

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.05.2018

Coram

**THE HON'BLE MR.JUSTICE V.PARTHIBAN
&
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU**

W.A.No.1153 of 2018
and C.M.P.Nos.9230 & 9231 of 2018

G.Ranganaayaki
D/o.C.Ganessane
No.1, Kamatchi Amman Koil Street
Raj Bahavan, Puducherry - 600 001.

... Appellant/Petitioner/Petitioner

Vs.

1. The Directorate General of Health Services
Ministry of Health and Family Welfare
Government of India,
Pocket - 14, Sector - 8, Dwarka,
New Delhi.
2. The Secretary,
Medical Council of India,
Pocket - 14, Sector - 8, Dwarka,
New Delhi.
3. The Convenor
Centralized Admission Committee (CENTAC)
Pondicherry Engineering College Campus
Puducherry - 605 014.
4. The Indira Gandhi Medical College Research Institute
Kathirgramam, Pondicherry.
5. Sri Manakula Vinayagar Medical Colleges & Hospital,
Madagadipet, Kalitheerthalkuppam,
Puducherry - 605 017.

6. Sri Venkateswara Medical College and Research Centre,
Pondy-Villupuram Main Road,
Ariyur, Puducherry - 605 102.
7. Pondicherry Institute of Medical Sciences & Research,
No.20, Ganapathichettikuppam, Kalapet,
Ariyur, Puducherry - 605 102.

... Respondents/Respondents/Respondents

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order passed by this Court in W.P.M.P.No.14276 of 2018 in W.P.No.12227 of 2018 dated 10.05.2018.

For Appellant : Mr.V.Ayyathurai
Senior Counsel for
Mr.P.Muthukumarasamy

For Respondents : Mr.T.P.Manoharan
Asst. by Mr.J.Kumaran
Additional Government Pleader
For R3 and R4

सत्यमेव जयते
Mr.V.P.Raman
For MCI

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Judgment

(Judgment of the Court was delivered by V.PARTHIBAN,J.,)

This Writ Appeal has been directed against the interim order passed by a learned single Judge of this Court in W.M.P.No.14276 of 2018 in W.P.No.12227 of 2018 dated 10.05.2018.

2. The appellant is the writ petitioner. She moved a Writ Petition on 09.05.2018 before this Court, praying for issuance of a Writ of Declaration to declare that second round of counselling conducted by the third respondent on 2.5.2018 in respect of Postgraduate Medical courses in the Indira Gandhi Medical College & Research Institute as being void in view of the direction in W.P.(C) No.357 of 2018 dated 03.05.2018 passed by the Hon'ble Supreme Court and consequently, direct 3rd respondent to conduct a fresh second round of counselling to the Postgraduate Medical courses in 5th respondent medical college.

3. Along with the Writ Petition, the petitioner also moved a Writ Miscellaneous Petition before this Court in W.P.M.P.No.14276 of 2018, seeking grant of ad interim injunction, to restrain third respondent from proceeding to conduct the Mop-up round of counselling on 14.05.2018 (tentative), without conducting second round of

counselling afresh as directed in W.P.(C) No.357 of 2018 dated 03.05.2018 by the Honourable Supreme Court.

4. According to the appellant/writ petitioner, Mop-up counseling can be resorted to only after completion of second round of counseling.

5. It appears that as regards the same subject matter, there was a Writ Petition in W.P.(C) No.357 of 2018 filed before the Hon'ble Supreme Court, wherein, by order dated 20.04.2018, the Hon'ble Supreme Court, had granted interim stay of reversion of the seats from the All India Quota to the State Quota. However, subsequently, by its order dated 03.05.2018, the Hon'ble Supreme Court has disposed of the Writ Petition and vacated the interim stay which had been earlier granted. The operative portion of the order dated 03.05.2018 passed by the Hon'ble Supreme Court of India, for the purpose of present case, is extracted hereunder:

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"9. In view of the completion of the second round of Counselling of the All India Quota, we see no reason to entertain the Writ Petitions. The order dated 20.04.2018, staying the reversion of seats from the All India Quota to the State Quota is vacated. According to the schedule for online Counselling, the second round of Counselling of the State Quota should

be completed by 26.04.2018. The second round of State Counselling has to be conducted after taking into account the reverted seats on completion of the second round of the All India Quota. We are informed that some States and Deemed/Central Institutions completed the second round of Counselling without waiting for the reversion of the unfilled seats in the second round of Counselling of the All India Quota. As this could not have been done, we direct that such States and Deemed/Central Institutions shall conduct the second round of Counselling again after reversion of the unfilled seats in the second round of Counselling of the All India Quota. As we have vacated the order dated 20.04.2018, the concerned authority will report the unfilled seats in the second round of the All India Counselling to the respective States by 05.05.2018. The second round of Counselling for the State Quota shall be conducted and completed by 10.05.2018. The Mop-Up-Round for the State Quota which is scheduled to be completed by 08.05.2018 is extended to 15.05.2018."

6. According to the Appellant/Writ Petitioner, the fourth respondent ought to have conducted the second round of Counselling once again after the reversion of three posts to the Union Territory of Pondicherry, but such exercise had not been done and therefore, the

petitioner/appellant has approached this Court with the above Writ Petition.

