



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 29.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P. (MD)No.16216 of 2017

and

W.M.P. (MD)No.12896 of 2017

K.M.Subhiksha

... Petitioner

Vs.

1.The Director,
National Eligibility cum Entrance Test Unit,
Shiksha Kendra,
No.2, Community Centre,
Preet Vihar, New Delhi-110 092.

2.The Director of Medical Education (OSD),
Selection Committee,
Directorate of Medical Education,
No.162, E.V.R. Periyar Salai,
Kilpauk, Chennai-600 010.

3.Medical Counselling Committee,
Directorate General of Health Services,
E/2A, 1st Floor, Rajaji Bhavan,
Besant Nagar, Chennai - 90.

... 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 change the petitioner's communal category from UR to OBC/BC and include her name in the Provisional Merit List so as to enable her to get an admission in any Self Financing Medical/Dental Colleges under Management Quota based on her representations dated 07.07.2017, 08.07.2017, 05.08.2017 and 23.08.2017 to the 2nd respondent through e-Mail and in person in the light of the common order passed by this Court in a batch of Writ Petitions in W.P.No.35180 of 2016 dated 07.10.2016 as well as order passed in W.P.No.18894 of 2017 dated 07.08.2017.

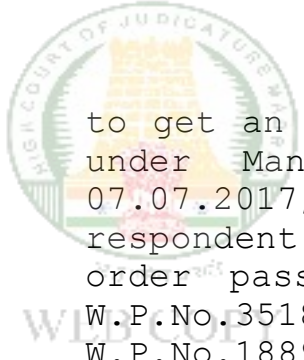
For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.B.Pugalendhi

Additional Advocate General Assisted by
Mr.C.Selvaraj,
Special Government Pleader.

O R D E R

<https://hcservices.e-governance.gov.in/hcservices> The petitioner seeks for a Mandamus directing the respondents to change the petitioner's communal category from UR to OBC/BC and include her name in the Provisional Merit List so as to enable her



to get an admission in any Self Financing Medical/Dental Colleges under Management Quota based on her representations dated 07.07.2017, 08.07.2017, 05.08.2017 and 23.08.2017 to the 2nd respondent through e-Mail and in person in the light of the common order passed by this Court in a batch of Writ Petitions in W.P.No.35180 of 2016 dated 07.10.2016 as well as order passed in W.P.No.18894 of 2017 dated 07.08.2017.

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

2.1.She belongs to Backward Class Community viz., Hindu Nadar Community and the Community Certificate to that effect dated 17.03.2003 was already issued by the competent authority, viz., Head Quarters Deputy Tahsildar, Kalkulam Taluk, Kanyakumari District. 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, 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.

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. 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 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.

<https://hcservices.courts.gov.in/hcservices> 5. Mr. G.Thalaimutharasu, learned counsel appearing for the petitioner and Mr.B.Pugalendhi, learned Additional Advocate General appearing for respondents.



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 17.03.2003. 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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar



To

1.The Director,
National Eligibility cum Entrance Test Unit,
Shiksha Kendra,
No.2, Community Centre,
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2.The Director of Medical Education (OSD),
Selection Committee,
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3.Medical Counselling Committee,
Directorate General of Health Services,
E/2A, 1st Floor, Rajaji Bhavan,
Besant Nagar, Chennai - 90.

+1cc to M/S.G.Thalaimutharasu, Advocate SR.No. 75032

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SKN

JM/SV MMS/SAR 4/29.08.2017/4P/5C