

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WRIT PETITION No.1605 of 2017

M.Pratibha Roshini
Minor aged about 17 years,
rep. by father and Natural Guardian,
N.T.Muruganantha ... Petitioner

vs.

1. The State of Tamil Nadu,
rep. by the Secretary to Government,
Health & Family Welfare Department,
Fort St. George,
Chennai 600 009.
2. The Secretary,
Medical Council of India,
Pocket - 14, Sector - 8,
Dwarka Phase - I,
New Delhi - 110 077.
3. The Registrar,
The Tamil Nadu Dr. M.G.R. Medical University,
No.69, Anna Salai,
Guindy, Chennai,
Tamil Nadu - 600 032.
4. The Director of Medical Education,
Directorate of Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpauk, Chennai 600 010.
5. The Secretary,
Selection Committee,
No.69, Anna Salai,
Directorate of Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpauk, Chennai 600 010.
6. The Chairman,
Ponnaiyah Ramajayam Institute of Medical Science,
Manamai Nellur,
Kancheepuram District ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, to call for the records from the 3rd respondent pertaining to the order passed on 29.11.2016 vide proceedings No.Ex.1(3)/58835/2016 and quash the same and consequently issue mandamus directing the 2nd respondent to extend the benefits granted under Section 10-D of the Indian Medical Council Act, to all students regarding NEET examination, without distinguishing them under Government Quota and Management Quota.

For Petitioner : Mr.T.S.N.Prabhakaran
For Respondents : Mr.S.Rajeswaran,
Special Government Pleader

O R D E R

The petitioner has come up with this Writ Petition challenging the order dated 29.11.2016 passed by the 3rd respondent vide proceedings No.Ex.1(3)/58835/2016 and for a consequential direction to the 2nd respondent to extend the benefits granted under Section 10-D of the Indian Medical Council Act, to all students regarding NEET examination, without distinguishing them under Government Quota and Management Quota.

2. According to the petitioner viz. Pratibha Roshini, she has successfully completed her Higher Secondary course in March 2016 with total marks of 1106 (95.6%). She secured a seat under the 6th respondent College under the 'Government Quota's Lapsed Seat'. The grievance of the petitioner is that she has been discharged from the 6th respondent's College, vide impugned order dated 29.11.2016, which, according to her, is illegal, arbitrary and against the principles of natural justice. It is the further case of the petitioner that in the 6th respondent College, 121 students of the 3rd respondent's University without NEET, have been registered, whereas, her registration is now rejected stating NEET requirement, even though she was admitted under the Government Lapsed seat only.

3. Heard the learned counsel for the parties and perused the material documents available on record.

4. Learned counsel for the petitioner contended that though the petitioner's admission is under the Government Lapsed Seat, the 3rd respondent has considered her admission under the Management Quota and passed the impugned order, which is not proper and feasible.

5. On the other hand, learned counsel appearing for the University submitted that Private Colleges are not applicable for Government Lapsed Seats. Therefore, according to the

learned counsel, the petitioner herein, who is admitted in a Private College, cannot be admitted under the Government Seats Lapsed Quota, just because those seats have lapsed.

6. Learned Special Government Pleader submitted that the 6th respondent College has no right to appoint any student other than the quota allotted to them.

7. In a similar circumstance, this Court, had already dismissed a batch of Writ Petitions in W.P.Nos.335 to 339 of 2017, etc cases, by an order dated 09.01.2017. The 3rd respondent/University has clearly informed the Dean of the 6th respondent College that NEET qualified candidates alone are eligible for MBBS Degree Course, for the academic year 2016-2017. When 53 seats out of 150 seats to the 6th respondent College have been allotted under the Management quota and the remaining 97 seats have been allotted to Tamil Nadu State Government Counselling allotment, and that the College has surrendered 30 seats to the Government, there is no question of challenging the impugned order now.

8. Since the issue in question is already covered by an order dated 09.01.2017 in W.P.No.335 to 339 of 2017, etc batch of cases, nothing survives for consideration in this case. For better appreciation of the case, relevant portion of the said order is extracted hereunder:

13. It is very clear that admission to Private Colleges is made only on the basis of NEET examination. There is no other mode provided. Further, merely because the students who were allotted under the Government did not join the Government Seats, it does not mean that the Private College is entitled to fill the Government Lapsed seats. They cannot take the Government criteria to fill such lapsed seats. In fact, they should immediately intimate the Government about the non-joining of the students and such seats would be filled by the Government. Instead, they have taken law into their own hands and filled up the seats for reasons best known to them, without even fulfilling the main criteria for admission, i.e. the NEET examination.

14. Further, the very same College in a Writ Petition filed earlier has stated that there were no seats available as on 29.09.2016. In fact, it was brought to the notice of the Supreme Court on 01.10.2016,

that all the vacant seats in India have been filled up and as far as Tamil Nadu is concerned, it was mentioned that only one seat was vacant and that the same is also filled up as per the directions of this Court on 07.10.2016, as per the extension date given by the Supreme Court. In that view of the matter, the 6th respondent College unilaterally giving admission to students under the Government Lapsed Seats Quota is untenable and hence, the petitioners cannot seek remedy from this Court.

15. In view of the above, when 53 seats out of 150 seats to the 6th respondent College have been allotted under the Management quota and the remaining 97 seats have been allotted to Tamil Nadu State Government Counselling allotment, and that the College has surrendered 30 seats to the Government, there is no question of challenging the impugned order now. The 3rd respondent/University has clearly informed the Dean of the 6th respondent College that NEET qualified candidates alone are eligible for MBBS Degree Course, for the academic year 2016-2017.

16. Hence, this Court holds that private Colleges are prohibited from claiming seats under the Government Lapsed Seats Quota and accordingly, these Writ Petitions are dismissed. However, the petitioners are at liberty to get compensation from the 6th respondent College. No costs. Consequently, connected Miscellaneous Petitions are closed.''

9. Hence, this Court holds that private Colleges are prohibited from claiming seats under the Government Lapsed Seats Quota and accordingly, this Writ Petition is dismissed. However, the petitioner is at liberty to claim compensation from the 6th respondent College, if he is so advised. No costs. Consequently, connected W.M.P.No.1563 of 2017 is closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

- 1.The Secretary, State of Tamil Nadu,
Health & Family Welfare Department,
Fort St. George, Chennai 600 009.
- 2.The Secretary, Medical Council of India,
Pocket - 14, Sector - 8, Dwarka Phase - I,
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No.162, Periyar E.V.R. High Road,
Kilpauk, Chennai 600 010.

+1cc to Mr. Prabakaran Advocate SR. 4121

+1cc to Govt. Pleader Sr. 4353

MG(CO)
VR(17/02/2017)

Order in
W.P.No.1605 of 2017

सत्यमेव जयते

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