

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.23745 of 2017
and
WMP.No.24963 of 2017

J.Rajasekar
S/o.Jayaraj
Father and guardian of
Minor Raj Ashwin

..Petitioner

Vs.

1. Union of India
Represented by its Secretary
Ministry of Health and Family Welfare
New Delhi.
2. Central Board of Secondary Education
Represented by its Secretary
Ministry of Health and Family Welfare
New Delhi.
3. The Director General of Health Services
Represented by its Secretary,
Ministry of Health and Family Welfare,
New Delhi
4. The Secretary
Medical Council of India
Pocket 14, Sector 8
Dwaraka, New Delhi.

5. The Secretary
Dental Council of India
Aiwan-E-Galib Marg,
Kotla Road, Temple Lane,
New Delhi - 110 002.

6. State of Tamil Nadu
Represented by Secretary to Government
Health and Family Welfare Department
Chennai-600 009.

7. The Secretary
Selection Committee
Office of the Directorate of Medical Education
162, EVR Periyar Salai
Kilpauk, Chennai-600 010.

..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 petitioner's son in the OBC category for admission to Medical and Dental Courses for the year 2017 as per the NEET and admit petitioner's son based on the cut-off marks obtained by him and admit him in any one of the college, recognized by respondents 4 and 5, offering medical and dental courses under OBC quota.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.V.Venkatesan, SCGSC for R3

Mr.V.P.Raman, Standing counsel for R4

Dr.Seethalakshmi

Standing counsel for R5

Mr.A.Kumar

Special Government Pleader for R6 & R7

ORDER

The petitioner seeks for a mandamus directing the respondents to consider his son by name Raj Ashwin under OBC category for admission to MBBS/BDS course for the academic year 2017-2018 as per the NEET examination and admit in any one of the colleges.

2. The case of the petitioner is as follows:

The petitioner's son while applying for NEET examination online had mistakenly mentioned that he belongs to other category, though he belongs to BC category as evident in the community certificate issued by the competent Revenue Official. Therefore, it is contended before this Court that the petitioner's son can be considered under the BC category while conducting counselling for admission to MBBS/BDS course. It is further stated that the Hon'ble Supreme Court has fixed the last date for admission to MBBS/BDS course in the Deemed Universities as 07.09.2017. It is further stated that the petitioner's son has not obtained admission in any other college in the All India Quota. In support of the above said contention, the learned counsel for the petitioner invited this Court's

attention to the community certificate dated 26.06.2008 issued to the petitioner's son by the competent Revenue Official stating that he belongs to BC community.

3. The learned counsel appearing for the petitioner submitted that the petitioner's son has already made an application for admission to MBBS course in the Deemed Universities. The learned counsel also invited this Court's attention to the orders passed in respect of the persons who also sought change of category and submitted that the same benefit may be given to the petitioner's son as well. However, he fairly admitted that those persons, who got the order from this Court, have filed their respective writ petitions well before the publication of the merit list and also the commencement of the counselling.

4. Heard the learned counsel appearing for the petitioner and the learned standing counsels appearing for the respondents.

5. There is no dispute to the fact that the petitioner's son category is shown as UR in the NEET results. According to the petitioner, the said

entry was made by way of an error while making the entry in the application regarding community category, even though his son belongs to OBC community, as stated in the Community Certificate issued by the competent Revenue Officials dated 26.06.2008. The said certificate is also placed before this Court in the typed set of papers. Perusal of the same would show that the petitioner's son belongs to OBC community. Therefore, this Court is of the view that the claim of the petitioner can be considered by the respondents while making admission to MBBS course in the Deemed Universities under the OBC quota, however, by placing him at the bottom of the list of the candidates belonging to OBC category. If the name of the petitioner's son is placed at the bottom of the list without disturbing the other candidates who are already in the list of OBC category, I do not think that there will be any prejudice or difficulty for the respondents to consider the name of the petitioner's son, as the persons who are already found in the list will not be affected by placing him at the bottom of the list. It is also made clear, that the petitioner's son should satisfy the merit eligibility of the NEET examination under the OBC quota. Accordingly, this writ petition is disposed of, by issuing the following directions:

(a) The respondents shall consider the petitioner's son under OBC quota by placing him at the bottom of the list of the candidates under OBC category who are called for counselling for admission to MBBS course in the Deemed Universities.

(b) The candidates whose names are already found in the merit list under the OBC category for the purpose of considering their selection to MBBS course in the Deemed Universities shall not be disturbed in any manner.

(c) Only after filling up the seats in the Deemed Universities under OBC category based on the list already prepared and if there are any vacancies still available, then the respondents shall consider the case of the petitioner's son, provided that he satisfies other requirements on merits under the OBC quota and that the marks obtained by him in the NEET examination would fall under zone of consideration under

OBC category and further that he has also applied for admission to MBBS Course in the Deemed Universities.

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

1. The Director
NEET Examination
Shiksha Kendra, 2, Community Centre,
Preet Vihar, Delhi - 110 092.
2. The Director General of Health Services
Ministry of Health and Family Welfare,
Nirmal Bhavan, New Delhi - 110 011.
3. The Medical Council of India
Sector 8, Pocket 14, Phase-I,
Dwarka, New Delhi - 110 077.
4. The Selection Committee / Directorate of Medical Education
Kilpauk, Chennai-600 010.

K.RAVICHANDRABAABU,J.

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W.P. No.23745 of 2017

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