

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.10.2017

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P. NO. 27480 OF 2017

Dr. M.Kodivel

.. Petitioner

- Vs -

1. The Principal Secretary
to Government
Welfare of Differently
Abled Persons Department
Fort St. George, Chennai 600 009.
 2. The Principal Secretary
to Government
Health & Family Welfare Dept.
Fort St. George, Chennai - 600 009.
 3. The Office of Commissioner of Indian
Medicine & Homeopathy
Arignar Anna Government Hospital
of Indian Medical Campus
Arumbakkam, Chennai 600 106.
 4. The State Commissioner for the
Differently Abled
Commissionerate for the Welfare
of the Differently Abled
Jawaharlal Nehru Inner Ring Road
K.K.Nagar, Chennai 600 078.
 5. The Member Secretary
Medical Services Recruitment Board (MRB)
7th Floor, DMS Building, 259, Anna Salai
Teynampet, Chennai 600 006.
- .. Respondents

Writ Petition under Article 226 of the constitution of India filed for the issuance of a writ of mandamus directing the 5th respondent herein to appoint the petitioner as Assistant Medical Officer (Siddha) in accordance with the principles laid down in Rights of Persons with Disabilities Act, 2016.

For Petitioner : Mr. V.Ragavachari

For Respondents: Mr. V.Jayaprakash Narayanan
Spl. G.P. for RR-1 to 4
Mr.A.Vivek for R-5

ORDER

Mr.Jayaprakash Narayanan, learned Special Government Pleader takes notice for respondents 1 to 4. Mr.A.Vivek, learned standing counsel takes notice for the 5th respondent.

2. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for respondents 1 to 4 and the learned Standing counsel appearing for the 5th respondent.

3. It is submitted by the learned counsel for the petitioner that the petitioner, being a physically challenged person, though secured 71 marks, but he has not been invited for counselling and three other physically challenged persons, who have secured much lesser marks than the petitioner have been called for counselling by the respondents, the details of which are as under :-

S. No.	Name	Regn. No.	Marks Secured
1	Devika	101243	61.50
2	Balamurugan	101954	59
3	Mariyappan	100777	68

4. Per contra, learned Standing counsel appearing for the 5th respondent and the learned Addl. Government Pleader appearing for respondents 1 to 4 submit that in the online application filed by the petitioner, the petitioner had not mentioned his disability status for being considered on priority status under the physical disability quota. It is submitted by the learned standing counsel for the 5th respondent that the petitioner having relinquished his right to be considered under the physically challenged quota by answering the column as 'No', instead of answering the same as 'Yes', he cannot now come and claim that he should be considered under the physically challenged quota.

5. Mr.Raghavachari, learned counsel appearing for the petitioner fairly agreeing to the bona fide mistake committed by

the petitioner further submitted that the said bona fide mistake should not be put against the poor petitioner when he has enclosed all the relevant documents showing his physically challenged status and submitted that the petitioner, as a special case, may be permitted to take part in the certificate verification, to be held tomorrow, i.e., 28.10.2017.

6. Learned standing counsel appearing for the 5th respondent fairly submitted that in such circumstances the petitioner will be permitted to appear in the certificate verification process, which is to be held tomorrow, i.e., 28.10.2017 under the physically challenged quota.

7. The writ petitioner has secured 71 marks and, therefore, this Court, recording the statement made by the learned standing counsel appearing for the 5th respondent that the petitioner will be permitted to appear in the certificate verification to be held tomorrow, i.e., 28.10.2017, directs that the respondents shall permit the petitioner to appear in the certificate verification to be held tomorrow, i.e., 28.10.2017 under the physically challenged category for selection to the post of Assistant Medical Officer (Siddha). However, it is needless to mention that the 5th respondent shall consider the candidature of the petitioner on merits if he falls within the zone of consideration. **The respondents are entitled to consider as to whether the petitioner comes under the zone of consideration or not.***

8. With the above observation and direction, this writ petition is disposed of. However, in the circumstances of the case, there shall be no order as to costs. WMP 29367/2017 is closed.

s/d-

Assistant Registrar(CS-III)

dt. 27.10.2017

Corrected vide order of Court dated 14.11.2017, made in WP.No.27480 of 2017

Sd/-

Assistant Registrar (CS-VIII)
dt. 21.12.2017

True Copy

Sub-Assistant Registrar

GLN

To

1. The Principal Secretary
to Government
Welfare of Differently
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Fort St. George, Chennai 600 009.
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Teynampet, Chennai 600 006.

To be substituted to
the order despatched
on 30.10.2017

+1 CC to Mr.V. Raghavachari, Advocate **Sr.80597***

W.P. NOS.27480 OF 2017

GJII(CO)
SP(27/10/2017)
EU 21.12.2017

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