

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2017

CORAM:

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

W.A.No.822 of 2017
and
C.M.P.Nos.11446 & 11565 of 2017

S.Kumar Appellant/Petitioner

.. Vs ..

1. Union Territory of Pondicherry
Rep. by The Secretary to Her Excellency Lt. Governor,
Union Territory of Puducherry,
Raj Nivas, Puducherry - 605 001.
2. The Chief Secretary to Government
cum Chief Vigilance Officer,
Government of Puducherry,
Secretariat, Beach Road,
Puducherry - 605 001.
3. The Secretary to Government (Health)
Government of Puducherry,
Secretariat, Beach Road,
Puducherry - 605 001.
4. The Secretary to Government (Education)
cum Chairman (CENTAC)
Government of Puducherry,
Secretariat, Beach Road,
Puducherry - 605 001.
5. The Convenor,
Centralized Admission Committee (CENTAC),
Pondicherry Engineering Campus,
Kalapet, Puducherry - 605 014.
6. The Director (Higher Education) (PIPMET),
Education Department,
Government of Puducherry,
Puducherry.

7. The District Collector of Pondicherry,
Government of Puducherry,
Collectorate,
Revenue Complex, Saram,
Pondicherry - 605 013.
8. The Director,
Central Bureau of Investigation (CBI),
Sasthiribhawan,
Nungampakkam,
Chennai - 600 006.
9. The Secretary to Government (Education),
Government of India,
Ministry of Human Resources Development,
Sastri Bhavan,
New Delhi.
10. The Secretary to Government (Health),
Government of India,
Ministry of Health & Family Welfare,
"A" Wing, Nirman Bhavan,
New Delhi. ... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of The Letters Patent, against the order dated 27.02.2017 passed by this Court in W.P.No.4781 of 2017.

Prayer in W.P.No.4781 of 2017:

Writ of certiorarified Mandamus Calling for the records relating to the impugned Notice vide No.1-240/ SECY/EDN/PA/2015/51 dated 2.7.2015 passed/ issued by the 4th respondent and quash the same and consequentially direct the 9th respondent to enquire/ investigate into the matter and file a report on the Complaint lodged by the petitioner and also direct the respondents Nos.1 to 4 to award compensation to the petitioner for loss caused to the petitioner due to improper and illegal procedure followed by the respondent Nos.4 to 5 in matter of allotting seats under Government Quota.

For Appellant	:	S.Kumar (Appellant-in-person)
For RR-1, 8 & 10	:	Notice served. No Appearance
For RR-2 to 7	:	Mr.R.Syed Mustafa, Special Govt. Pleader (Pondicherry)
For R-9	:	Not Ready in notice

JUDGMENT

(Judgment of the Court was delivered by
RMT.TEEKAA RAMAN, J.)

Challenging the correctness of the order dated 27.02.2017 passed by the learned Single Judge in W.P.No.4781 of 2017, the unsuccessful petitioner has preferred this writ appeal after payment of the costs awarded by the learned Single Judge.

2. The appellant herein/writ petitioner has filed the above writ petition seeking for a writ of certiorarified mandamus, calling for the records relating to the impugned Notice vide No.1-240/SECY/EDN/PA/2015/51, dated 02.07.2015, passed/issued by the fourth respondent and quash the same and consequently direct the 9th respondent to enquire/investigate into the matter and file a report on the complaint lodged by the writ petitioner and also direct the respondent Nos.1 to 4 to award compensation to the writ petitioner for the loss caused to him due to improper and illegal procedure followed by the respondent Nos.4 and 5 in the matter of allotting seats under Government Quota.

3. The case of the writ petitioner is that he belongs to "Fisherman Community" which is treated/recognised as EBC (Extreme Backward Class) and his daughter viz., Selvi K.Krithisha submitted an application for getting Medical College admission for M.B.B.S. Course under Government Quota through the fifth respondent/Convenor (CENTAC), as he is the authorized sponsoring agency. In the Union Territory of Puducherry, there are totally eight Medical Colleges and the total number of M.B.B.S. seats for eight Medical Colleges are 415.

