

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.01.2017

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.3461 of 2011

and

MP.No.1 of 2011

Dr.S.Syed Thahir Hussain

...Petitioner

.. Vs ..

1.State of Tamilnadu,
rep.by its Secretary to Government,
Backward Class Department,
Fort Saint George,
Chennai.

2.The Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai - 10.

...Respondents

Writ Petition under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus to direct the respondents to implement the reservation of 3.5% to Backward Muslim Candidates under the Tamilnadu Backward Class Christians and Backward Class Muslims (Reservation of Seat in educational institutions including private educational institutions and of appointments or posts in the services under the State) Act 2007 for the year 2011-12 as amended by Act 51 of 2008.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.S.Diwakar
Special Government Pleader

O R D E R

The petitioner has filed the present Writ Petition for the relief stated above.

2. The learned counsel for the petitioner submitted that the second respondent has invited applications for the Post Graduate/Diploma/MDS/5 year MCH (Neuro Surgery) Courses for the Academic year 2010-2011. Accordingly, the petitioner submitted an application and he was issued Hall Ticket for the examination

and he appeared for the examination conducted on 21.2.2010, at Valliammal College, Anna Nagar, Chennai. As per the community rank given by the second respondent, he was given General Rank No.1871, Service Rank no.609 and Service Community Rank No.8. The respondents did not implement 3.5% to Backward Muslim Candidates under the Tamilnadu Backward Class Christians and Backward Class Muslims Reservation of seat in educational institutions including private educational institutions and appointments or posts in the services under the State Act 2007 for the year 2011-12 as amended by the Act 51 of 2008. It is further submitted by the learned counsel for the petitioner that the petitioner has been allotted to DA at Stanley Medical College on 16.4.2010 afternoon session under BCM service quota. Subsequently, he has been re-allotted to Madras Medical College DA on 26.6.2010. During 2nd phase of counselling, there were numerous MD & MS seats but none of them were allotted to B.C.M. except M.D.(Physiology) which is the non-clinical subject and unwanted by most of the Doctors. MD (Anaesthesia) 2 seats were available. But, none of them was allotted to B.C.M.,. Instead, both the seats were allotted to open quota candidates. If any one of the MD (Anaesthesia) was allotted to the service B.C.M., he would have got the seat. Therefore, according to the petitioner, reservation of 3.5% seats to Backward Muslim Candidates under the Tamilnadu Backward Class Christians and Backward Class Muslims (Reservation of Seat in educational institutions including private educational institutions and of appointments or posts in the services under the State) Act 2007 for the year 2011-12 as amended by the Act 51 of 2008 was not implemented.

3. The learned Special Government Pleader for the respondents 1 and 2 reiterating the averments made in the counter affidavit filed on the behalf of the respondents submitted that the petitioner had appeared for Tamil Nadu Post Graduate Entrance Examination with E.E.No.64625. He belonged to service candidate under BC Muslim category and scored 57.88 marks. His General Rank was 1871. The I Phase of Tamil Nadu Post Graduate Counselling was held from 6.4.2010 to 17.4.2010 and candidates were called for only in the order of merit. The seat matrix for Post Graduate Courses 2010-2011 session was displayed at various computer terminals in the counselling hall and allotment was given in the order of merit. Regarding seats for BC Muslim Candidates, out of 551 total seats earmarked for I Phase, 64 seats in various specialities, are filled up based on roster system as per existing G.O.for the remaining 487 seats 3.5% seats which accrues to 17 seats were earmarked for BC Muslim candidates. Hence, 3.5% reservation was followed strictly. Regarding the allotment of M.D.Anesthesia Course for 2010-2011, a total of seats were allotted under State Quota and according to implementation of 3.5% rule of reservation for BC Muslim, one seat was earmarked. Dr.Shakeela Begum, BC Muslim

