

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 24.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM**W.P. (MD)No.15960 of 2017****and****W.M.P. (MD)No.12610 of 2017**

Minor S.Kirthikaa
rep. by her father natural guardian
N.Shanmuganathan

... Petitioner

Vs.

1. The Central Board of Secondary Education,
Rep.by its Secretary,
National Eligibility cum Entrance Test Unit,
Shiksha Kendra, 2, Community Centre,
Preet Vihar, New Delhi-110 301.

2. The Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R. High School,
Kilpauk, Chennai-600 010.

3. Tamil Nadu Medical Council,
Rep.by Secretary,
No.914, Poonamallee High Road,
Arumbakkam, Chennai.

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

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to accept and consider the category of the petitioner in Registration No.80083838 bearing Roll No.908506724 (S.Kirthikaa) from unreserved (UR) to other Backward class (OBC) in the National Eligibility-cum-Entrance Test Examination 2017 (NEET) conducted by the 1st 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 dated 23.06.2017 issued by the Government of Tamil Nadu.



For Petitioner : Mr.V.K.Vijayaragavan
For Respondents : Mr.B.Pugalendhi
Additional Advocate General Assisted by
Mr.C.Selvaraj,
Special Government Pleader for R2-4
Mr.R.Nandagopal, SC & GSC for R-1

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.80083838 bearing Roll No.908506724 (S.Kirthikaa) from unreserved (UR) to Other Backward Class (OBC) in the National Eligibility cum Entrance Test Examination, 2017 (NEET) conducted by the 1st 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 dated 23.06.2017 issued by the Government of Tamil Nadu.

2.The case of the petitioner is as follows:-

2.1.She belongs to Backward Class Community viz., Virakodi Vellala Community and the Community Certificate to that effect dated 09.05.2017 was already issued by the competent authority, viz., Zonal Deputy Tahsildar, Madurai East Taluk, Madurai District and the Other Backward Classes Community Certificate was also issued to the petitioner by the Tahsildar, Madurai East Taluk on 23.06.2017. After successfully completing the Higher Secondary School Examination, the petitioner applied for NEET examination 2017.

2.2. While filling 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. The petitioner noticed the error at the time of appearing for the examination viz., NEET. The petitioner, while filling the application form for admission in M.B.B.S/B.D.S Course for the academic year 2017-2018 session, in application number 612758 dated 01.07.2017, has correctly and specifically stated that she belongs to Backward Class Community. The only mistake committed is in the on-line application form, wherein she has inadvertently chosen the community category as "UR" instead of "OBC". Unless the petitioner is treated in the 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.



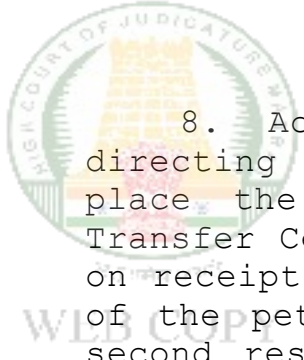
line application form, as stated supra, cannot be put against the petitioner, when the records are straight and indicate that the petitioner belongs to Backward Class and entitled to the protection under State reservation. He has also invited this Court's attention to an order passed in W.P.No.5238 of 2017, dated 21.04.2017, arising out of similar facts.

4. The learned Additional Advocate General appearing for the respondents 2 to 4 submitted that since the on-line application carried the community category as Unreserved, the petitioner cannot seek reservation by treating herself as Backward Class category student.

5. Heard Mr.V.K.Vijayaragavan, learned counsel appearing for the petitioner, Mr.R.Nandagobal, learned Standing Counsel for Central Government appearing for first respondent and Mr.B.Pugalendhi, learned Additional Advocate General appearing for respondents 2 to 4.

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 and Other Backward Class Certificate issued by the competent Revenue Official dated 23.06.2017 and 09.05.2017 respectively. Perusal of the said 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 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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Central Board of Secondary Education,
National Eligibility cum Entrance Test Unit,
Shiksha Kendra, 2, Community Centre,
Preet Vihar, New Delhi-110 301.
 2. The Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R. High School,
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 4. The Director (Public Health and Preventive Medicine)
Directorate of Health Services,
No.359, Anna Salai,
Teynampet, Chennai-600 006.
- +4cc to M/S.M.R.S.PRABHU , Advocate, SR.No.74403.

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and

W.M.P. (MD) No.12610 of 2017
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