

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2017

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.23583 of 2017
and
WMP.No.24724 of 2017

E.Abishek Jashva Rohith (Minor)
Rep. by his father and natural guardian
D.Easa Thilagar

..Petitioner

Vs.

1. The Government of Tamil Nadu
Rep. by the Principal Secreary
Department of Higher Education
Secretariat, Chennai-600 009.
2. The Secretary to Government
Department of Health and Family Welfare,
Government of Tamil Nadu
Secretariat, Chennai-600 009.
3. The Director of Medical Education
No.162, Poonamallee High Road,
Chetpet, Chennai-600 003.
4. The Secretary
Selection Committee
Director of Medical Education
No.162, Periyar EVR High Road,
Kilpauk, Chennai-600 010.

5. The Medical Council of India
Rep. by its Secretary
Dwaraka Phase, New Delhi.

6. The Central Board of Secondary Education
Shiksha Kendra-2,
Community Centre, Preet Vihar,
Delhi - 110 092.

..Respondents

Prayer :

Writ petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents to consider the application of the petitioner's son vide No.80429290 and Roll No.908310784 under OBC category in the National Eligibility cum Entrance Test UG 2017 that had been held on 07.05.2017 at the Centre No.908315 at Kola Saraswathi Vaishnav Senior Secondary School, No.41, Kilpauk Road, Kilpauk, Chennai-600 010 for the admission to MBBS course and consequently allot a medical seat to him.

For Petitioner : Mr.N.C.Ramesh
Senior Counsel for
Mr.D.Ashok Kumar

For Respondents : Mr.K.Venkataramani, AAG
assisted by
Mr.A.Kumar
Special Government Pleader for R1 to R4
Mr.V.P.Raman, Standing counsel for R5

ORDER

The petitioner seeks for a direction to the respondents to change the category of the petitioner from UR to OBC in his application No. 80429290 and consequently direct the respondents to allot a medical seat to the petitioner.

2. The case of the petitioner is that he belongs to BC community and to that effect a community certificate issued by the competent Revenue Official dated 20.07.2013 is made available in the typed set of papers. It is further stated that however, while filling up the application for NEET examination, by mistake, the petitioner has quoted the community category as UR instead of OBC. Therefore, the petitioner seeks for considering his case for admission to BDS course by treating him as a candidate belonging to BC community.

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3. The learned Additional Advocate General appearing for the respondents 1 to 4 submitted that counselling to MBBS course is already over and therefore, the claim of the petitioner cannot be considered in

any manner. However, insofar as the admission to BDS course is concerned, it is not in dispute that the counselling is still going on.

4. The learned Senior Counsel appearing for the petitioner, based on instructions, submitted that though the petitioner seeks for admission to MBBS course by treating him as a candidate belonging to BC community, it would suffice if he is considered for admission to BDS course, since counselling to MBBS course is already over.

5. Upon hearing the learned counsels on either side, it is evident that the petitioner when applied for NEET examination, has wrongly mentioned the community category as UR, even though the community certificate issued by the competent Revenue Official indicates that he belongs to BC community. Moreover in the provisional merit list published for considering the candidates under Government Quota seats, the petitioner was shown as BC candidate with the Rank No.20321. Therefore, this Court is of the view that the petitioner can be shown some indulgence by placing him at the bottom of the list of the candidates belonging to BC community only for considering the admission

to BDS course, as admittedly the counselling to MBBS course is already over and therefore, the petitioner cannot seek for any remedy in respect of such course. This Court, has in fact entertained similar prayers and granted the relief in respect of the persons who approached this Court, before publication of the merit list and commencement of the counselling. But this petitioner has approached this Court, only after publication of the merit list and after commencement of the counselling and therefore, his name has to be placed only at the bottom of the list of the candidates belonging to BC category. Accordingly, this writ petition is disposed of, by passing the following order:

- (a) The respondents are directed to place the petitioner at the bottom of the merit list meant for BC community candidates, called for counselling to BDS course.
- (b) The candidates who are already shown in BC category of such merit list shall not be disturbed in any manner.
- (c) After filling up the seats based on such merit list already prepared in respect of BC category students for BDS course, if any vacancies arise, the petitioner's case can be considered by treating him under BC category, provided the petitioner

satisfies that the marks obtained by him in the NEET examination would fall under the zone of consideration for the BC category.

No costs. Consequently, connected miscellaneous petition is closed.

05.09.2017

Speaking/Non-speaking order
Index : Yes/No

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Note : Issue order copy on 05.09.2017 (today)

To

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Department of Health and Family Welfare,
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K.RAVICHANDRABAABU,J.

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