



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A(MD) No.1203 of 2017
and
C.M.P.(MD)No.8430 of 2017

1.The Director N.E.E.T,
Central Board of Secondary Education (Head Office),
Shiksha Kendra, No.2, Community Centre,
Preet Vihar,
New Delhi-110 002. ... 1st Appellant/1st Respondent

2.The Secretary,
Central Board of Secondary Education,
CBSE Bhawan, Shiksha Kendra,
Community Centre, Preet Vihar,
New Delhi-110 002. ... 2nd Appellant/2nd Respondent

-vs-

1.B.Nesalin Isha (Minor),
Rep. by father and natural guardian
Babu Chandra Sekaran. ...1st Respondent /Writ Petitioner

2.The Controller of Examinations,
Tamil Nadu Dr. M.G.R. Medical University,
No.69, Anna Salai Guindy,
Chennai-600 032. ...2nd Respondent /3rd Respondent

3.The principal,
Rajas Dental College and Hospital,
Thirurajapuram,
Tirunelveli - 627 105. ...3rd Respondent /4th Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patents Act, to set aside the order dated 21.07.2017 and made in W.P.(MD) No.10623 of 2017 on the file of this Court and allow the above Writ Appeal.

Prayer in WP(MD). 10623/ 2017 :

<https://hcservices.ecourts.gov.in/hcservices/> Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the 1st respondent to issue certificate



declaring the result of the petitioner as qualified in NEET based on her communal status to enable the 3rd respondent university/Tamilnadu Dr.M.G.R.Medical University to register the petitioner in the BDS course A.Y.2016-2017 onwards within such time as this Honble Court.

WEB COPY

For Appellants : Mr.G.Nagarajan
For R1 : Mr.Joseph Thatheus Jerome,

JUDGMENT

[Judgment of the Court was delivered by M.M.SUNDRESH, J.]

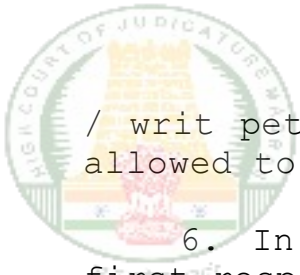
The first respondent was a student, who participated in the selection process for the academic year 2016-2017. She did cross the qualifying mark. Unfortunately, at the time of making application through online, though she belongs to other Backward Community, she made entry as if she belong to open category. Based upon her qualification, she was accordingly admitted with the third respondent college. Now she completed first year.

2.During the course of her studies, it came to be known that she actually belongs to a Backward Community and therefore, her application filled as open category is not correct. Hence, she filed the writ petition seeking declaration that she should be allowed to continue with her studies as a Backward Community students. The writ petition was duly allowed and hence, the present writ appeal has been filed.

3.The learned counsel appearing for the appellants would submit that the appellant did not have any other Rule except conducting the examination, there cannot be positive direction to the appellant.

4.The learned counsel appearing for the first respondent would submit that the earlier similar order passed by the learned single Judge has not been challenged before this Court. As seen from the communication of the second appellant, dated 26.04.2017, coupled with the fact that the first respondent has completed first year and there is no dispute over the studies, no interference is required.

5.Considering the above, we are of the view that the appeal needs to be disposed of clarifying that the first respondent/writ petitioner shall be allowed to continue with her studies as one belong to the OBC category. It is for the reason that once she is entitled to get a seat as a OBC candidate, she cannot be denied as such. It is not as if, she is not otherwise entitled. Her admission in the college has never put under challenge by any other candidate. Now, she is completed the first year. Therefore, this writ appeal stands disposed of by treating the studies of the first respondent



/ writ petitioner as an OBC category and on that basis, she is allowed to continue and complete her studies.

6. In such view of the matter, no certificate required for first respondent. It is also to be noted by her clarification that the respondent has secured more than OBC cut off. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1.B.Nesalin Isha (Minor),
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Babu Chandra Sekaran.

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No.69, Anna Salai Guindy,
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3.The principal,
Rajas Dental College and Hospital,
Thirurajapuram,
Tirunelveli - 627 105.

+1cc to M/S.Joseph Thatheus Jerome, Advocate SR.No. 77538

+1cc to M/S.S.Kadarkarai, Advocate SR.No. 77722

W.A(MD) No.1203 of 2017

08.09.2017

cp/akv

JM/SKN RSK/SAR 1/20.09.2017/3P/6C