

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2017

CORAM

THE HON'BLE Mr.JUSTICE HULUVADI G.RAMESH
And
THE HON'BLE MR JUSTICE RMT.TEEKAA RAMAN

W.A.Nos.486, 507 to 517 of 2017
and
CMP Nos.7345, 7429 to 7439 of 2017

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

... Appellant in
Writ Appeals

Vs.

Abishek Sudhan
Rep.by his Mother and natural Guardian,
Beena Sudhan,
No.36, 1st Main Road,
Madipakkam,
Chennai-600 091

... Respondent in
W.A.No.486 of 2017

P.Swetha
Rep by her father and
natural guardian
R.Paranthaman

...Respondent in
WA.No.507/2017

S.Sumana
Rep by her father and natural
guardian S.Saravanan

...Respondent in
WA.No.508/2017

N.ShanmugaPriya
Rep by her father and natural
guardina N.Nanjappan

...Respondent in
WA.No.509/2017

S.K.Yaajmeenthaj

...Respondent in
WA.No.510/2017

M.Mullaiarasan
rep by his father and natural
guardian G.Murugan

...Respondent in
WA.No.511/2017

S.R.Gowsikan
Rep by his father and
natural guardian S.Ramamoorthy

...Respondent in
WA.No.512/2017

D.Sowmiya
Rep by her father and natural
guardian S.Kalaikumar

....Respondent in
WA.No.513/2017

S.Jamuna
Rep by her father and natural guardian
N.Sivakumar

...Respondent in
WA.No.514/2017

R.Rishma
Rep by her father and natural
guardian M.Ramesh

...Respondent in
WA.No.515/2017

M.Sarath
Rep by his father and natural
guardian N.Mohankumar

...Respondent in
WA 516/2017

A.Petershibu
Rep by his mother and
natural guardina R.Pushpan

...Respondent in
WA.No.517/2017

Writ Appeals preferred under Clause 15 of the Letters Patent
against the order dated 20.04.2017 made in W.P.No.8616 of 2017,
7643 of 2017, 7644, 7645, 7646, 7647, 7648, 7649, 7650, 7651,
7652, 7653 of 2017

For Appellant :Mr.G.Nagarajan in all WAs

For Respondent :Mr.L.S.M.Hasan Fizal
in W.P.No.486 of 2017
Mr.M.A.Muthalakan
in W.P.Nos.507 to 517 of 2017

COMMON JUDGMENT

(Judgment of the Court was delivered by HULUVADI G.RAMESH,J)

These writ appeals are arising out of the order of the learned single Judge allowing the writ petitions filed by the respective petitioners/candidates seeking a direction to the Central Board of Secondary Education to receive the fee from the respective petitioners through alternate method to enable them to appear for the National Eligibility Entrance Test (hereinafter referred to as 'NEET Test'), scheduled to be held on 07.05.2017. The order of the learned single Judge is dated 20.04.2017. In and by the said order, the learned single Judge directed the Central Board of Secondary Education 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 learned single Judge has also fixed the time limit for the said exercise on or before 28.04.2017.

2. The aggrieved candidates are aspiring for the MBBS course and they intended to appear for the NEET Test. The Central Board of Secondary Education has also specified the date for the said Test as 07.05.2017. The grievance of the candidates is that the issue was pending before the State Government, as the State Government was negotiating with the concerned authorities regarding exclusion of NEET Test so far as the Tamil Nadu is concerned. Hence, it is stated that, the candidates were under the impression that the matter would be settled and they were waiting for the positive response from the Government. But to their shock and surprise, the attempt of the State Government proved futile and the Central Board of Secondary Education announced the NEET Test to be held on 7.5.2017 and the last date for submission of the applications was fixed at 01.03.2017.

3. While such being the position, it is the grievance of the candidates that as per the procedure for payment of fees, after submission of the application forms, One Time Password would be sent to the registered mobile number of the concerned candidate, from the bank, which is available only for a few minutes. The payment of fee should be either through online banking or through the credit card. As the candidates before this Court have not received the One Time Password on their registered mobile numbers on time, the window for payment was automatically closed. Since they were unable to make payment of fee, after submitting their applications in time, their applications were not considered for the Test. It is their grievance that no other alternative mode of payment was also prescribed by the authority concerned for payment of fee. At that juncture, the candidates approached the learned single

Judge. The learned single Judge, after considering the submissions of both sides and also taking into consideration the counter affidavit filed by the Board and the decision of the Hon'ble Apex Court, in Writ Petition (Civil) No.99 of 2017, dated 31.3.2017, passed the following order:

"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.

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."

4. On going through the factual background, which is recorded in paragraph No.6 of the impugned order and also the difficulty faced by the candidates in remitting the fees online, though the applications were submitted within the cut off date and also having taking note of the fact that there is no delay in submitting the applications and keeping in mind the order passed by the Hon'ble Apex Court extending the time up to 5.4.2017, we are of the view that the order of the learned single Judge is neither violative of the order passed by the Apex Court nor there is any apparent error.

5. So far as the remittance of fees is concerned, the learned single Judge has passed such an order on the ground that the candidates are left with no other alternate mode to remit the fees online on the same day itself and also it has been noted that the candidates are all belong to very remote areas, where there is no proper power supply and the network speed is also very poor. In such a factual situation, the learned single Judge directed the payment of fees through RTGS or by Demand Draft or any other mode as suggested by the appellant Board. Therefore, we are of the considered view that there would not be any difficulty for the appellant Board in complying with the order passed by the learned single Judge, as the order is based on sound reasons and it does not call for any interference.

6. The writ appeals are ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

msk

+12 ccs to Mr.G.Nagarajan Advocate sr 25102

+1 cc to Mr.L.S.M.Hasan Fizal Advocate sr 25103

+1 cc to Mr.M.A.Muthalakan Advocate sr 25085

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