

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Appeal No.1512 of 2018
C.M.P.Nos.12110 and 12111 of 2018

Aparna Rajendra Kumar

..... Appellant/ Petitioner

vs.

The Secretary,
Selection Committee,
Admission to MBBS/BDS Courses 2018-19 Session,
Directorate of Medical Education,
Kilpauk, Chennai 600 010.

..... Respondent

Writ Appeal filed under clause 15 of the Letters, against
the order of the writ court, dated 06.07.2018 made in
W.P.No.16223 of 2018.

WP.16223 of 2018

Writ of Mandamus to Direct the respondent to forthwith
consider the claim of the petitioner for admission to the
MBBS/BDS Course for the 2018-19 Session on the basis of her
nativity certificate of Chennai Tamil Nadu without reference
to the address of communication and to permit her to join
commence and complete her MBBS/BDS Course.

For Appellant : Mrs.Nalini Chidambaram (SC)
for Mrs.C.Uma

For Respondent : Mr.Manishankar
Additional Advocate General
assisted by Mr.T.N.Rajagopalan,
Government Pleader
and Mr.K.Krishnamoorthy,
Government Advocate

JUDGMENT

(Judgment of this Court was made by S.MANIKUMAR, J)

Challenge in this writ appeal is to an order dated 06.07.2018 made in W.P.No.16223 of 2018.

2. It is the case of the appellant that she was born in Chennai and native, Tamil Nadu. Her father was employed as a Scientist in the Institute of Plasma Research, an aided concern of Department of Atomic Energy, Gujarat, wherein she had to undergo her education. Her father is presently working as Scientific Officer (G) in the above Research Institute. She had commenced and completed her schooling in Gujarat, because of the employment of her father. She had secured 531 marks, out of 700 and her overall percentage is 92.97% in the Secondary Education Board, Gujarat. Being native of Tamil Nadu and having taken part in the National Eligibility-cum-Entrance Test (NEET), she had applied for selection to MBBS course, under the Tamil Nadu State Quota.

3. The appellant has further submitted that on the basis of scrutiny and with reference to her claim for admission in Tamil Nadu, her application was verified and she was assigned Registration No.40005816. Since she was residing with her parents, she had mentioned her Gujarat address, sequel to which, Centre was assigned at Gandhi Nagar, Ahmedabad. She took part in NEET eligibility test and secured 500 out of 720. She belongs to Vadugar community, classified as Backward Class.

4. The appellant has further submitted that Clause 3 of the prospectus, describes 'Nativity' and she has satisfied the same, by submitting the following conditions, viz.,

- (i) Candidate should be native of Tamil Nadu
- (ii) Candidate who have applied for NEET UG-2018 as a person from other State cannot claim as a Native of Tamil Nadu.
- (iii) Candidate who are native of Tamil Nadu, but studied from Standard VI to Standard XII outside Tamil Nadu either partly or completely in one or more States should produce the true copies of their parent's certificates such as Birth Certificate/SSLC/10th/12th/Degree/Diploma/Professional course and Ration Card/Passport to substantiate their place of birth in Tamil Nadu, to establish the relationship between the parent and the candidate along with the Nativity Certificate of the candidate. Otherwise, they will be considered under open category.
- (iv) It is made clear that the candidate should have applied for NEET UG-2018 as a candidate of Tamil Nadu.

5. The appellant has further submitted that the respondent published the rank list on 28.06.2018, in which, her name has been omitted, despite having obtained 500 marks and upon enquiry, she came to know that since the address for communication and that of the centre, where she took her examination were at Gujarat, her merit claim seems to have been omitted to be considered, when the fact remains that she had submitted her application as Native of Tamil Nadu and to the said effect, she had fortified her claim by producing her nativity Certificate, as well as that of the parents. Despite production of all the documents, her claim has not been considered at the appropriate place, for assignment of ranking, as per her marks obtained in NEET.

6. According to the appellant, as per the prospectus, as many as 10 documents by the candidate and around 7 to 8 documents by the parents, are to be submitted for the purpose of consideration. A perusal of those requirements would go to show that appellant's claim shall merit consideration, on the following, inter alia,

(i) Nativity Certificate of having born and resided at Door No.2/7, Subramaniya Street, Perambur, Chennai.