3.1. The writ petitioner pointed out that as per G.O.Ms.No.9/2010/WEL/SW-V, dated 28.08.2010 issued by the first respondent, 2% reservation should be given to EBC category candidates in matters of both public employments as well as education and as such, EBC category candidates are entitled for 8 seats under the Government Quota for M.B.B.S. courses. According to the writ petitioner, respondent Nos.4 to 6 ought to have notified 8 seats under EBC Quota, but they have initially notified only 7 seats under EBC Quota. The fifth respondent published merit list, wherein, the writ petitioner's daughter's name was found at Serial No.8 against EBC Quota. The fifth respondent issued two counselling call letters to the writ petitioner's daughter on two different dates, on 03.07.2012 and 07.07.2012, asking her to appear for counselling along with all original certificates for getting admission for biology based courses on 12.07.2012 at Counselling Hall, Pondicherry Engineering College Campus, Kalapet, Puducherry. The writ petitioner's daughter attended the counselling and after the

first counselling, respondent Nos.4 and 5 filled up only four seats and the remaining four seats were kept unfilled and that the writ petitioner's daughter was forced to take seat for M.B.B.S. Course in Mahatma Gandhi Medical College, Puducherry and the writ petitioner was constrained to pay double fees i.e., Rs.5,00,000/- to the Management. Hence, the writ petitioner's daughter submitted a detailed representation to the respondents praying for allotment of admission to first year M.B.B.S. course in anyone of the Private Medical Colleges in Puducherry with tuition fees of a sum of Rs.2,25,000/- per annum. But, the said representation was not considered by the respondents and the respondents filled up the 8th seat on 06.08.2012 by giving admission to one S.Soundaria, who belongs to EBC Quota.

3.2. It is the further case of the writ petitioner that his daughter filed a Writ Petition in W.P.No.28417 of 2012 seeking a direction to the first respondent to allot admission to first year M.B.B.S. course to her in anyone of the Medical Colleges in Puducherry with tuition fees of a sum of Rs.2,25,000/- per annum and also for a direction to the respondents to strictly follow the procedure while conducting counselling for allotting seats under Government Quota in respect of admission to M.B.B.S. course and the said writ petition is pending. While so, on 26.09.2012, the writ petitioner submitted a detailed representation to the first respondent requesting him to intervene in this matter and take appropriate action. But the first respondent forwarded the said representation to the fourth respondent and directed him to dispose of the same and pass speaking orders on the same. The fourth respondent, after conducting enquiry, passed the impugned order dated 02.07.2015 rejecting the claim of the writ petitioner that the 8th seat was filled up in view of subsequent fall of vacancy by way of All India Quota. Thereafter, the writ petitioner has filed the above writ petition in W.P.No.4781 of 2017 before this Court and the learned Single Judge dismissed the said writ petition. As against the said order of dismissal, the writ petitioner is before this Court with this Writ Appeal.

4. The appellant, who appeared in person, submitted that her daughter namely Selvi K.Krithisha would have had a chance to be admitted in the Sri Venkateswara Medical College Hospital and Research Centre, Puducherry, and in view of the fact that one seat is not being allotted under the Extreme Backward Class, she was denied of getting admission in private medical college and she was forced to take up M.B.B.S. course in the Deemed University and thereby, she has to spend more money for tuition fees. It is further submitted that the respondents have not followed the Rule of reservation and hence, the appellant seeks for awarding compensation by allowing the writ appeal.

5. In the impugned order dated 02.07.2015, the authority concerned has observed that at the time of first counselling, the total number of seats allotted for M.B.B.S. course is 105 in Government Institution and 264 seats in Private Medical institutions. The reservation of region-wise quota is mentioned as follows:-

Karaikal - 18 % (19 seats), Mahe - 4 % (4 seats) and Yanam - 3 % (3 seats). The remaining seats, which were allotted to Pondicherry region, are (105-26) 79. As per the reservation norms, 2 % seats were allotted to EBC category candidates i.e., 7 at the time of first counselling.

