

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 28.08.2017

Delivered on 29.08.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.14825, 16230, 16231 and 22350 of 2017
and
W.M.P.Nos.16065 to 16067, 17547 to 17550, 23432 to 23434
and 24160 & 24162 of 2017

W.P.No.14825 of 2017

Gayathri Swaminath

..Petitioner

vs.

1. The Convenor,
Centralised Admission Committee-Centac,
Pondicherry Engineering College,
Puducherry-605 014

2. The Chief Secretary,
Puducherry Government,
Puducherry.

3. The Under Secretary, (Education),
Puducherry Government,
Puducherry.

..Respondents.

Prayer

Writ Petition filed under Article 226 of the Constitution of India to issue
a Writ of Certiorarified Mandamus to call for G.O.Ms.No.50 dated 28.07.2015

and G.O.Ms.No.60 dated 12.10.2015 of Chief Secretariat (Education), Puducherry, pertaining to the admissions into M.B.B.S. Course at Puducherry and quash the same and direct the respondent No.1 to accept the application form for admissions into M.B.B.S. Course.

For Petitioner : Mr.M.Ravi
for Mr.A.Ashok Kumar

For Respondents : Mr.C.T.Ramesh,
Additional Government Pleader (P)

W.P.No.16230 of 2017

Kannan@ Sivakumar

..Petitioner

vs.

1. The Convenor,
Centralised Admission Committee-Centac,
Pondicherry Engineering College,
Puducherry-605 014

2. The Government of Puducherry,
rep. by the Chief Secretary,
Chief Secretariat,
Puducherry.

3. The Under Secretary, (Education),
Puducherry Government,
Puducherry.

4. The Medical Council of India,
rep. by Secretary,
Pocket No.14 Sector 8,
New Delhi.

..Respondents.

Prayer

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for records on the file of the 3rd respondent herein in G.O.Ms.No.50 dated 28.07.2015 and G.O.Ms.No.60 dated 12.10.2015 of Chief Secretariat (Education), Puducherry, pertaining to the admissions into MBBS Course at Puducherry, G.O.Ms.No.17 Chief Secretariat, (Higher and Technical Education), Puducherry dated 13.06.2017 insofar as the condition No.1 is concerned and clause No.3 of the information bulletin of 2017-18 as substituted vide G.O.Ms.No.18 Chief Secretariat (Higher and Technical Education) Puducherry dated 13.06.2017 and quash the same and to direct the respondents herein to accept application dated 16.06.2017 submitted by the petitioner through speed post and to permit him to participate in the selection process and to consider his candidature for admission to the First Year MBBS of the medical course under the appropriate quota in the appropriate college in accordance with his NEET Ranking and grant him admission to MBBS I year course under Government quota through CENTAC.

(Prayer amended as per order dated 28.08.2017 by KRCBJ in WMP.No.24159/2017 in W.P.No.16230/2017)

For Petitioner : Mr.M.Ravi

For Respondents : Mr.C.T.Ramesh,

Additional Government Pleader (P)
for R1 to R3
Mr.V.P.Raman,
Standing Counsel for R4

W.P.No.16231 of 2017

Durai Raj

..Petitioner

vs.

1. The Convenor,
Centralised Admission Committee-Centac,
Pondicherry Engineering College Campus,
Puducherry-605 014
2. The Government of Puducherry,
rep. by the Chief Secretary,
Chief Secretariat,
Puducherry.
3. The Under Secretary, (Education),
Puducherry Government,
Puducherry.
4. The Medical Council of India,
rep. by Secretary,
Pocket No.14 Sector 8,
New Delhi.

..Respondents.