(ii) Nativity Certificate to establish that having studied from 6th to 12th standard outside Tamil Nadu, in another State, but the Birth Certificate exhibits that she was born on 10.2.2001 at Chetput, Chennai.

(iii) Community Certificate issued by the Competent Authority of Perambur Taluk, Chennai.

7. The appellant has further submitted that as per the eligibility criteria, prescribed in the prospectus, her claim ought to have been considered, as a candidate of Native of Tamil Nadu, since she is in possession of (a) Birth Certificate from Chennai, (b) Nativity Certificate from Tamil Nadu, (c) Parents Nativity Certificate with other qualification as required, such as, 10th standard, higher secondary, bonafide certificate, transfer certificate, community certificate, old passport, relationship of parent and candidate, apart from NEET Hall ticket and NEET Score Card with further fortification of her claim in the application, which she had made and applied for NEET examination, being that of her claim to be subjected only to Tamil Nadu alone, except for the address for communication at Gujarat, since living with her parents and not with that of her Grandparent at Chennai and hence, non-consideration of her claim under Tamil Nadu quota, with reference to the Nativity, resulting in denial of admission is arbitrary.

8. According to the appellant, admittedly, her application for consideration is for Tamil Nadu State alone and she had not claimed nativity from any other State. Even though, she had her education, in the State other than Tamil Nadu, and therefore claim of the petitioner ought to have been considered, only on the basis of her nativity, Tamilnadu.

9. On the above averments appellant has filed W.P.No.16223 of 2018, for a Mandamus, directing the respondent to forthwith consider her claim, for admission to MBBS/BDS Course, for the year 2018-19 Session, on the basis of her nativity certificate, without reference to the address of communication and to permit her to join, commence and complete her MBBS/BDS Course.

10. Appellant has been granted admission to MBBS Course, and allotted a seat in Stanley Medical College, Chennai, Tamilnadu. After hearing the learned counsel for the parties, Writ Court, vide order, dated 06.07.2018, in W.P.No.16223 of 2018, held as follows:

"2. It is brought to the attention of this Court by the respondent that the petitioner has already applied in Gujarat and there is clear prohibition in the Prospectus of Tamil Nadu to enable the candidate/student/petitioner to appear for the counselling. It is very unfortunate that the petitioner in paragraph 9 has stated as follows:

"9. The petitioner further submits that admittedly her application for consideration is only from the Tamil Nadu State and she had not claimed any nativity from any other State, so to say there had been no claim of dual nativity as because her application itself is and was for Tamil Nadu. At this juncture the petitioner on legal advice asserts and confines that her claim is to be considered only for Chennai, Tamil Nadu based on her nativity and she shall stake no claim of nativity anywhere else or any other State, even though she had her education other than Tamil Nadu, thereby the claim of the petitioner has to be considered only on the basis of her nativity."

3. It is very unfortunate that the petitioner/candidate has come before this Court with false statement as seen from paragraph 9 extracted supra. The petitioner has come before this Court with unclean hands. In this regard, the Supreme Court and this Court held that the petitioner will not be entitled to the relief, if he/she comes to Court with unclean hands, as is evident from the following decisions:

(i) 1993 (1) MLJ 26 = 1992 Writ L.R. 716 (Madras High Court) (Tamil Selvan Vs. The State of Tamil Nadu);

(ii) 1983 (3) SCC 333 = AIR 1983 SC 622 = MANU/SC/0054/1983 (Dr.Vijay Kumar Kathuria and another Vs. State of Haryana and others) and

(iii) 1994 (1) LW 21 (SC) = 1994 (1) SCC 1 (S.P.Chengalvaraya Naidu Vs. Jagannath).

4. Though strictures could be passed against the petitioner for approaching this Court with unclean hands, this Court defers from doing so, taking note of the tender age and that, being a girl child, her future should not be ruined. Hence, the petitioner's candidature at Tamil Nadu need not be considered.

