

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2017

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.Nos.7643 to 7653 of 2017 and WMP.Nos.8351 to 8361/2017 and
W.P.No.8616/2017 and WMP.No.9429/2017

1.P.Swetha .. Petitioner in WP.7643/17
2.S.Sumana .. Petitioner in WP.7644/17
3.N.Shanmugapriya .. Petitioner in WP.7645/17
4.S.K.Yaasmeenthaj .. Petitioner in WP.7646/17
5.M.Mullaiarasan .. Petitioner in WP.7647/17
6.S.R.Gowsikan .. Petitioner in WP.7648/17
7.D.Sowmiya .. Petitioner in WP.7649/17
8.S.Jamuna .. Petitioner in WP.7650/17
9.R.Rishma .. Petitioner in WP.7651/17
10.M.Sarath .. Petitioner in WP.7652/17
11.A.Petershibu .. Petitioner in WP.7653/17
12.Abishek Sudhan .. Petitioner in WP.8616/17

vs

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

Common Prayer: These Writ Petition have been filed under Article 226 of the Constitution of India to issue a Writs of Mandamus, directing the respondent to receive the examination fees from the petitioners through alternate method to enable the petitioners to appear for the National Eligibility Entrance Test scheduled on 07.05.2017.

For Petitioner : Mr.S.Ravi
in W.P.Nos.7643 to M/s.Gupta and Ravi
7653/2017

For Petitioner in : Mr.J.Stalin
W.P.No.8616/2017

For Respondent in both : Mr.G.Nagarajan, CGSC
W.Ps.

COMMON 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.80989571, 80992158, 80967634, 80993860, 81096416, 81101348, 81054072, 80787000, 81158232, 80991234, 81086144 and 80238681 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. A Counter Affidavit has been filed by the respondent, namely, the Central Board of Secondary Education in this regard. It is stated by them 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. 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 in at least accepting their fee remittance to complete the application form which would enable them to sit for the examination.

12. 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 in any other manner suitable to the respondent.

13. In view of the above, the respondent is directed to accept the fees from the petitioners or their wards with respect to their application form as registered Online in the manner that may be suggested by the respondent like, through RTGS or by Demand Draft etc. The respondent/CBSE Board is directed to indicate the mode in which the fee remittance may be made by the candidates and inform them individually specifying the last date for the remittance. The said exercise may be completed on or before 28.04.2017.

14. The Writ Petitions are disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

To

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

+11 cc's to M/s.Gupta & Ravi,advocate,sr.23800

+1 cc to Mr.J.Stalin, advocate,sr.23892

+2 cc's to Mr.G.nagarajan,advocate,sr.24025, 24036.

+9 cc's to Mr.G.Nagarajan,advocate,sr.24026 to 24035 (24/4)

rj(co)
krd 21/4

W.P.Nos.7643 to 7653 of 2017
& W.P.No.8616/2017

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