

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.19299 of 2017

Ashlin Shafi Rajesh

... Petitioner

Vs.

1. Central Board of Secondary Education
Represented by its Chairman
Shiksha Kendra, 2-Community Centre,
Preet Vihar, New Delhi - 110 092.
 2. The Director (Public Health and Preventive Medicine)
Directorate of Health Services
No.359, Anna Salai,
Teynampet, Chennai-600 006.
 3. The Secretary
Medical Council of India
Pocket-14, Sector-8,
Dwarka Phase-1,
New Delhi - 110 077.
- 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.80582802 bearing Roll No.904810820 from unserved (UR) to other Backward Class (OBC) in the National Eligibility cum Entrance 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 unreserved (UR) category based on the community certificate issued by the Government of Tamilnadu.

For Petitioner	: Mr.S.R.Raghunathan for Mr.P.Elango
For Respondents	: Mr.A.Kumar Special Government Pleader for R2.

O R D E R

The petitioner seeks for a mandamus directing the respondents to accept and consider the category of the petitioner in Registration No.80582802 bearing Roll No.904810820 from unreserved (UR) to other Backward Class (OBC) in the National Eligibility cum Entrance 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 unreserved (UR) category based on the community certificate issued by the Government of Tamilnadu.

2. The case of the petitioner is as follows:

2.1. She belongs to Backward Class Community and the Community Certificate to that effect was issued by the competent authority on 28.06.2013. After successfully completing the Higher Secondary School Examination and scoring 1026/1200 marks, the petitioner applied for NEET examination 2017.

2.2. While filling the on-line application form for NEET, the petitioner 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 after noticing such mistake, approached the respondents to consider her case under the Backward Class Community category. However, the said request was not considered so far and therefore, the present writ petition is filed before this Court.

3. The learned counsel appearing for the petitioner submitted that unless the petitioner is treated under 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.

4. The learned counsel for the petitioner has also invited this Court's attention to an order passed in WP.No.17400 of 2017 dated 12.07.2017, arising out of a similar facts, in support of the contention of the petitioner.

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 Official dated 28.06.2013. 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.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

1. The Chairman
Central Board of Secondary Education
Shiksha Kendra, 2-Community Centre,
Preet Vihar, New Delhi - 110 092.

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2.The Director (Public Health and Preventive Medicine)
Directorate of Health Services
No.359, Anna Salai,
Teynampet, Chennai-600 006.

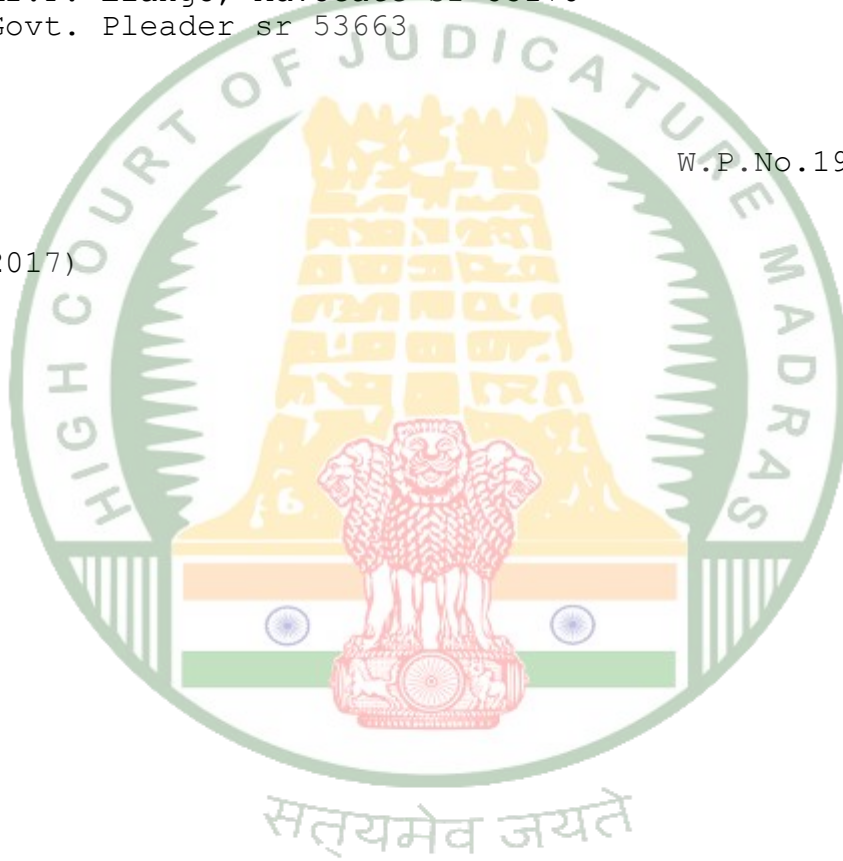
3.The Secretary
Medical Council of India
Pocket-14, Sector-8,
Dwarka Phase-1,
New Delhi - 110 077.

+1 CC to Mr.P. Elango, Advocate sr 53178

+1 Cc to Govt. Pleader sr 53663

W.P.No.19299 of 2017

SP(01/08/2017)



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