5. If any allotment has been granted to the student, it shall stand automatically cancelled without an order being passed by the respondent. If for any reason, the candidate is allowed to continue the course in this State, then the degree that may be obtained, is not a valid one and the students like the petitioner herein, may, by fraudulently obtain the interim order and complete the course and would try to take advantage and ensure that the Court renders a finding at a later date that since the petitioner has completed the course, the degree obtained need not be disturbed. This gives a wrong signal, more particularly when the Court is taken for a ride and genuine students are deprived of the seat. In this case, under clandestine method, the seat due to any other student, is tried to be grabbed by the petitioner.

6. I find that there is no reason to grant the relief sought for by the petitioner. Accordingly, the Writ Petition is dismissed."

11. Aggrieved by the same, present writ appeal has been filed.

12. Mrs.Nalini Chidambaram, learned Senior counsel for the appellant submitted that Writ Court in dismissing the Writ Petition, without reference to the relevant clauses in the Prospectus issued by the respondent, but merely based on the statement of the learned counsel for the respondent that the appellant/writ petitioner has already applied in Gujarat and that there is a clear prohibition in the prospectus of Tamil Nadu, to enable the candidate/student/petitioner to appear for counselling; that the writ court failed to appreciate the scope of the relevant clauses in the Prospectus. As per clause 3 of the Prospectus dealing with NATIVITY, the appellant is eligible to apply as Native of Tamil Nadu. The appellant did not apply in Gujarat, as native of Gujarat, but only as Domicile of Gujarat.

13. Learned Senior Counsel for the appellant further submitted that the writ court failed to appreciate that the words "DOMICILE and NATIVITY", are different. Domicile/Residence certificate as seen from india.gov.in is generally issued to prove that the person bearing the Certificate is a Domicile/Resident of the State/UT by which a certificate is issued. This certificate is required as proof of residence to avail Domicile/Resident Quotas in the educational institutions and in Government Service, as also, in case of jobs where local residents are preferred. "Nativity Certificate" as published in the digitalindia.gov.in is a document issued by State Governments in India through this service, certifying the Indian origin of an applicant who is or whose relations such as parents/grandparents etc lived in that particular state. Thus the appellant satisfied the criteria for nativity Certificate and obtained nativity certificate from the Zonal Deputy Tahsildar, Perambur, Chennai.

14. Learned Senior Counsel for the appellant further contended that the Writ court failed to appreciate that the appellant did not claim dual nativity and hence satisfied the NATIVITY CRITERIA for Tamil Nadu, as set out, in the prospectus. Had the appellant applied, as native of both Tamil Nadu and Gujarat, she could be stated to have violated clause 3 of the prospectus. Writ court perused all the necessary documents for claiming nativity in Tamil Nadu. Appellant never claimed nativity in Gujarat, as she is not native of Gujarat and also did not make any claim, for admission as native of Gujarat.

15. Admittedly, the appellant did not claim nativity of Gujarat, but applied for admission as native of Tamil Nadu. Since the appellant did not pursue her application for MBBS seat, as Domicile in Gujarat, she did not refer to the said fact in her affidavit on legal advice and not with any intention to suppress any fact, as there was no fact, against her. Having applied in Gujarat as Domicile, she has not claimed Nativity of Gujarat, and having not pursued the application in Gujarat, Domicile and not claimed nativity of States, observations of the Writ Court, in paragraph 9 of the order that the appellant has come to Hon'ble Court with unclean hands, would cause prejudice and hardship to the appellant. Learned senior counsel for the appellant prayed to set aside the order of the writ court.

16. In support of her contentions, learned Senior counsel invited the attention of this Court, to the domicile certificate dated 30.05.2018, issued by the Deputy Commissioner of Police Control Room, Ahmedabad City, and submitted that the said certificate was enclosed, only to clarify that the appellant's place of residence was Gujarat and it is not presented a document to prove Nativity.

17. Inviting the attention of this Court, to the application form submitted to MBBS/BDS Courses for the year 2018-19, Mrs.Nalini Chidambaram, learned Senior Counsel for the appellant had further submitted that as against Column No.7, Nativity, she has specifically stated, Tamil Nadu as Nativity and also encircled No.1.

