

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2017

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 26008 of 2017

&

W.M.P. Nos. 27595 & 27596 of 2017

Ms. Garima Sharma

..Petitioner

Vs.

1. The Medical Council of India,
Dwaraka, Sector 8,
Pocket 14, Phase 1,
New Delhi 110 077.
2. The Health Secretary,
Government of Puducherry,
Chief Secretariat,
Goubert Avenue,
Puducherry 605 001.
3. The Directorate of Health and Family
Welfare Services,
Government of Puducherry,
Old Maternity Hospital Complex,
Victor Simon Street,
Near Bharathi Park,
Puducherry 605 001.
4. The Centralised Admission Committee
(CENTAC),
rep. by its Chairman,
Pondicherry Engineering College Campus,
Puducherry 605 014.
5. Mahatma Gandhi Medical College and
Research Institute,
Affiliated to Shree Balaji Vidhyapeeth
(Deemed University),
Pondy-Cuddalore Main Road,
Pillaykuppam, Puducherry 607 402.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Certiorarified Mandamus to call
for the records of the 1st respondent comprised in their order
bearing reference No. MCI-23(1) (NC)/2017/126218 dated

24.07.2017, quash the same as arbitrary and illegal insofar as the petitioner is concerned and consequently direct the respondents to recognise the admission of the petitioner to course of Diploma in Obstetrics and Gynaecology.

For Petitioner :: Mr.S. Ramesh
For Respondents:: Mr.V.P. Raman for R1
Mr.C.T. Ramesh,
Addl. Govt. Pleader (P)
for R2 to R4

O R D E R

The petitioner completed MBBS course in December, 2013 from Krishna Institute of Medical Sciences, Karad, Satara District, Maharashtra. Subsequently, to pursue her Post Graduate Degree, she appeared for NEET examination and secured 785.6425 marks. During the counselling conducted by the 4th respondent (CENTAC), the petitioner secured a seat in the 5th respondent College under the Management Quota for Diploma in Obstetrics and Gynaecology and the 4th respondent granted provisional allotment order on 18.05.2017 for the said Course. Accordingly, the petitioner joined the 5th respondent College and has been undergoing the course. However, on 03.08.2017, the petitioner was informed by the 5th respondent that the 1st respondent, by the impugned order, has called upon them to discharge the petitioner and 18 others stating that they are not in the list of CENTAC appointed by the Government of Puducherry. Though representations were made by the petitioner to the 3rd respondent as well as to the 1st respondent, no action was taken. Hence, the present writ petition.

2. A counter affidavit has been filed by the 3rd respondent adopted by the 2nd and 4th respondents stating that the petitioner was validly selected by the CENTAC. The relevant portion at Paragraph No.13 of the counter affidavit reads as follows:

"13. I respectfully submit that the petitioner was selected by CENTAC and admitted to the Post Graduate Diploma in Obstetrics and Gynaecology course in the Mahatma Gandhi Medical College and Research Institute. The petitioner is a bona fide student of the Post Graduate Diploma Course, since she was selected and sponsored by the CENTAC as per the regulations of Medical Council of India and the procedures laid down by the Government of India and in compliance with the directions of the Hon'ble Supreme Court of India in W.P.(C) No. 244 of 2017."

3. From the above extract of the counter affidavit, it is clear that the petitioner was selected by CENTAC and admitted to Post Graduate Diploma in Obstetrics and Gynaecology Course in the 5th respondent College and that the petitioner is a bona fide student of the said course since she has been selected and sponsored by CENTAC as per the regulations of Medical Council of India and procedures laid down by the Government of India. The reason for the 1st respondent passing the impugned order has been stated in paragraph No.12 of the counter affidavit and it is extracted as hereunder:

"12. I respectfully submit that neither the Government of India nor the Medical Council of India had instructed to furnish the list of candidates allotted/admitted in Post Graduate Medical Course. However, the CENTAC has furnished the list of Post Graduate Degree candidates allotted admission to the Director of Health and Family Welfare Services, Puducherry, but the CENTAC has not furnished the list of students who were allotted PG Diploma courses and the same has been e-mailed to Medical Council of India, New Delhi, by the Director of Health and Family Welfare Services, Puducherry. The Medical Council of India vide Letter No.MCI-23(1)(MC)/2017/126218 dated 24.07.2017 has directed the private medical colleges to discharge a list of students including Dr. Garima Sharma because of the reason that the list of students allotted in Diploma seats by CENTAC to the private medical colleges has not been sent to Medical Council of India. However, the Director of Health and Family Welfare Services in the letter dated 28.08.2017 has intimated the fact and requested that those students who have been allotted seats by CENTAC for admission in various Post Graduate and Diploma in Private/Deemed University may be considered as bona fide students and not to discharge them from Medical Colleges.

Merely because the 3rd respondent and the 4th respondent failed to send the list of names of selected students to PG Diploma Courses to the MCI, it cannot be a ground to discharge the petitioner. Since, based on non-furnishing of information by the 3rd and 4th respondents, the petitioner was discharged from the course and now, that the 3rd and 4th respondents have come up with counter affidavit stating that by mistake, the list was not sent, the impugned order is liable to be quashed, insofar as the petitioner is concerned.

4. Accordingly, the impugned order dated 24.07.2017 is quashed, insofar as the petitioner is concerned and the writ petition is allowed. No costs. Connected W.M.Ps are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

nv
To

1. The Medical Council of India,
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New Delhi 110 077.
2. The Health Secretary,
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4. The Centralised Admission Committee
(CENTAC),
rep. by its Chairman,
Pondicherry Engineering College Campus,
Puducherry 605 014.

+lcc to Mr.V.P.RAMAN Advocate, S.R.No. 91639
+lcc to the Government Pleader, S.R.No. 91172

W.P. NO.26008 OF 2017

TR(10/01/2018)