Prayer

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for records on the file of the 3rd respondent herein in G.O.Ms.No.50 dated 28.07.2015 and G.O.Ms.No.60 dated 12.10.2015 of Chief Secretariat (Education), Puducherry, pertaining to the

admissions into MBBS Course at Puducherry, G.O.Ms.No.17 Chief Secretariat, (Higher and Technical Education), Puducherry dated 13.06.2017 insofar as the condition No.1 is concerned and clause No.3 of the information bulletin of 2017-18 as substituted vide G.O.Ms.No.18 Chief Secretariat (Higher and Technical Education) Puducherry dated 13.06.2017 and quash the same and to direct the respondents herein to accept application dated 16.06.2017 submitted by the petitioner through speed post and to permit him to participate in the selection process and to consider his candidature for admission to the First Year MBBS of the medical course under the appropriate quota in the appropriate college in accordance with his NEET Ranking and grant him admission to MBBS I year course under Government quota through CENTAC.

(Prayer amended as per order dated 28.08.2017 by KRCBJ in WMP.No.24161/2017 in W.P.No.16231/2017)

For Petitioner : Mr.M.Ravi

For Respondents : Mr.C.T.Ramesh,
Additional Government Pleader (P)
for R1 to R3
Mr.V.P.Raman,
Standing Counsel for R4

W.P.No.22350 of 2017

Pradeepaa Narayanan

..Petitioner

vs.

1. Centralised Admission Committee-CENTAC,
represented by Co-ordinator(Admission)
Pondicherry Engineering College Campus,
Puducherry-605 014
2. The Government of Puducherry,
rep. by the Secretary to Government,
(Higher & Technical Education)
Chief Secretariat,
Puducherry.
3. The Under Secretary, (Education),
Puducherry Government,
Puducherry.
4. The Medical Council of India,
rep. by Secretary,
Pocket No.14 Sector 8,Dwaraka Phase I,
New Delhi. ..Respondents.

Prayer

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for records on the file of the 3rd respondent herein in G.O.Ms.No.60 Chief Secretariat (Higher and Technical Education) Puducherry, daed 12.10.2015, G.O.Ms.No.17 Chief Secretariat, (Higher and Technical Education), Puducherry dated 13.06.2017 insofar as the condition No.1 is concerned and clause No.3 of the information bulletin of 2017-18 as substituted vide G.O.Ms.No.18 Chief Secretariat (Higher and Technical Education) Puducherry dated 13.06.2017 and quash the same and to

direct the respondents to admit the petitioner to First year MBBS Course for the year 2017-18 under Government Quota, in accordance with her ranking in Puducherry General Category Merit List 2017-18 issued by the first respondent.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.C.T.Ramesh,
Additional Government Pleader (P)
for R1 to R3
Mr.V.P.Raman,
Standing Counsel for R4

COMMON ORDER

1 (i) In **W.P.No.14825 of 2017**, it is prayed as follows:

To issue a Writ of Certiorarified Mandamus to call for G.O.Ms.No.50 dated 28.07.2015 and G.O.Ms.No.60 dated 12.10.2015 of Chief Secretariat (Education), Puducherry, pertaining to the admissions into M.B.B.S. Course at Puducherry and quash the same and direct the respondent No.1 to accept the application form for admissions into M.B.B.S. Course.

(ii) In **W.P.No.16230 of 2017**, it is prayed as follows:

To issue a Writ of Certiorarified Mandamus to call for records on the file of the 3rd respondent herein in G.O.Ms.No.50 dated 28.07.2015 and G.O.Ms.No.60 dated 12.10.2015 of Chief Secretariat (Education), Puducherry, pertaining to the admissions into MBBS Course at Puducherry, G.O.Ms.No.17

Chief Secretariat, (Higher and Technical Education), Puducherry dated 13.06.2017 insofar as the condition No.1 is concerned and clause No.3 of the information bulletin of 2017-18 as substituted vide G.O.Ms.No.18 Chief Secretariat (Higher and Technical Education) Puducherry dated 13.06.2017 and quash the same and to direct the respondents herein to accept application dated 16.06.2017 submitted by the petitioner through speed post and to permit him to participate in the selection process and to consider his candidature for admission to the First Year MBBS of the medical course under the appropriate quota in the appropriate college in accordance with his NEET Ranking and grant him admission to MBBS I year course under Government quota through CENTAC.