18. Mrs.Nalini Chidambaram, learned Senior Counsel for the appellant further submitted that the contention of the respondent before the Writ Court, that there was a clear prohibition in the prospectus of Tamil Nadu, that a candidate cannot apply for admission to MBBS course, in other States, is erroneous, and on the contra, it is her submission that candidate can apply for admission, in more than one State.

19. According to the learned Senior counsel, as per Clause 3 (k) of the prospectus for admission to MBBS/BDS course in Tamil Nadu Medical/Dental Colleges and Government Seats in Self Financing Medical / Dental colleges, affiliated to Tamil Nadu Medical University-2018-19, "Even if he/she has got an option to apply in more than one State, and if the candidate apply in Tamil Nadu, as native of Tamil Nadu, he/she cannot apply to any other state showing that state as Native.

20. Learned Senior counsel for the appellant further submitted that when there was no material suppression or false statement, discernible from what was averred in paragraph No.9 of the supporting affidavit to the writ petition, put against, the appellant and when the domicile certificate, only indicated residence and not Nativity, Writ Court, erred in holding that the petitioner had approached this Court with a false statement and with unclean hands and thus not entitled to the relief sought for.

21. Inviting the attention of this Court, the certificate dated 06.10.2017, issued by the Zonal Deputy Tahsildar, Perambur Taluk, Chennai District, learned Senior counsel submitted that the appellant Aparna, is native Tamilnadu.

22. Referring to the Birth Certificate dated 17.08.2017, learned Senior Counsel for the appellant submitted that the appellant was born on 10.02.2001 in Joseph Nursing Home, Chetpet, 10-A DR Gurusamy Salai Chennai, and that the birth was registered on 19th February 2001. The said Birth Certificate would reveal that the appellant was native of Tamil Nadu.

23. In the abovesaid circumstances, learned senior counsel for the appellant submitted that when there was no claim of dual

nativity, respondent has erred in invoking Clause 3(k) of the prospectus, Writ Court ought to have issued a Mandamus as prayed for.

24. Inviting the attention of this Court to Clause 3(k) of the prospectus, Mr.C.Manishankar, learned Additional Advocate General for the respondent submitted that data-sheet furnished by Government of India, revealed that the appellant had applied for admission to medical colleges in Gujarat and simultaneously, applied for admission to the institutions in Tamil Nadu claiming herself to be native of Tamil Nadu. According to him, she cannot apply for admission in more than one State and therefore, her candidature has to be rejected, in terms of Clause 3(k) of the prospectus, which has been done. Clause 3(1) of the prospectus reads thus:-

(1) If it is found that the candidate has applied as a native of any other State other than Tamil Nadu then the admission will be cancelled at any stage."

25. During the course of hearing of the instant appeal, for a specific question posed to the learned Additional Advocate General, as to what were the materials, considered by the Selection Committee, Directorate of Medical Education, Kilpauk, Chennai, learned Additional Advocate General submitted that except the above, there was no other document. Submission of the learned Additional Advocate General is placed on record.

26. From the submission of the learned Additional Advocate General, it could be deduced that the only material document considered by the Selection Committee, to invoke Clauses 3(k) and 3(1) of the prospectus was the data sheet, said to have been received by the Selection Committee, Directorate of Medical Education, Tamilnadu.

27. Rebutting the said submission, Mrs.Nalini Chidambaram, learned senior counsel for the appellant submitted that in the application form submitted to the Selection Committee, Directorate of Medical Education, the candidate has specifically stated that she is a native of Tamil Nadu and according to her, clause 3(k) is not applicable to the case on hand.

28. Heard the learned Senior counsel, appearing for both parties and perused the materials available on record.

29. From the application form submitted to the Selection Committee for Admission to MBBS/BDS course, for the year 2018-19, it could be seen that the appellant Aparna Rajendra Kumar has enclosed the following documents:

"1) Application Form for Government Medical/Dental Colleges and Government seats in self-financing Medical/Dental colleges;

"SELECTION
COMMITTEE
APPLICATION

Application No: 139558

ADMISSION TO MBBS/BDS COURSES 2018-2019 SESSION COMMON
APPLICATION FORM FOR GOVERNMENT MEDICAL/ DENTAL COLLEGES
AND GOVERNMENT SEATS IN SELF-FINANCING MEDICAL/ DENTAL COLLEGES.
SELECTION COMMITTEE, DIRECTORATE OF MEDICAL EDUCATION, KILPAUK,
CHENNAI - 10.

