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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2018

C O R A M

THE HON'BLE MR.JUSTICE S.S.SUNDAR

W.P.No.13486 of 2011

and

M.P.No.1 of 2011

Dr.Revathi

... Petitioner

Vs

1. The Medical Council of India,
Rep. by its Secretary,
Alwan-e-Galib Marg, Kotla Road,
Opp. Mata Sundari College (for Women)
New Delhi - 110 002.
2. The Selection Committee
for Medical Admission, Rep. by
Its Secretary/ Addl. Director of
Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.
3. The State of Tamil Nadu,
Rep. by Secretary to Government,
Health Department, Secretariat,
Chennai - 600 009.
4. The Government of India,
Rep. by its Secretary,
Health and Family Department,
Nirman Bhavan, New Delhi.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent ending with the Medical Council of India Amendment Notification dated 25.03.2009 relating to Post Graduate Medical Education (Amendment) Regulation 2009 Part-1 and the clause 57 of the Prospectus of Tamil Nadu Post Graduate Medical Admission 2011-2012 holding that handicapped persons with locomotory disorders of upper limbs are disqualified for admission and quash them in so far as they deny the petitioner admission to Post Graduate Courses in Medicine and directing the respondents herein to consider the petitioner for admission to any of the Post Graduate Courses in



Medicine in any of the Medical Colleges under the control of the respondents.

For Petitioner ... Mr.Kandavadivel Doraisami

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For Respondents ... Mr.A.Rajaperumal, AGP for RR 2 & 3
Mr.S.Paveshkannan, CGC for R4
Mr.V.P.Raman for R1

O R D E R

This writ petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent ending with the Medical Council of India Amendment Notification dated 25.03.2009 relating to Post Graduate Medical Education (Amendment) Regulation 2009 Part-1 and the clause 57 of the Prospectus of Tamil Nadu Post Graduate Medical Admission 2011-2012 holding that handicapped persons with locomotory disorders of upper limbs are disqualified for admission and quash them in so far as they deny admission to the petitioner for Post Graduate Courses in Medicine and directing the respondents herein to consider the petitioner for admission to any of the Post Graduate Courses in Medicine in any of the Medical Colleges under the control of the respondents.

2.The petitioner is a Doctor. The petitioner has congenital deformity with hands and legs too short but are functional. She completed MBBS as she was able to attend even the practical classes. The petitioner was not qualified to get admission for Post Graduate Course. The petitioner, being a disabled candidate, got admission to medical course during the year 2004 under 3% quota reserved for handicapped persons under the provisions of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. It is stated that the reservation was not made applicable to Post Graduate Course as per the Medical Council Regulations. Hence, the above writ petition has been filed.

3.Though the petitioner has raised several grounds, it is not necessary to address any of the grounds in view of the change of events. The Medical Council of India, by Notification dated 05.04.2018 has provided reservation up to 5% of annual intake capacity to disabled persons, who have bench mark disabilities.

4.Clause 9(5) of the Post Graduate Medical Education Regulations, 2000 as amended reads as follows:

"(5). 5% seats of annual sanctioned intake capacity shall be filled up by persons with benchmark disabilities in accordance with the



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provisions of the Rights of Persons with Disabilities Act, 2016, based on the merit list of National Eligibility-Cum-Entrance Test for admission to Postgraduate Medical Courses.

In order to be eligible for admission to Postgraduate Course for an academic year, it shall be necessary for a candidate to obtain minimum marks at 50th percentile in the 'National Eligibility-Cum-Entrance Test for Postgraduate courses' held for the said academic year. However, in respect of candidates belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes, the minimum marks shall be at 40th percentile. In respect of candidates with benchmark disabilities specified under the Rights of Persons with Disabilities Act, 2016, the minimum marks shall be at 45th percentile for General Category and 40th percentile for SC/ST/OBC."

5. It is stated by the learned counsel for the petitioner that as per the Schedule showing specified disabilities, the physical disability with specific measurements of height has been recognized to get the benefit under the Right of Persons with Disabilities Act 2016. This position is also admitted by the learned counsel appearing for the Medical Council of India.

6. In view of the subsequent development, namely, the amendment that was introduced to the Postgraduate Medical Education Regulations, 2000 in tune with the provisions of Rights of Persons with Disabilities Act, 2016, the learned counsel for the petitioner seeks indulgence of this Court to permit the petitioner to submit fresh application under the amended regulations above referred to.

7. The counsel appearing for the Medical Council of India and the learned counsel appearing for the other respondents have no objection for considering the petitioner's candidature for getting admission in any Postgraduate Medical Course in terms of the amended regulations. Since, the application submitted by the petitioner during the academic year 2018-2019 is over, the petitioner is permitted to submit fresh application for the academic year 2019-2020. On receipt of such application, the respondents shall consider the said application in terms of the Postgraduate Medical Regulations, 2000 as amended under Postgraduate Medical Regulation (Amendment), 2018 as per the notification dated 05.04.2018.



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8. With the above direction, the Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

vsg/gsi

To

1. The Secretary
Medical Council of India,
Alwan-e-Galib Marg, Kotla Road,
Opp. Mata Sundari College (for Women)
New Delhi - 110 002.
2. The Secretary/ Addl. Director of
Medical Education,
for Medical Admission,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.
3. The Secretary to Government
The State of Tamil Nadu,
Health Department, Secretariat,
Chennai - 600 009.
4. The Secretary
Government of India,
Health and Family Department,
Nirman Bhavan, New Delhi.

+1cc to Mr.S.Paveshkannan, Advocate SR.No.75619

+1cc to Mr.V.P.Raman, Advocate SR.No.75694

+1cc to Mr.Muthumani Doraisami, Advocate SR.No.75703

+1cc to Government Pleader SR.No.76758

W.P.No.13486 of 2011
and
M.P.No.1 of 201

RSI (CO)

GMV (19/11/2018)