

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5277 of 2018

and

W.M.P.No.6483 of 2018

Dr.Rajesh Wilson ... Petitioner

Vs.

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai-600 009.
2. The Director of Medical Education,
The Directorate of Medical Education,
Kilpauk, Chennai-600 010.
3. The Selection Committee,
The Directorate of Medical Education,
Kilpauk, Chennai-600 010.
4. The Medical Council of India,
Represented by its Secretary,
Pocket-14, Sector-8, Dwarka Phase-I,
New Delhi. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to admit the petitioner for M.S. Orthopaedics specialty for the academic year 2018-2019 in Government Medical College, Coimbatore, without counselling, by passing orders on the representation, dated 03.02.2018.

For petitioner : Mr.G.Justin
For respondent : Mrs.V.Annalakshmi,
Govt. Advocate for RR-1 to 3
Mr.V.P.Raman for R-4

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Mandamus to direct

the respondents to admit the petitioner for M.S. Orthopaedics specialty for the academic year 2018-2019 in Government Medical College, Coimbatore, without counselling, by passing orders on the representation, dated 03.02.2018.

2. According to the petitioner, after completion of MBBS degree, he joined Government service on 19.09.2013 through MRB Exams. He was posted to work as Assistant Civil Surgeon at the Government Primary Health Centre, Sholayar Nagar (notified Tribal remote hilly area) and as on date, the petitioner had completed three years of service in that area. According to the petitioner, he should be allowed to choose his choice of speciality, i.e. M.S. Orthopaedics in the Government Medical College, Coimbatore, otherwise, for the wrong done by the first respondent, the petitioner needs to be compensated with Rs.10 crores in the event of the denial of admission to him for the academic year 2018-19 for M.S.Orthopaedics.

3. It is further stated by the petitioner that but for passing of G.O.(D).No.1054, Health and Family Welfare (MCA-1) Department, dated 06.05.2017, which has been quashed by a Division Bench of this Court in W.P.No.12246 of 2017, etc., dated 16.06.2017, the petitioner has got to be given the admission of his choice of speciality, namely M.S. Orthopaedics, as according to him, he was in 85th rank and that denial of admission to the course is illegal. According to the petitioner, the respondents having admitted the illegality in passing the said G.O., are bound to give admission to the petitioner for the said course based on his rank secured. The petitioner further submitted that he has served in hilly and difficult area and that even though the said order of the Division Bench has been taken up on appeal to the Supreme Court, the Apex Court has passed the following order on 31.01.2018 in the petitions for Special Leave to Appeal (C) Nos.16380 and 16381 of 2017, etc."

"Delay condoned.

Permission to file Special Leave
Petition granted.

Impleadment allowed.

Heard the learned counsel for the
parties.

Classification made under Regulation
No.9(IV) of Post Graduate Medical Education
Regulations, 2000 as amended in 2012 was
questioned by the respondent writ petitioners
before the High Court. The High Court has
directed the State to identify remote and
difficult areas. It is stated by the learned
counsel appearing on behalf of the State that
State has initiated the process of

identifying the remote and difficult areas for the academic sessions 2018-2019 and is going to complete the process soon and issue relevant notification identifying remote and difficult areas as per the law laid down by this Court vide order dated 15.12.2017 in SLP (C).No.11692 of 2017 titled Dr.Amit Bagra and others Vs. State of Rajasthan and State of Haryana and Another etc., Vs., Dr.Narender Soni and others etc. (AIR 2017 SC 2892).

In the circumstances, we direct the State to complete the process by 10.03.2018 and notify remote and difficult areas as provided in the order. However, admission in the year academic sessions 2017-2018 are not to be disturbed.

The Special Leave Petitions stand disposed of accordingly.

Pending applications, if any stand disposed of."

4. As there is no interference by the Supreme Court with regard to the selection for the academic year 2017-2018 in the above extracted order and that the petitioner has been given a different subject of admission to the course, according to the learned counsel for the petitioner, there is no hindrance on the part of the respondents in providing M.S.Orthopaedics, as the Apex Court has not disturbed the selection and allotment of the candidates for the academic year 2017-2018 and that the respondents have been permitted to identify the remote and difficult areas for the academic year 2018-2019.