6. The learned Special Government Pleader (Pondicherry appearing for the respondents 2 to 7 submitted that As per the reservation norms, 2 % seats were allotted to EBC category candidates i.e., 7 at the time of first counselling. During the second counselling, seat matrix was re-allotted based on the unfilled seats from All India Quota and hence, 1 more seat was allotted to EBC category candidates subsequent to the admission of the petitioner's daughter in the MBBS course. The learned Single Judge, after taking into consideration all the facts, correctly passed an order dismissing the writ petition filed by the appellant and hence, the learned Special Government Pleader prayed for dismissal of the writ appeal.

7. The appellant-party-in-person appeared before us and re-agitated the same issue. On a perusal of records, we find that the admission relating to the year 2012-2013 and the appellant's daughter has already completed her MBBS course and after completion of the M.B.B.S. course only, the writ petition has been filed in the year 2017 seeking compensation. Besides, the fact that the person, to whom the seat was allotted, is also scored 183.33 marks while the petitioner's daughter has got 180 marks and after completion of the All India quota counselling, 1 seat has been reverted back and the said fact has been taken into consideration.

8. Considering the facts and circumstances of the case, we are of the view that the finding given by the learned Single Judge does not warrant any interference by this Court and there is no illegality or irregularity in arriving at a conclusion allotting 7 seats to EBC category candidates at the time of first counselling. Further, we are not in a position to appreciate the various other contentions raised by the appellant/party-in-person as he has come to the Court belatedly after his daughter completed the M.B.B.S. course. Accordingly, the Writ Appeal is devoid of merits and the same is liable to be dismissed.

9. In the result, the Writ Appeal is dismissed and the order passed by the learned Single Judge in W.P.No.4781 of 2017, dated 27.02.2017 is confirmed. The connected miscellaneous petitions are closed. No costs.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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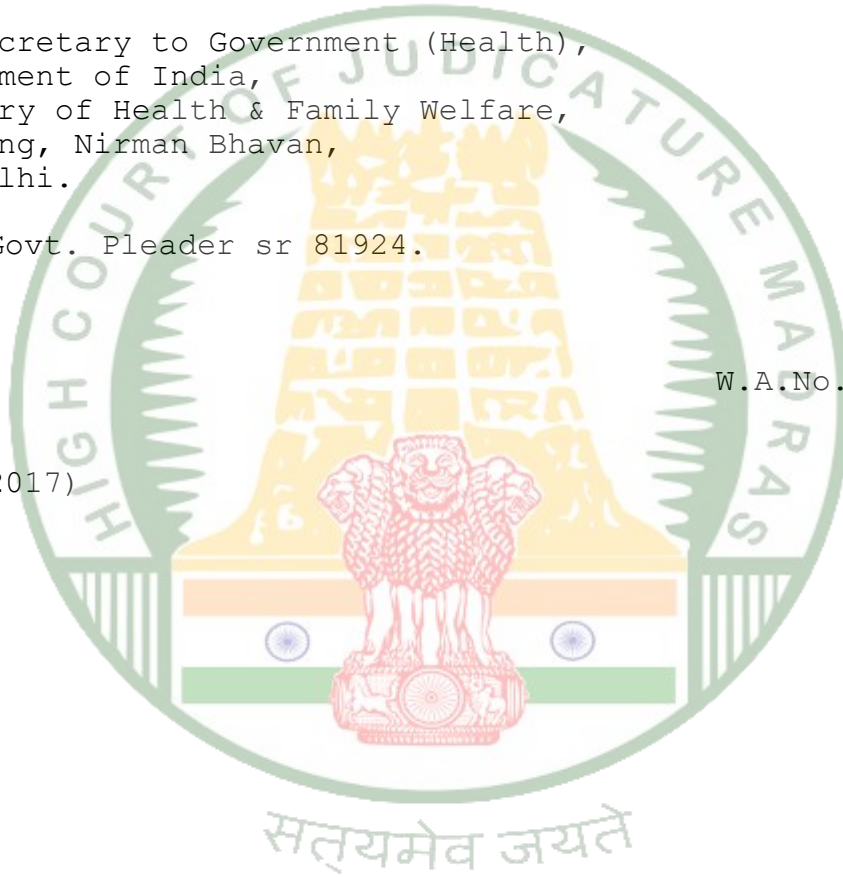
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+1 Cc to Govt. Pleader sr 81924.

W.A.No.822 of 2017

RK(CO)
SP(20/12/2017)



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