(General Rank 1640/BCM Service Category) with mark 58.96 which was higher than that of the petitioner was allotted under BC Muslim category to KAP Viswanatham Medical College, Trichy. As such, the counselling for Post Graduate Courses 2010-2011 session was held in the order of merit and apportionment of 3.5% seats to BC Muslims was adhered to and no irregularities made in the selection. The mark of the candidate who was allotted to M.D.Anesthesia Course was higher than the mark of the petitioner. It is further submitted by the learned Special Government Pleader for respondents 1 and 2 that the process of admission for 2010-2011 session was completed on 31.5.2010 as per the time schedule fixed by the Hon'ble Supreme Court of India, New Delhi and the claim of the petitioner that the admission process has not been completed is totally false. Hence, the contention of the petitioner to reserve one seat in M.D.Anesthesia Course for 2011-2012 session does not arise. Further, the merit is calculated by the Entrance Mark obtained from the examination conducted every year. Hence, previous year merit cannot be carried to next year as per order dated 16.4.2010 in W.P.(MD)No.4412 of 2010 and M.P.No.1 of 2010. Hence, the petitioner's application could not be considered as per the policy of the Government.

4.Heard the learned counsel for the petitioner and the learned Special Government Pleader for respondents 1 and 2.

5.Considering the submissions made on either side and perusing the affidavit filed in support of the Writ Petition and the Counter affidavit filed on behalf of respondents 1 and 2, this Court is of the considered view that there is no merit in the contention of the petitioner for the reasons stated in the counter affidavit that under 3.5% rule reservation for BC Muslims quota, one seat in KAP Viswanathan Medical College, Trichy, was allotted to Dr.Shakeela Begum, BC Muslim, whose mark is 58.96, which is higher than that of the petitioner. Secondly, the the process of admission for 2011-2012 has been completed and hence, the contention of the petitioner to reserve one seat in M.D.Anesthesia Course for 2011-2012 session does nor arise.

6.For the reasons stated above, the Writ Petition is dismissed. Connected Miscellaneous Petition is closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

asvm

To

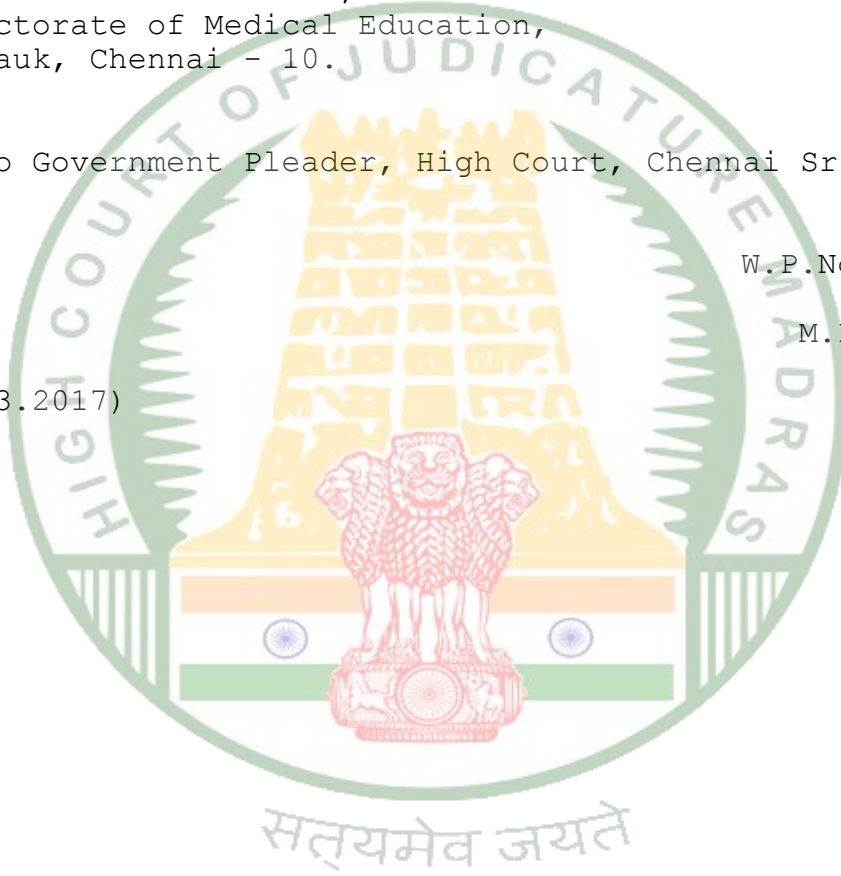
1.The Secretary to Government,
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2.The Selection Committee,
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+1 CC to Government Pleader, High Court, Chennai Sr.No.6507.

W.P.No.3461 of 2011
and
M.P.No.1 of 2011

ALA(CO)
KP(07.03.2017)



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