7. When the W.M.P.No.14276 of 2018 was taken up for hearing on 10.05.2018, the learned single Judge of this Court, has passed the following order:

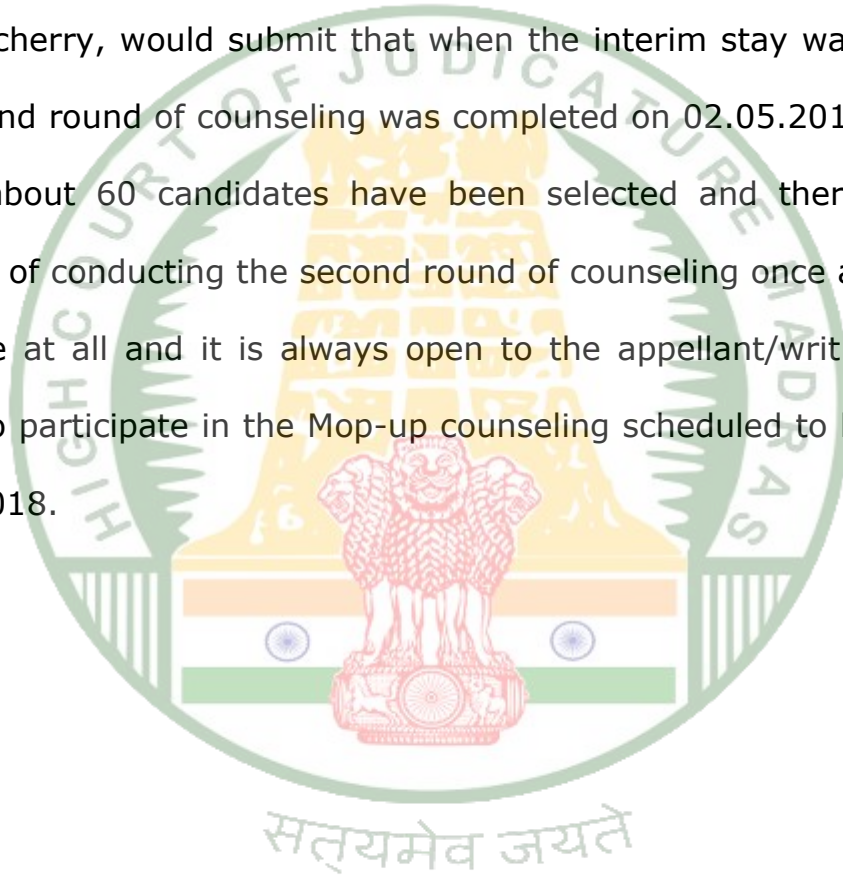
"The learned Senior Counsel appearing on behalf of the respondents 3 and 4 made a submission that the mop-up counselling is already scheduled to be held on 14.05.2018. Thus, it is clear that if the Writ Petitioner is coming within the merit ranking list, then the case of the Writ Petitioner will be considered along with all other candidates who are in the merit ranking list as per the merit seniority."

Rest of the issues raised in this Writ Petition shall be adjudicated during the final hearing of the Writ Petition.

8. The instant Writ Appeal has been preferred by the appellant/writ petitioner against the aforesaid order, contending that the Mop-up counseling should take place only after completion of second round of counseling as per the direction of Hon'ble Supreme Court and that the respondents ought to have conducted the second round of counselling afresh, which they have failed to do. Further, the

Hon'ble Supreme Court has partly extended the deadline fixed for conducting the second round of counseling.

9. The learned Senior Counsel appearing for the Union Territory of Pondicherry, would submit that when the interim stay was in force, the second round of counseling was completed on 02.05.2018 itself, in which, about 60 candidates have been selected and therefore, the question of conducting the second round of counseling once again does not arise at all and it is always open to the appellant/writ petitioner herein to participate in the Mop-up counseling scheduled to be held on 14.05.2018.



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10. After considering the rival submissions, we find that the Hon'ble Supreme Court of India had duly taken note of the fact that in some States, the second round of counselling had already taken place and for that reason, had issued a specific direction to them to conduct the second round of counselling after reversion of the unfilled seats in the second round of counselling of the All India Quota and admittedly, the respondents have not carried out that exercise in the present case. When that is the actual factual position, the submissions made by the learned senior counsel appearing for the Union of Territory of Pondicherry that the second round of counselling had already been over and the same need not be conducted once again, cannot be accepted.

11. In view of the above narrative, this Court deems it fit to direct the 3rd respondent to conduct second counselling in respect of three unfilled reverted seats pursuant to the vacation of interim order passed by the Hon'ble Supreme Court of India vide its order dated 3.5.2018, on or before 14.5.2018.

12. The third respondent shall consider the candidature of the appellant herein along with all other eligible persons by following the procedure for conducting second counselling.

13. It is made clear that only after completion of the second counselling as directed above, in case of any further requirement, the third respondent may proceed for mop-up counselling.

14. The Writ Appeal is disposed of with the above directions. No costs. Consequently, connected CMP is closed.

(V.P.N.J.) (P.D.A.J.)

11.05.2018

raja/msm

Index : yes/no

Internet : yes/no

Speaking Order/Non-Speaking Order

Note: Issue Order copy by 12.05.2018

To

1. The Directorate General of Health Services
Ministry of Health and Family Welfare
Government of India,
Pocket - 14, Sector - 8, Dwarka,
New Delhi.

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