

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2017

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.23920 of 2017
and
WMP.Nos.25187 & 25188 of 2017

- 1.T.Pavithra Minor
Rep. by her father and natural guardian
Mr.M.Thirupathy
- 2.Vedhavilasini.P Minor
Rep. by her father and natural guardian
T.Pandiarajan ..Petitioners

Vs.

- 1.Medical Counselling Committee of India (MCCI)
Director General of Health Services
Ministry of Health and Family Welfare Department
Government of India
No.446, Nirman Bhavan
Moulana Azad Road, New Delhi - 110 108.

- 2.The Medical Council of India
Rep. by its Secretary
Pocket - 14, Sector - 8
Dwaraka Phase-I, New Delhi - 110 077. ..
Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the 1st respondent to include the names of the petitioners in the final candidate list of off line allotment for the Deemed Universities to enable the petitioners to participate in the counselling being held in the Deemed Universities from 04.09.2017 onwards in the State of Tamil Nadu for the academic year 2017-18 and consequently direct the 1st respondent to instruct the Deemed Universities to call the petitioners for counselling.

For Petitioner: Mrs.Nalini Chidambaram
Senior Counsel for Mrs.C.Uma

For Respondents: Mr.V.Venkatesan SCGSC for R1

Mr.V.P.Raman, Standing counsel for R2
O R D E R

The petitioners seek for mandamus directing the first respondent to include the names of the petitioners in the final candidate list of off-line allotment for the Deemed Universities to enable the petitioners to participate in the counselling being held in the Deemed Universities in the State of Tamil Nadu for the academic year 2017-2018 in MBBS course.

2. Heard Mrs.Nalini Chidambaram, learned Senior Counsel appearing for the petitioners, Mr.V.Venkatesan, learned Senior Central Government Standing Counsel appearing for the first respondent and Mr.V.P.Raman, learned Standing counsel appearing for the second respondent.

3. The learned Senior Counsel appearing for the petitioners submitted that even though these petitioners were allotted seats in M.B.B.S. course at Sree Balaji Medical College and Hospital, Chromepet, Chennai, a Deemed University in the third round counselling (mop up counselling) on 28.08.2017, they did not join the said institution by anticipating to get seat in Government Medical Colleges under State counselling. She further submitted that the petitioners were however not allowed to attend the State counselling since they were allotted seat in the Deemed University. Therefore, the learned Senior Counsel submitted that they must be permitted to take part in the final counselling which is being held for admission to MBBS course in the other Deemed Universities. The learned Senior Counsel further submitted that the embargo stipulated in Dar-Us-Slam Educational Trust & others -vs- Medical Council of India and others by the Apex Court will not apply to the case of these petitioners.

4. On the other hand, the learned Senior Central Government Standing Counsel appearing for the first respondent submitted that in view of the order passed by the Apex Court in the above said case, the petitioners are not entitled to take part in the counselling, as they have already taken admission in the other Deemed University.

5. Heard both sides.

6. Admittedly these petitioners were allotted seats in M.B.B.S Course in a Deemed University viz., Sree Balaji Medical College and Hospital, Chromepet, Chennai, in pursuant to their participation in the third round of counselling on 22.08.2017. Therefore, they cannot be permitted to state that they were not given admission or they have not taken admission in the said institution. Non-joining of the said course in the said college

is the act of the petitioners on their own will and therefore, they cannot be permitted to contend that they have not been admitted in the said college and hence they must be again permitted to participate in the present counselling being conducted for admission to the students in the Deemed Universities. The order of the Apex Court in Dar-Us-Slam Educational Trust & others -vs- Medical Council of India, more particularly, at Paragraph No.4 of the same, which is extracted here under, would clearly indicate that the students who take admission and secure admission in the Deemed Universities pursuant to the second round of counselling conducted by the DGHS shall not be eligible to participate in any other counselling.

"4. After the second round of counselling for All India Quota seats, the students who take admission in All India Quota seats should not be allowed/permitted to vacate the seats. This would ensure that very few seats are reverted to the State Quota and also All India Quota seats are filled by students from the all India merit list only. The students who take admission and secure admission in Deemed Universities pursuant to the second round of counselling conducted by the DGHS shall not be eligible to participate in any other counselling."

7. Thus, by applying the above said order passed by the Hon'ble Supreme Court, the relief sought for in this writ petition cannot be granted. Accordingly, I find no merits in this writ petition. Thus, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

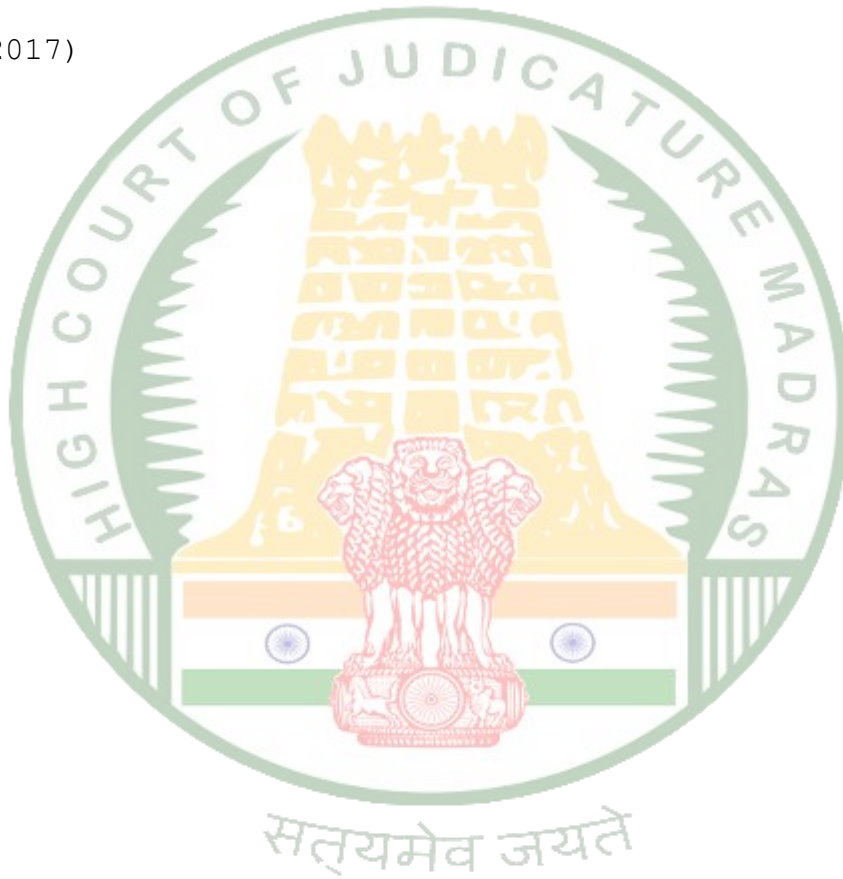
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2.The Secretary
The Medical Council of India
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+1cc to M/s.C.Uma, Advocate, S.R.No.64332
+1cc to M/s.V.Venkatesan, Advocate, S.R.No.64543

W.P. No.23920 of 2017

BR(CO)
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