(iii) In W.P.No.16231 of 2017, it is prayed as follows:

To issue a Writ of Certiorarified Mandamus to call for records on the file of the 3rd respondent herein in G.O.Ms.No.50 dated 28.07.2015 and G.O.Ms.No.60 dated 12.10.2015 of Chief Secretariat (Education), Puducherry, pertaining to the admissions into MBBS Course at Puducherry, G.O.Ms.No.17 Chief Secretariat, (Higher and Technical Education), Puducherry dated 13.06.2017 insofar as the condition No.1 is concerned and clause No.3 of the information bulletin of 2017-18 as substituted vide G.O.Ms.No.18 Chief Secretariat (Higher and Technical Education) Puducherry dated 13.06.2017 and

quash the same and to direct the respondents herein to accept application dated 16.06.2017 submitted by the petitioner through speed post and to permit him to participate in the selection process and to consider his candidature for admission to the First Year MBBS of the medical course under the appropriate quota in the appropriate college in accordance with his NEET Ranking and grant him admission to MBBS I year course under Government quota through CENTAC.

(iv) In W.P.No.22350 of 2017, it is prayed as follows:

To issue a Writ of Certiorarified Mandamus to call for records on the file of the 3rd respondent herein in G.O.Ms.No.60 Chief Secretariat (Higher and technical education) Puducherry, daed 12.10.2015, G.O.Ms.No.17 Chief Secretariat, (Higher and Technical Education), Puducherry dated 13.06.2017 insofar as the condition No.1 is concerned and clause No.3 of the information bulletin of 2017-18 as substituted vide G.O.Ms.No.18 Chief Secretariat (Higher and Technical Education) Puducherry dated 13.06.2017 and quash the same and to direct the respondents to admit the petitioner to First year MBBS Course for the year 2017-18 under Government Quota, in accordance with her ranking in Puducherry General Category Merit List 2017-18 issued by the first respondent.

2. In all these writ petitions, the common grievance of the petitioners is against the imposition of restriction issued against the persons/students to seek

admission to professional course for the academic year 2017-18, if those students are already admitted through Centralised Admission Committee under Government quota seats of Professional Colleges of the Union Territory of Puducherry, previously in any particular academic year. To put it in a nutshell, through the impugned Government orders, the Government of Puducherry restrained the candidates who were selected and got admitted to the professional courses under Government quota seats in any previous particular academic year, from seeking for selection to professional courses for the present academic year 2017-2018. Some of the writ petitioners are students who got admitted in BDS course and some of the writ petitioners are students who got admitted in Engineering Course, during the relevant previous academic year, under the Government quota. They now want to take part in the counselling for professional courses conducted for the present academic year 2017-2018 after taking part in the NEET examination.

3. Mr.M.Ravi, learned counsel appearing for the petitioners submitted as follows:

When the Medical Council of India(MCI) has not imposed any restriction, the respondent Government cannot impose the same. When G.O.No.17 exempted the students who joined the Engineering Course, the same benefit should be given to the students who joined the BDS course as well. When the

Management quota students are entitled to appear, why not the students admitted in the Government quota be permitted to take part in the counselling. No financial assistance is given to BDS course and therefore, there is no loss to the Government. Even at the time of admitting these petitioners into their respective courses during the earlier academic years, there were vacancies unfilled and therefore, the petitioners cannot be considered as if they are taking undue advantage.

4. Per contra, learned Additional Government Pleader (Puducherry) submitted that the issue involved in these cases is already considered and decided by this Court in W.P.Nos.25203 to 25207 of 2016 dated 23.09.2016 not favouring the petitioners and therefore, they cannot be permitted to reagitate the same once again before this Court in these writ petitions. He further submitted that when the said order has become final, the petitioners cannot be justified in raising the very same issue once again.