Column No.7: Nativity (Encircle a Code) 1.Tamil Nadu ;
2.Others"

2) CBSE - National Eligibility cum Entrance Test (UG) -
2018 Result

3) Provisional Admit Card for NEET (UG)

4) Grade sheet cum certificate of performance obtained by
the appellant in Secondary School Examination

5) Statement of Marks - Higher Secondary Certificate
Examination

6) School Leaving Certificate of the appellant issued by
the New Tulip International School, is extracted hereunder:-

THE NEW TULIP INTERNATIONAL SCHOOL
Sterling City, Bopal, Ahmedabad - 380058.
Telephone : 02717 329210 Fax: 02717 231959
Email : info@thetulipschool.com Website :
thetulipschool.com

SCHOOL LEAVING CERTIFICATE
SSC index no.51.288 HSC index no.02.216

Sr.No. 790 G.R.No.520

Name of the Pupil KUMAR APARNA RAJENDRA KUMAR

Father's Name RAJENDRAKUMAR Mother's Name

DR.SUBA

Caste & Sub Caste INDIAN OBC Boy/Girl GIRL

Date of Birth (in words) 10.2.2001 (TENTH FEBRUARY

TWO THOUSAND ONE)

Place of Birth CHENNAI

Last School Attended DIVYAPAHT CAMPUS -

MEMNAGAR

Date of Admission 18 MAY 2017 IN GRADE TWELVE

Date of Leaving School MAY 2018

Grade in which Studying Std XII Since JUNE

2017

Progress GOOD Conduct GOOD

Attendance REGULAR

Reason for leaving SENT UP FOR XII BOARD EXAM

MARCH 2018

Remarks SEAT NO B 233781 SID NO.18V-711 296

(Certified that the above information is in
accordance with the School Register. This Certificate

is issued without over writing and eraser).
Date : 10 MAY 2018.

PRINCIPAL / ADMINISTRATIVE HEAD
THE NEW TULIP INTERNATIONAL SCHOOL
STERLING CITY, BOPAL,
AHMEDABAD - 380 058.

7) Community Certificate issued by the Government of Tamil Nadu, is extracted hereunder:

"R.Dis: 1111 / 06-12-2017 District Code : 0-2
Taluk Code : 0-3
Certificate No: AFAB6E686A687D86 Village Code 0-0-8

COMMUNITY CERTIFICATE

This is to certify that R APARNA daughter of RAJENDRAKUMAR residing at Door No 2/7 Subramani Street Perambur, Street, Perambur (Part 3) Village / Town of Perambur Taluk of Chennai District of the State of Tamil Nadu belongs to Vadugar Community, which is recognized as a Backward Class as per Government Order (Ms.) No. 28, Backward Classes and Most Backward Classes Welfare, dated 19th July 1994 vide Serial No.25.

It is certified that Selvi. R APARNA and her family ordinarily reside(s) at Door No.2/7, Subramani Street Perambur Street, Perambur (Part 3) Village / Town of Perambur Taluk of Chennai District of Tamil Nadu.

Digital Signature : 06-12-2017

Name: Ilavarasu M

Designation : Zonal Deputy Tahsildar

Place : Perambur Taluk, Chennai District

Remarks:

- 1.The certificate was printed on 2:53:29 PM at hrs.
- 2.For Further certificate confirmation and details, you may approach the Tahsildar concerned."

8) Nativity Certificate issued by the Government of Tamil Nadu, is extracted hereunder:-

NATIVITY CERTIFICATE

This is to certify that Selvi.R.APARNA, daughter of Thiru RAJENDRAKUMAR, residing at Door No.2/7

Subramani Street, Perambur is a native of Perambur (Part 3) village/Town of Perambur Taluk of Chennai District, Tamil Nadu State.

