

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.18894 of 2017
and
W.M.P.Nos.20405 & 20406 of 2017

Minor Kausalyaa Manivannan
Daughter of Manivannan
Represented by K.Kannan

... Petitioner

Vs.

1. The Director, NEET Exam
Shiksha Kendra, 2, Community Centre,
Preet Vihar, Delhi - 110 092.
2. The Tamil Nadu Dr.M.G.R.Medical University
Represented by Academic Officer
69, Anna Salai, Guindy, Chennai-600 032.
- 3.The Director of Medical Education (OSD)
Selection Committee
Directorate of Medical Education,
162, EVR Periyar Salai, Kilpauk,
Chennai-600 010.
- 4.Medical Counselling Committee
Directorate General of Health Services
E/2A, 1st Floor, Rajaji Bhavan
Besant Nagar, Chennai-90.

... Respondents

(*R3 & R4 impleaded as per order of this Court dated 07.08.2017
in WMP.No.21920 of 2017 in WP.No.18894 of 2017)

Prayer:

Writ petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the record on the file of the 2nd respondent in proceedings in RC.No.ACII(1)/38356/2017 dated 17.07.2017 and quash the same as illegal, incompetent and wholly without jurisdiction and further direct the respondents to change the category of the petitioner from "UR" to "BC" and in consequence thereof issue a certificate according to eligible category.

For Petitioner: Mr.V.Raghavachari
For Respondent : Mr.P.R.Gopinathan
standing counsel, for R2 & R4
Mr.A.Kumar,
Special Government Pleader, for R3

O R D E R

The petitioner seeks for the following relief:

to call for the record on the file of the 2nd respondent in proceedings in RC.No.ACII(1)/38356/2017 dated 17.07.2017 and quash the same as illegal, incompetent and wholly without jurisdiction and further direct the respondents to change the category of the petitioner from "UR" to "BC" and in consequence thereof issue a certificate according to eligible category.

2. The case of the petitioner is as follows :

2.1. She belongs to Backward Class Community viz., Hindu-Veera Kodi Vellalar and the Community Certificate to that effect dated 17.07.2017 was already issued by the competent authority viz., Tahsildar, Aminjikarai Taluk Office, Chennai-600 030. After successfully completing the All India Senior School Examination and scoring 436 out of 600 marks, the petitioner applied for NEET examination 2017.

2.2. While submitting 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. Thereafter, the second respondent passed an impugned order on 17.07.2017, stating that the cut off percentile of the petitioner has not qualified her for the admission into first year BDS degree course under UR candidates.

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. The learned counsel for the petitioner invited this Court's attention to the Community Certificate issued to the petitioner's father dated 27.06.1986 stating that he belongs to Veera Kodi Vellalar community, which is the backward class community and also the Transfer Certificate issued to the petitioner by the School stating that she belongs to the backward class community. Therefore, he submitted that these documents are sufficient enough to justify the genuine claim of the petitioner.

4. The learned counsel appearing for the respondent University and the learned Special Government Pleader appearing for the respondents 3 and 4 submitted that since the petitioner herself has quoted the category as Unreserved (UR) in the on-line application, the impugned order was rightly passed stating that she is not eligible for admission into the first year BDS Course, as the cut off percentile is above than the percentile obtained by the petitioner under the unreserved (UR) category.

5. Heard both sides.

6. It is not in dispute that the petitioner while making 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 to her by the competent Revenue Officials dated 17.07.2017 and also the Community Certificate issued to her father dated 27.06.1986. Perusal of the those certificates 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 be considered for admission under the category for Backward Class community, only because she has referred 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./B.D.S. Course based on the marks obtained in the NEET examination.

8. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the petitioner is directed to approach the third respondent and place the relevant documents viz., Community Certificate, Transfer Certificate showing her community status, immediately on receipt of this order. On receipt of such request of the petitioner with necessary documents as stated supra, the third 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./B.D.S. course. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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To

1. The Director, NEET Exam
Shiksha Kendra, 2, Community Centre,
Preet Vihar, Delhi - 110 092.
2. The Academic Officer
The Tamil Nadu Dr.M.G.R.Medical University
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4. Medical Counselling Committee
Directorate General of Health Services
E/2A, 1st Floor, Rajaji Bhavan
Besant Nagar, Chennai-90.

+1 CC to Mr.V. Raghavachari, Advocate sr 57168.

सत्यमेव जयते

W.P.No.18894 of 2017

VGII (CO)
sp(17/08/2017)

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