5. Heard both sides.

6. Admittedly, all these petitioners have got admission into their respective professional courses under the Government Quota during the relevant academic years and they are pursuing their studies in their respective colleges. Now, they want to appear for selection to another professional course

namely MBBS, after taking part in the NEET examination. The question as to whether such attempt of the petitioners can become successful, has to be answered only in the negative, in view of the order passed by this Court in W.P.No.25203 to 25207 of 2016 dated 23.09.2016 wherein the learned Judge, after considering one of the Government Orders impugned in these writ petitions viz., in G.O.Ms.No.50 dated 28.07.2015, has observed that the said notification was issued with a view to ensure that the persons who admitted in the Government quota in the College cannot have any unfair advantage for the subsequent years in any Government quota seat. Learned judge has also pointed out that the said decision of the respondent government is fair and reasonable and there is nothing discriminatory and arbitrary in such decision. For the sake of convenience and ready reference, paragraph No.3 to 8 of the said order are extracted hereunder:

"3. Admittedly, all the petitioners, after completion of plus 2 examination appeared for the selection of MBBS/ BDS course for the academic year 2015-16 and such selection was conducted by the Centralised Admission Committee (CENTAC).

4. The petitioners' had secured cut off marks, but were not eligible to get MBBS seat and but were awarded BDS seats. All the petitioners, without any demur, joined the course and they are undergoing the course.

5. While so, it was a repetitive feature that the people were discontinuing BDS course after undergoing the course of one year study and applying for admission to MBBS course in the next Academic year, the Government passed an G.O.Ms.No.50, dated 28.07.2015, which is to the following effect.

"In the CENTAC Information bulletin 2015-16, after the existing clause 2.5 therein, a new clause viz., 2.6 shall be inserted as follows:

2.6. Restriction of candidate(s) selected to professional course(s) in Professional colleges through CENTAC in previous academic years;

Students admitted through Centralised Admission Committee (CENTAC) under 'Government quota seats' of Professional Colleges of this Union Territory, in any particular academic year will not be eligible for any Government quota in subsequent years"

3. All other conditions stipulated in the (1) G.O.Ms.No.27 dated 01.04.2015 of Chief Secretariat (Education), Puducherry and (2) G.O.Ms.No.35, dated 25.05.2015, of Chief Secretariat (Education) Puducherry, remains unaltered

(By order of the Lieutenant Governor)

6. In terms of the above Government order, the students who are admitted through CENTAC under Government quota seats in Professional Colleges of Union Territory of Pondicherry, in any particular academic year, will not be eligible for any Government College in the subsequent years. This Government order though was issued, was not immediately implemented, since, by then, the academic year had begun. Therefore, subsequently,

in October 2015, will before the academic session year 2016-17, the said Government Order was notified and come into force. Now, the petitioners are aggrieved by the notification, dated 04.03.2016, In fact, in the prospectus, which has been notified for the selection for 2016-2017, this is one of the conditions.

7. The petitioners have not questioned the decision of the government taken vide G.O.Ms.No.50 dated 28.07.2015. The impugned order is only a prospectus, which is by way of implementation of the Government Order, which was also notified in the Government Gazette and has come into force.

8. On a perusal of the terms of the notification, it is evidently clear that this notification came to be issued with a view to ensure that the persons, who are admitted under Government quota in professional colleges, do not have any unfair advantage in the subsequent year for any Government quota seat. The decisions of the respondent Government is fair and reasonable and there is nothing discriminatory or arbitrary in such decision. Thus, the petitioners have not made out any case for interference. Furthermore, even at the time of admission, when the Writ petitions were entertained, the court was not convinced to grant any interim order and the Miscellaneous Petitions were dismissed

and closed."

