make the payment of fees through another alternate method.

4. Though, there was no counter affidavit filed in this matter, in an identical issue, a Counter Affidavit has been filed by the respondent, namely, the Central Board of Secondary Education in this regard stating that the Central Board of Secondary Education is only an Examining Body for NEET. All the rules and regulations and schemes fall under the Medical Council of India, Dental Council of India and Ministry of Health and Family Welfare. Based on the approved scheme, the CBSE is holding NEET-UG-2017 Examination and the candidates were given time from 31.01.2017 to 01.03.2017. The entire online service was developed based on the requirements of NEET. It is stated that as per the Supreme Court direction, the last date for submission of the application fixed as 01.03.2017, cannot be extended further. It is stated further that more than 11.35 lakhs candidates have applied for NEET and examination is already scheduled on 07.05.2017.

5. The other contention raised by the respondent is that the petitioners have applied only in the last week of February, 2017 and the writ petitions filed on 27.03.2017 long after the final date for submitting the application is over. The Supreme Court has specifically directed not to extend the last date for the examination, the respondent has expressed their inability to extend the date or suggests any other mode for the payment of fees for the candidates who have not paid the fees.

6. It is an admitted fact that the Government of Tamil Nadu had passed a Bill and exclude themselves from the purview of NEET Examination and it was, at the stage of awarding the assent of the President of India. Therefore, the anxious students have waited for considerable time and applied for NEET Examination before the last date. It is not the case that they have applied for it beyond the date fixed as the same is not possible, being an Online application, the lines would automatically close.

7. The uniform contention of these candidates are that their applications have been registered and the registration numbers have also been given to them, however, only the payment of fees could not be processed because they could not receive the One Time Password (OTP) to their respective registered Mobile Numbers within time. In the meanwhile, the Online Window had automatically closed and the attempts made by them to make the payment subsequently were unsuccessful.

8. This is an examination conducted Nationwide. Hence, it was made Online. It is exciting to note that our country is moving towards digital India. Its future rests on the quality of the supporting infrastructure framework. The digitalization also largely depends on the internet speeds. Reports suggest that India is one of the countries having lowest internet speed. In addition to that, the frequent power outages across the country, especially, in the rural areas also aggravate the situation.

9. When the respondent says that there was overwhelming response of 45% more candidates than earlier taking up the examination, namely, 11.35 Lakhs and above, the slowest internet connectivity speed within a given time does not sit well. If a better way to be found out to fix the problem, the infrastructure requirements have to be improved. Secondly, the role of the Telecom Companies in this regard also play a vital role. The Nation, as such, has to gear up for the roll out of better version to suit the future needs.

10. In the above conspectus, the initiative taken by the respondent in conducting the examination throughout the country online is a laudable one. However, the better connectivity has to be addressed or provisions ought to have been made for an alternate method for the situation like the present cases. Admittedly, a group of students have gone to the same internet centre to make their application form online. Though they were successful till the stage of applying and getting it registered, they were unsuccessful in completing the procedure by paying the required fees. These candidates are from different pockets of the districts in Tamil Nadu. The low internet speed and power outage are the perennial problems faced even in the Metropolitan Cities. Therefore, no malafides can be imputed to these candidates who could not remit the fees online in the absence of any alternate mode.

11. Further, in an identical situation in W.P.Nos.7643/2017 and etc. batch, this Court by an order dated 20.04.2017 disposed of the same by issuing a positive direction to the respondent to consider their request to receive the payment for NEET-UG-2017 Examination Fees in any other manner suitable to the respondent and the said order was upheld by a Division Bench of this Court on appeal in W.A.Nos.486, 507 to 517/2017 dated 25.04.2017.

12. Therefore, the respondent, who is a Board for promoting education across the country, though may have difficulties in handling the situation in terms of feasibility to relax the rules and open the online again, can consider the plea of these aspiring students also in at least accepting their fee

remittance to complete the application form which would enable them to sit for the examination.

13. In the light of the above facts, while not extending the time for application or changing the date of the examination, the respondent could favourably consider the requests of these petitioners to receive the payment for NEET-UG-2017 Examination Fees through RTGS.

14. In view of the above, the respondent is directed to accept the fees from the petitioners or their wards with respect to their application forms as registered Online through RTGS on or before 02.05.2017. On receipt of the fees, the respondent is directed to generate the hall ticket and issue the same to them to enable them to sit for the NEET (UG) 2017 exams.

15. The Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is also closed.

-s/d-
Assistant Registrar(CO)

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Sub-Assistant Registrar

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To

Central Board of Secondary Education,
Shiksha Kendra,
No.2-Community Centre,
Preet Vihar, Delhi-110 092.

+1 cc to Mr.G.Nagarajan Advocate sr 25742
+1 cc to Mr.A.Muthalakan Advocate sr 25643

W.P.No.10696 of 2017

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