5. The learned counsel for the respondents submitted that pursuant to the order of the Apex Court, extracted supra, the hilly and difficult areas have been identified and G.O.(Ms.) No.96, Health and Family Welfare (MCA-1) Department, dated 23.03.2018 had been passed in that regard, and the earlier G.O.Ms.No.1054 stated supra was considered in the said batch of Writ Petitions by the Division Bench of this Court, and that the petitioner would not be entitled to claim the course as a matter of right stating that he must be provided with a seat in M.S.Orthopaedics.

6. Heard both sides and perused the materials available on record.

7. The Supreme Court in the earlier occasion, as referred to supra, had made it clear that the admission for the academic year 2017-2018 shall not be disturbed and it does not mean that the petitioner, even though has been selected and given an

alternative subject, should be given the subject M.S.Orthopaedics.

8. This Court cannot make any interpretation of the order of the Supreme Court. Firstly, the said order of the Division Bench has become final, and secondly, there is no ambiguity in the order passed by the Apex Court, and the Supreme Court has categorically stated that the admission for the academic year 2017-2018 need not be disturbed. If the petitioner has got a seat in a different subject, but not M.S.Orthopaedics, his candidature would not be disturbed. But giving a different meaning to the order of the Supreme Court and that the admission for the academic year 2017-2018, has not been disturbed, would, according to the petitioner mean that the petitioner must be given M.S. Orthopaedics, that cannot be accepted. As much water has flown in the matter and that the petitioner has already been given an alternative seat in the other subject during the academic year 2017-2018, this Court cannot direct the respondents to permit him to join M.S.Orthopaedics. If the petitioner wants to do M.S.Orthopaedics, he has to once again compete and appear in the competitive examinations for the subsequent year(s) and that thereafter, if he is selected, he would be entitled for admission to M.S.Orthopaedics.

9. With the above observations, the Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

cs

To

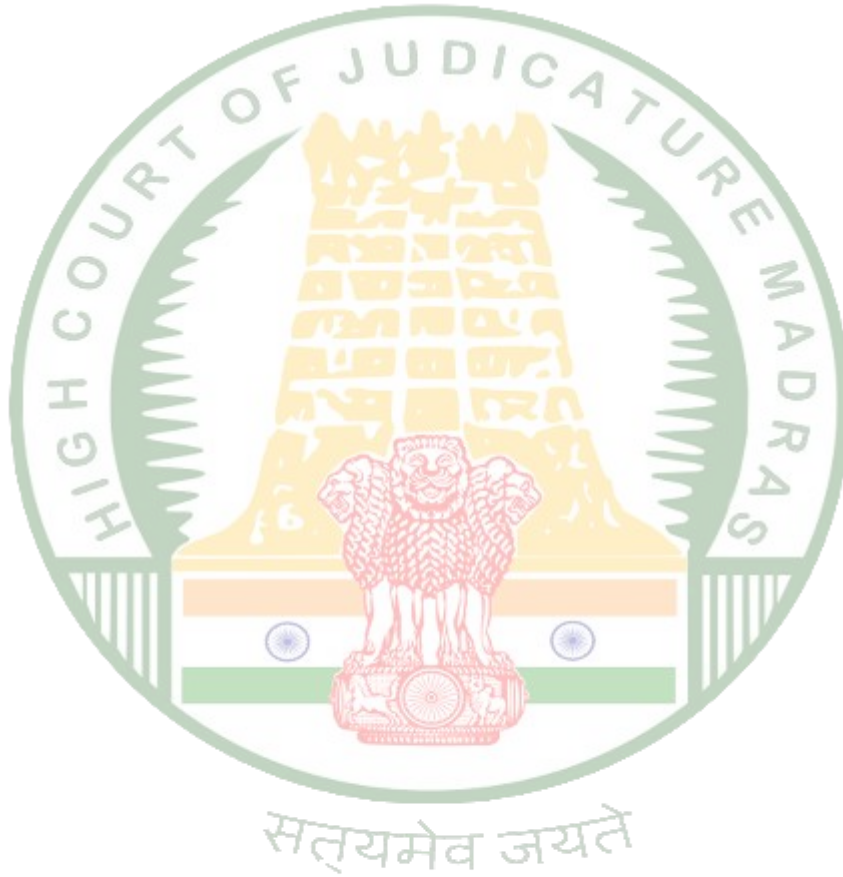
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New Delhi.

+1cc to the Government Pleader, S.R.No. 36782

W.P.No.5277 of 2018

MR(CO)
TR(26/06/2018)



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