Digital Signature: 6/10/2017 Time 1:50:12 p.m.

Name: Ilavarasu M
Designation : Zonal Deputy Tahsildar
Place: Perambur Taluk, Chennai District.

Remarks:

1. This certificate was printed on 4:40:44 p.m at hrs.
2. Further certificate confirmation and details, you may approach Tahsildar concerned.

9) Birth Certificate issued by Greater Chennai Corporation, is extracted hereunder:-

GREATER CHENNAI CORPORATION
DEPARTMENT OF PUBLIC HEALTH
FORM-NO.5
See rule 8

BIRTH CERTIFICATE

ISSUED UNDER SECTION 12/17 OF REGISTRATION OF BIRTH AND DEATH ACT 1969

This is to certify that the following information has been taken from the original record of birth of the Greater Chennai Corporation of the State of Tamil Nadu, India.

Zone 05	Division 072
Name	R.APARNA
Sex	Female
Date of Birth	10-FEB-2001
Name of The Mother	C.SUBA
Name of The Father	E.RAJENDRA KUMAR
Address of Parents at the time of Birth of The Child CHENNAI	
Place of Birth	JOSEPH NURSING HOME
CHETPET, 10-A	DR.GURUSAMY SALAI
CHENNAI - 600031	
Permanent Address of the Parents	CHENNAI
Registration Number	COC/2001/05/072/000142/1
Date of Registration	19-FEB-2001
Remarks	
Date of Issue	24-JUN-2018

Dr.N.A.Senthilnathan, M.B.B.S., D.P.H.
City Health Officer (i/c)
Greater Chennai Corporation"

10) Certificate of Birth issued under Section 12/17 of the

Registration of Births and Deaths Act, 1969, is extracted hereunder:-

(See Rule - 9)
FORM No.9

GOVERNMENT OF TAMIL NADU
DEPARTMENT OF LOCAL ADMINISTRATION
DINDIGUL MUNICIPALITY

Certificate of Birth issued under Section 12/17 of the Registration of births and deaths Act 1969.

This is to certify that the following information has been taken from the original record of birth which is in the Register for BIRTH registration division I (Local Area) of Dindigul Municipality of Dindigul District of State Tamil Nadu.

Name	C.Suba
Sex	Female
Date of Birth	18/11/74
Registration No.	1574/74
Date of Registration	13.12.74
Place of Birth	Jeganath Nursing Home
Name of the Father/Mother	Chenniamalai/Lakshmi
Permanent Address of Father/Mother	Narayana Nagar
Nationality	Indian

सत्यमेव जयते
Commissioner
Municipal Office
Dindigul
(Signature of Issuing Authority)

11) Birth certificate of the father of the appellant issued by Corporation of Chennai, is extracted hereunder:-

GREATER CHENNAI CORPORATION
DEPARTMENT OF PUBLIC HEALTH
FORM NO.5

See Rule 8

BIRTH CERTIFICATE

(Issued under Section 12/17 of Registration of Birth and Death Act, 1969)

This is to certify that the following information has been taken from the original record of birth of the Greater Chennai Corporation of the State of Tamil Nadu, India.

ZONE HQ DIVISION 086

Name

Sex Male

Date of Birth 01-JAN-1970

Name of the Mother ANDAL

Name of the Father ELLAPPAN

Address of parents at the time of Birth of the child

Place of Birth Hospital: KG Hospital, Triplicane Madras 600 005.

Permanent Address of the parents 31 Kondithope, Police line, Madras 1

Registration Number COC/1970/HQ/086/000038/0

Date of Registration 12-JAN-1970

Remarks

Date of Issue 17-AUG-2017

Dr.N.A.Senthilnathan, MBBS, DPH
City Health Officer (i/c)
Greater Chennai Corporation

12) Birth certificate of the mother of the appellant issued by Dindigul Municipality, is extracted hereunder:-
(See Rule - 9)

FORM No.9

GOVERNMENT OF TAMIL NADU
DEPARTMENT OF LOCAL ADMINISTRATION
DINDIGUL MUNICIPALITY

Certificate of Birth issued under Section 12/17 of the Registration of births and deaths Act 1969.

