

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2017

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P. No.1756 of 2017

and

W.M.P.Nos.1742 & 1743 of 2017

Dr.Prem Richardson R.

... Petitioner

Versus

National Board of Examinations,
Medical Enclave,
Ansari Nagar, Ring Road,
New Delhi - 110 029.
Rep. by its President

... Respondent

Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned email communication dated 12.12.2016 issued by the respondent authority to the petitioner refusing to correct the inadvertence error in mentioning of the community category of the petitioner in the NEET PG-2017 application and the consequential result dated 13.01.2017 published by the respondent authority and quash the same and consequently direct the respondent authority to change the category of the petitioner as "OBC" and modify the result in so far as the petitioner is concerned as qualified.

For Petitioner : Mr.S.Thanka Sivan

For Respondent : M/s.Anand Samy & Dhruva

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned email communication dated 12.12.2016 issued by the respondent authority to the petitioner refusing to correct the inadvertence error in mentioning of the community category of the petitioner in the NEET PG-2017 application and the consequential result dated 13.01.2017 published by the respondent authority and quash the same and consequently direct the respondent authority to change the category of the petitioner as "OBC" and modify the result in so far as the petitioner is concerned as qualified.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The petitioner claims that he belongs to Christian Nadar community which is recognised as Backward class in the

State of Tamil Nadu. The status of the petitioner's community, in so far as the Government of India is concerned, OBC category. However, while applying on-line application form for NEET PG-2017 examination, the petitioner has mentioned his community status as BC General. Thereafter, the petitioner sent an e-mail requesting the respondent to correct the inadvertent error committed by him while submitting the application through on-line. But the respondent sent reply email dated 12.12.2016 stating that the community status could not be edited. Hence, the present Writ Petition has been filed.

3. Mr.S.Thanka Sivan, learned counsel appearing for the petitioner would submit that as per the "Postgraduate Medical Education (Amendment) Regulations, 2012 (Part I)", the qualifying criteria for a candidate is to obtain minimum of marks at 50% in 'National Eligibility-cum-Entrance Test for Postgraduate courses'. However, in respect of candidates belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes, the minimum marks shall be at 40%. The NEET result has been published on 15.01.2017 and in the category SC/ST/OBC, out of 1500, cut off marks has been declared as 655.1766. According to the learned counsel, the petitioner has secured 656.3133 and as per the eligibility criteria, he is eligible for admission in NEET PG-2017 examination. According to the learned counsel for the petitioner, the petitioner has indicated his communal status as Backward class at the time of submission of the application, however, in so far as All India categorisation, by inadvertence, he has indicated his community as general category. The inadvertent error committed by the petitioner should not be put against him to deny him admission inasmuch as he has secured the cut off mark prescribed for SC/ST/OBC. However, while declaring the result, the respondents have not taken note of the fact that the petitioner fall under OBC category and this has resulted in miscarriage of justice.

4. On the contrary, the learned counsel appearing for the respondent would submit that the petitioner does not satisfy the cut-off marks of 842.2654 as declared for the OBC category and he stands no chance for a seat in the All India Quota vis-a-vis the 656.3133 marks obtained. He further submitted that the petitioner has failed to obtain the cut off marks as prescribed in the notice of the respondent dated 14.01.2017. The inadvertent error said to have committed by the petitioner cannot be altered, varied or modified by the respondent and the respondent also sent a reply e-mail immediately on receipt of the e-mail from the petitioner. In any event, the petitioner was not diligent in submitting the application and therefore he prays for dismissal of the writ petition.

5. I heard the counsel for both sides and perused the records. As per the notification of the respondent, if an error has been committed in submitting the application, it cannot be rectified at a later date. However, having regard to the nature of the claim made by the petitioner to pursue higher education and the submission that he has secured the requisite cut off marks in the category to which he belonged to namely

OBC/SC/ST category, this Court, without expressing any opinion on merits, only direct the respondents to consider the claim of the petitioner, if he is otherwise eligible. The respondents shall consider the claim of the petitioner as expeditiously as possible. The Writ Petition is disposed of accordingly. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sri/rsh

To

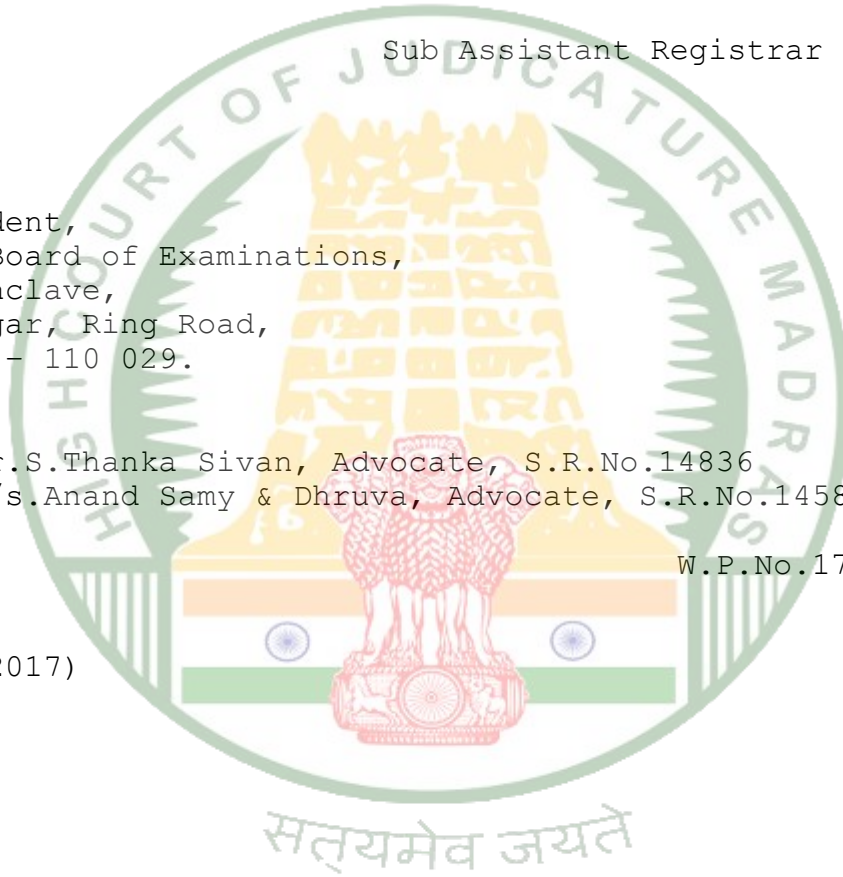
The President,
National Board of Examinations,
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+1cc to Mr.S.Thanka Sivan, Advocate, S.R.No.14836

+1cc to M/s.Anand Samy & Dhruva, Advocate, S.R.No.14585

W.P.No.1756 of 2017

VSN(CO)
CA(17/04/2017)



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