7. It is an admitted fact that the said order has become final and not put to challenge further. I am in total agreement with the above said order passed by the learned judge. Needless to say that the persons who got admitted in a professional course, that too, under Government quota, are not entitled to claim as a matter of right, for admission into another professional course under the Government quota during the subsequent years, as the respective Government is entitled to impose some reasonable restriction on such persons, since their previous admissions were also made under the Government quota, thereby denying an opportunity of getting admission to other persons, who were placed below these petitioners in the ranking list. Had these petitioners not joined in their respective courses earlier, some other persons below their rank would have got the opportunity at that time to join, provided, they also come within the zone of consideration. That opportunity is lost for them once forever insofar as that academic year is concerned. Therefore, it cannot be contended that there is no loss to the Government and that these petitioners should be permitted to switch over from one professional course to another. In fact, the petitioners are not totally prevented from opting to join the MBBS Course if they choose to go under the Management quota. But they do not want to do the same and on the other hand, they want to be

considered once again under the Government quota. In my considered view, it would amount to double benefit, notwithstanding the fact that there is no monetary loss to the Government. It is contended that the present impugned G.Os. were not put to challenge before this Court earlier and that the matters pertaining to the order passed in W.P.No.25203/2016 etc. dated 23.09.2016 are not covering the present impugned orders. I do not propose to accept such contention in view of the specific observation and finding made by the learned Judge at paragraph No.8 of the said order, which in my considered view cover the issue involved in these cases as well since the issue involved in both the cases is one and the same. Therefore, I do not think that the contentions raised by the learned counsel for the petitioners are sustainable. Accordingly, all these writ petitions fail and thus, they are dismissed. Consequently, the interim directions given already are vacated. No costs. Consequently, connected miscellaneous petitions are closed.

29.08.2017

Speaking/Non speaking order

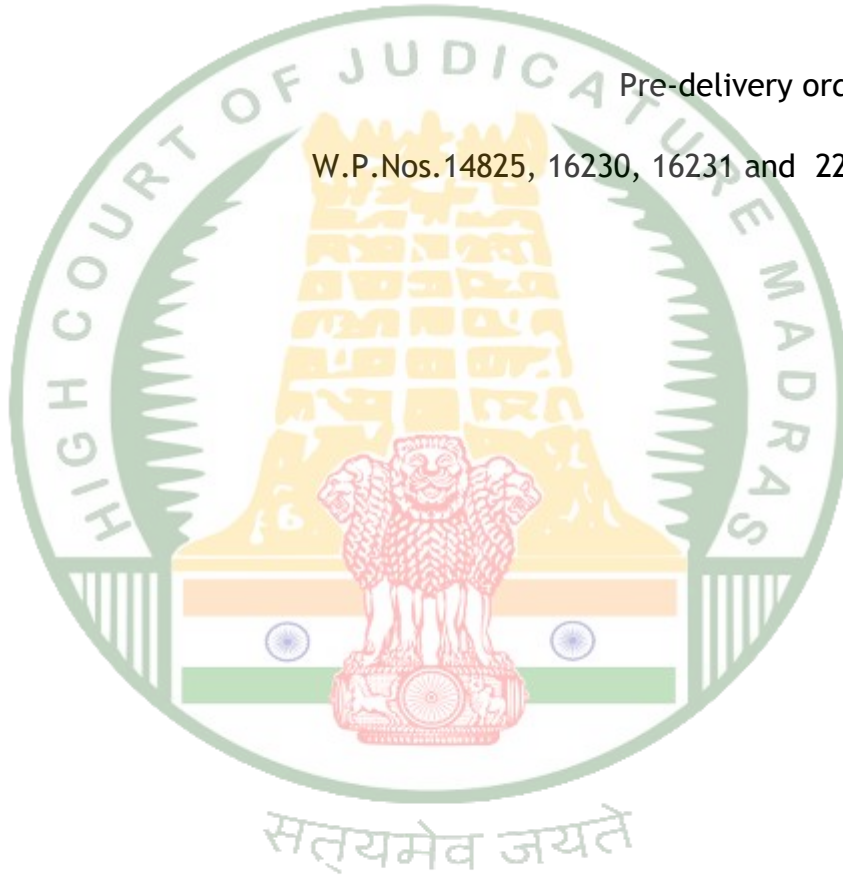
Index:Yes/No

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Note: Issue order copy today.(29.08.2017)

K.RAVICHANDRABAABU,J.

vsi



Pre-delivery order made in
W.P.Nos.14825, 16230, 16231 and 22350 of 2017

29.08.2017

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