

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.17400 of 2017
and
W.M.P.No.18904 of 2017

C.Gayathri

... Petitioner

Vs.

1. The Central Board of Secondary Education,
Rep.by its Secretary,
National Eligibility cum Entrance Test Unit,
Shiksha Kendra, 2, Community Centre,
Preet Vihar, New Delhi - 110 301.
2. The Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R.High Road,
Kilpauk, Chennai - 600 010.
3. Tamilnadu Medical Council,
Rep. by Secretary
No.914 Poonamallee High Road,
Arumbakkam, Chennai. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents to accept and consider the category of the petitioner in Registration No.80965010 bearing Roll No. 908309292 (C.Gayathri) from un reserved (UR) to Other Backward Class (OBC) in the National Eligibility cum Entrance Test Examination, 2017 (NEET) conducted by the respondent on 07.05.2017 and consequently directing the respondents to consider the marks secured by the petitioner in Other Backward Class (OBC) instead of un reserved (UR) category based on the Community Certificate dated 26.04.2013 issued by the Government of Tamil Nadu.

For Petitioner : Mr.Suhrith Parthasarathy for
Mr.P.Dinesh Kumar

For Respondent : Mr.T.N.Rajagopalan
Special Government Pleader For R2

O R D E R

The petitioner seeks for mandamus directing respondents to accept and consider the category of the petitioner in Registration No.80965010 bearing Roll No. 908309292 (C.Gayathri) from un reserved (UR) to Other Backward Class (OBC) in the National Eligibility cum Entrance Test Examination, 2017 (NEET) conducted by the respondent on 07.05.2017 and consequently directing the respondents to consider the marks secured by the petitioner in Other Backward Class (OBC) instead of un reserved (UR) category based on the Community Certificate dated 26.04.2013 issued by the Government of Tamil Nadu.

2. The case of the petitioner is as follows :

2.1. She belongs to Backward Class Community viz., Hindu-Yadhava and the Community Certificate to that effect dated 26.04.2013 was already issued by the competent authority viz., Headquarters Deputy Tahsildar, Egmore, Nungambakkam Taluk, Chennai -600 001. After successfully completing the Higher Secondary School Examination and scoring 1081/1200 marks, the petitioner applied for NEET examination 2017.

2.2. While filling the on-line application form for NEET, she has inadvertently chosen the community category as Unreserved (UR) instead of choosing Other Backward Class (OBC). This mistake is neither intentional nor wanton. The petitioner noticed the error at the time of appearing for the examination viz., NEET. The petitioner, while filling the application form for admission in M.B.B.S/B.D.S Course for the academic year 2017-2018 session, in application number 606458 dated 06.07.2017, has correctly and specifically stated that she belongs to Backward Class Community. The only mistake committed is in the on-line application form, wherein she has inadvertently chosen the community category as "UR" instead of "OBC". Unless the petitioner is treated in the OBC category, while considering her for admission to the M.B.B.S Course, she will be put to great difficulty and hardship, as she will not get a chance for admission, if she is treated in the Unreserved category.

3. The learned counsel for the petitioner submitted that the inadvertent mistake committed only during the filling of the on-line application form, as stated supra, cannot be put against the petitioner, when the records are straight and indicate that the petitioner belongs to Backward Class and entitled to the protection under State reservation. He has also invited this Court's attention to an order passed in W.P.No.5238 of 2017, dated 21.04.2017, arising out of similar facts.

4. The learned Special Government Pleader submitted that since the on-line application carried the community category as

Unreserved, the petitioner cannot seek reservation by treating herself as Backward Class category student.

5. Heard both sides.

6. It is not in dispute that the petitioner while making the on-line application for the NEET examination has referred the category as "UR" (Unreserved), instead of OBC (Other Backward Class). It is stated that the petitioner has inadvertently made such mistake, when the fact remains that she belongs to Backward Class. In support of her contention, the petitioner relied on the Community Certificate issued by the competent Revenue Officials dated 26.04.2013. Perusal of the said certificate made available in the typed set of papers would indicate that the petitioner belongs to Backward Class community. The Transfer Certificate issued by the School to the petitioner also indicate that she belongs to Backward Class community.

7. Therefore, it is evident that the petitioner has inadvertently referred the category wrongly in the on-line application, while submitting for NEET examination. When the petitioner belongs to Backward Class community and the overwhelming documents are there in support of such claim, I do not think that she can be denied an opportunity to get admission under the reserved category for Backward Class community, only because she has referred to the category as Unreserved in the on-line application. Since, the merit list has not been issued so far and the counseling has also not taken place, I am of the view, that no prejudice would be caused, if the respondents are directed to consider the claim of the petitioner and treat her as Backward Class Community, while considering her application for admission to M.B.B.S. Course based on the marks obtained in the NEET examination.

8. Accordingly, this writ petition is disposed of, by directing the petitioner to approach the second respondent and place the relevant materials viz., Community Certificate and Transfer Certificate, indicating her Community status, immediately on receipt of the order of this Court. On receipt of such request of the petitioner with necessary documents as stated supra, the second respondent will consider the claim of the petitioner and treat her as Backward Class Community, while considering for admission to the M.B.B.S. course. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Central Board of Secondary Education,
Rep.by its Secretary,
National Eligibility cum Entrance Test Unit,
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Rep. by Secretary
No.914 Poonamallee High Road,
Arumbakkam, Chennai.

+1cc to Mr.P.Dinesh Kumar, Advocate SR.No.48522

+1cc to Mr.G.Nagarajan, Advocate SR.No.48549

W.P.No.17400 of 2017

GMI (CO)
GN(13/07/2017)



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