This is to certify that the following information has been taken from the original record of birth which is in the Register for BIRTH registration division I (Local Area) of Dindigul Municipality of Dindigul District of State Tamil Nadu.

Name C.Suba

Sex Female

Date of Birth 18/11/74

Registration No. 1574/74

Date of Registration 13.12.74

Place of Birth Jeganath Nursing Home

Name of the Father/Mother Chenniamalai/Lakshmi

Permanent Address of Father/Mother Narayana Nagar

Nationality Indian

Commissioner
Municipal Office
Dindigul

(Signature of Issuing Authority)

13) Appellant's passport copy, is extracted hereunder:-

REPUBLIC OF INDIA

Type: P Country Code: IND Passport

No.L2689899

Surname:

Given Name (s): APARNA RAJENDRA KUMAR

Nationality : INDIAN Sex:F Date of

Birth : 10/02/2001

Place of Birth: CHENNAI, TAMIL NADU

Place of Issue: AHMEDABAD

Date of Issue: 15.07.2013 Date of

expiry: 14.07.2018

P<IND<<APARNA<<RAJENDRA<KUMAR<<<<<<<<

L2689899<0IND0102100F1807147<<<<<<<<<<<8

14) Appellant father's passport copy, is extracted hereunder:-

REPUBLIC OF INDIA

SUBJECT	MARKS	
TAMIL	162	ONE SIX TWO
ENGLISH	155	ONE FIVE FIVE
PHYSICS	160	ONE SIX ZERO
CHEMISTRY	142	ONE FOUR TWO
BIOLOGY	166	ONE SIX SIX
MATHEMATICS	168	ONE SIX EIGHT
TOTAL MARKS	09 53	ZERO NINE FIVE THREE
DATE OF BIRTH	REGISTER NO	TMR CODE NO. & DATE
01.01.1970	761153	G126643 03.06.87
	SCHOOL	
	ST GABRIELS HSS BROADWAY MS108	

MINIMUM FOR A PASS: 70 MARKS OUT OF 200 IN EACH SUBJECT.
THIS INCLUDES PASSING UNDER THE COMPARTMENTAL SYSTEM
ALSO.

Sd/-
Secretary
BOARD OF HIGHER SECONDARY EXAMINATION

Candidate's Signature: sd/-

18) Community certificate of C.Suba, mother of the
appellant, is extracted hereunder:-
COMMUNITY CERTIFICATE

This is to certify that C.Suba, daughter of Thiru.L.Chinnimalai of Thamaraikulam Village/Town Periyakulam Taluk, Madurai District of the State of Tamil Nadu, belongs to HINDU VADUGAR community, which is recognised as a Backward Class, as per G.O.Ms.No.2421 S.W.Department, dated 28/3/1989, Vide Sl.No.30.

2. It is certified that C.Suba and her family ordinarily reside at Lakshmipuram village/town Periyakulam Taluk Madurai District of the State of

Tamil Nadu.

Signature:

Date:

Name in Capital

letters:S.Gopalakrishnan

Designation: Special Deputy

Tahsildar

(Certificate)

Periyakulam

19) Community certificate of father of the appellant is extracted hereunder:-

பழு. இ4.17483/87

புரசைவாக்கம் - பெரம்பூர் வட்டம்,

சென்னை - 11. நாள். 18-6-87

சாதிச் சான்றிதழ்

சென்னை 39 பெரம்பூர் சுப்பிரமணிய நகர் VOC தெருவிலிருக்கும் எண். 7 வீட்டில் வசிக்கும் திரு. எல்லப்பன் அவர்களின் குமாரர் / குமாரத்தி E,ராஜேந்திர குமார் இந்து வடுகன் சாதியை சேர்ந்தவர் என்றும் மேற்படி சாதி தமிழ் நாடு அரசு கல்வி விதிமுறைப்படி அங்கீகரிக்கப்பட்ட தாழ்த்தப்பட்ட வகுப்பினர் / மலைச்சாதி வகுப்பினர் / பிற்பட்ட வகுப்பினர் பட்டியலில் சேர்க்கப்பட்டுள்ளது என்று சான்றளிக்கப்படுகிறது.

