

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P.No.44329 of 2016
and WMP Nos.38191 and 38192/16
&
WMP.Nos.38191 & 38192 of 2016

Immaculate Jonna.M,

...Petitioner

Vs.

1. Union of India,
Represented by the Secretary,
The Department of Health and Family Welfare,
Nirman Bhawan, C-Wing,
New Delhi-110 001.
2. National Board of Examinations,
NEET-MDS 2017,
Medical Enclave,
Ansari Nagar, Ring Road,
New Delhi-110 029.

....Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of a writ, calling for the records of the 2nd respondent herein pertaining to the reply email notice dated 16.12.2016 sent to the petitioner and quash the same and further direct the 2nd respondent herein to reschedule NEET-MDS 2017 (National Eligibility cum Entrance Test Master of Dental Surgery) examination either separately for the petitioner or along with the similarly placed candidates.

For Petitioner .. Mr. P.M. Duraiswamy
For Respondents.. Mr. A.Veeramani for R1
Mr. Dhruva for R2

ORDER

This writ petition has been filed challenging the reply e-mail notice dated 16.12.2016 sent to the petitioner and for a direction to the 2nd respondent herein to reschedule NEET-MDS

2017 examination, either separately for the petitioner or along with the similarly placed candidates.

2. The petitioner, who is a graduate in BDS, applied for examination called "NEET-MDS 2017", which was scheduled to be conducted in December 2016 through e-mail application on 26.09.2016 and got admission card for the said course. The examination was to be conducted on 02.12.2016. However, the petitioner was not allowed to write the examination as, she did not produce original ID proof, even though she had produced E Aadhar card as a proof. Therefore, the petitioner sent representations on 14.12.2016 and 15.12.2016 making a request for reschedule of NEET-MDS 2017 examination and the said request was rejected by order dated 18.08.2016, which was communicated by email.

3. Mr. P.M. Duraiswamy, learned counsel for the petitioner would submit that for the earlier examinations, E-Aadhar card was accepted, whereas, only on 02.12.2016, when the petitioner wanted to write the examination, she was prevented from writing the examination on the ground that she has not produced the original ID card. The learned counsel would rely upon the Office Memorandum dated 28.03.2013 issued by the Planning Commission, Government of India, which permitted E Aadhar card as a valid document, in view of the fact that it has been digitally certified.

4. Mr. Dhruva, learned counsel for the second respondent would submit that as per the prospectus for the examination, the petitioner is required to produce any one of the ID cards which is prescribed in Clause 3.16 of the Information Bulletin for National Eligibility-cum-Entrance Test (Post Graduate) for admission to (MD/MS Post Graduate Diploma Courses 2017 Admission Session. The petitioner failed to produce the original ID card. Therefore, the petitioner was not permitted to write the examination.

5. Mr. Veeramani, learned Central Government Standing Counsel appearing for the first respondent would support the argument advanced by Mr. Dhruva.

6. The petitioner's grievance is that since there is no prohibition for making use of E-Aadhar card, especially when the Government has permitted to use E Aadhar card as a proof as per Office Memorandum dated 28.03.2013, the second respondent should have allowed the petitioner to write the examination.

7. However, Clause 3.16 of the Information Bulletin for National Eligibility-cum-Entrance Test (Post Graduate) for admission to (MD/MS Post Graduate Diploma Courses 2017 Admission Session reads as follows.

"3.16 Candidates MUST bring to the test centre the following documents-

- Printed copy of Admit card with photo pasted on it; AND
- Photocopy of Permanent and Provisional SMC/MCI registration*, to be retained by the test centre; AND
- Any one of the authorized photo Ids** (must be original, valid and non-expired);
- PAN card/Driving license/Voter ID/Passport/Aadhaar Card (with photograph)

*Candidates who have obtained their Primary medical Qualification outside India and do not have SMC/MCI registration should bring their original screening test pass certificate issued on NBE letterhead. However, a candidate who is selected and allotted seat through counseling shall have to produce certificate of registration of Medical Qualification issued by the State Medical Council / Medical Council of India at the time of reporting to the allotted Medical College/Institute.

**The name on the photo identification must match with the name as shown on the Admit card. If the name has been changed due to events such as marriage, candidate must show the relevant document mentioned at the time of exam (Marriage Certificate/Divorce Decree/Legal Name Change Document).

The examination test centre staff on duty is authorized to verify the identity of candidates and may take steps to verify and record the identity of candidates. Candidates are required to extend requisite cooperation. "

8. From the above, it is very clear that only original PAN card or driving licence or voter ID or passport or Aadhar card would be accepted by the authorities concerned to permit the candidates to write the examination. When the prospectus is categorical on the basis of which, the petitioner attempted to write the examination, the terms of the prospectus have a binding effect on the petitioner. When the prospectus directs certain things to be done in a particular manner, the same has to be done in that manner only. When the prospectus speaks about the original card, the petitioner cannot take shelter under the Office Memorandum issued by the Planning Commission on 28.03.2013 and seek permission to write the examination. Office Memorandum may say so, however, when the prospectus is very clear leaving no room for ambiguity, the petitioner is bound to

follow the same. Having failed to follow the procedure contemplated under the prospectus, the respondent has rightly denied permission to the petitioner to write the examination. Therefore, the impugned order is valid and in such view of the matter, rescheduling of the examination for the sake of the petitioner cannot be done. Further, the examination was already over and the results have been declared on 15.01.2017.

In view of the above, this writ petition fails and it is accordingly dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

at/gms

To

1. The Secretary,
The Department of Health and Family Welfare,
Nirman Bhawan, C-wing,
New Delhi-110 001.
2. National Board of Examinations,
NEET-MDS 2017,
Medical Enclave,
Ansari Nagar, Ring Road,
New Delhi-110 029.

+1 cc to M/s.P.M.Duraiswamy Advocate sr 14403

+1 cc to M/s.A.Veeramani Advocate sr 14561

+1 cc to M/s.Anand Sary & Mr.Dhuva Advocate sr 14586

W.P.No.44329 of 2016

WEB COPY

nrl(co)
aa20/03/2017