வட்டாட்சியர்

புரசைவாக்கம் பெரம்பூர் வட்டம்

சென்னை

20) B.Sc. degree certificate of father of the appellant, is extracted hereunder:-

UNIVERSITY OF MADRAS

FACULTY OF SCINENCE

The Senate of the UNIVERSITY OF MADRAS hereby makes known that RAJENDRA KUMAR E. has been admitted to the Degree of Bachelor of Science, he having been certified by duly appointed examiners to be qualified to receive the same in Physics and was placed in the First Class, at the examination held in March, 1990.

Chepauk
Chennai.

Dated: 31/1/1991

21) M.Sc. degree certificate of father of the appellant, is

extracted hereunder:-

UNIVERSITY OF MADRAS

FACULTY OF SCIENCE

The Senate of the UNIVERSITY OF MADRAS hereby makes known that E.RAJENDRA KUMAR has been admitted to the Degree of Master of Science, he having been certified by duly appointed Examiners to be qualified to receive the same in Physics and was placed in the First class, at the examination held in April 1992.

Chepauk, Chennai.
Dated: 29/12/1992

22) SSLC Mark sheet of Mrs.C.Suba, mother of the appellant, is extracted hereunder:-

Certificate S.No.A4857587

DEPARTMENT OF GOVERNMENT EXAMINATIONS, MADRAS 600 006
SECONDARY SCHOOL LEAVING CERTIFICATE
X STANDARD - NEW PATTERN
ISSUED UNDER THE AUTHORITY OF THE GOVERNMENT OF TAMIL
NADU

Certified that C.SUBA appeared for the APR 1990
SSLC Public Examination and obtained the following
percentage of marks:

SUBJECT	MARKS
TAMIL	78 SEVEN EIGHT
ENGLISH	88 EIGHT EIGHT
MATHEMATICS	98 NINE EIGHT
SCIENCE	90 NINE ZERO
HISTORY & GEOGRAPHY	89 EIGHT NINE
TOTAL	443 FOUR FOUR THREE

DATE OF BIRTH 14.05.1975	REGISTER NO. 075639	TMR CODE No. & DATE A069100 18.06.1990
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SCHOOL
NADAR SARASWATHI G.H.S.S., Theni

A PASS IN THE SSLC (X STD) EXAMINATION REQUIRES A MINIMUM OF THIRTY FIVE PERCENT OF MARKS IN EACH ON EOF THE FIVE SUBJECTS. THIS INCLUDES PASSING UNDER THE COMPARTMENTAL SYSTEM ALSO.

Secretary
BOARD OF SECONDARY EDUCATION
TAMIL NADU

Candidate's Signature:

23) 12th Mark sheet of Mrs.C.Suba, mother of the appellant, is extracted hereunder:-

CERTIFICATE S.NO.A0144792

DEPARTMENT OF GOVERNMENT EXAMINATIONS, MADRAS - 600 006
HIGHER SECONDARY COURSE CERTIFICATE
GENERAL EDUCATION
ISSUED UNDER THE AUTHORITY OF THE GOVERNMENT OF TAMIL NADU

Certified that
C. SUBA appeared for the MAR.1992 Higher Secondary Examination and obtained the following percentage of marks:

SUBJECT	MARKS	
TAMIL	169	ONE SIX NINE
ENGLISH	151	ONE FIVE ONE
PHYSICS	195	ONE NINE FIVE
CHEMISTRY	183	ONE EIGHT THREE
BIOLOGY	191	ONE NINE ONE

SUBJECT	MARKS	
MATHEMATICS	175	ONE SEVEN FIVE
TOTAL MARKS	1064	ONE ZERO SIX FOUR
DATE OF BIRTH	REGISTER NO	TMR CODE NO. & DATE
14/05/75	697185	G037833 20.05.1992
SCHOOL		
NS G HSS THENI		

MINIMUM FOR A PASS: 70 MARKS OUT OF 200 IN EACH SUBJECT. THIS INCLUDES PASSING UNDER THE COMPARTMENTAL SYSTEM ALSO.

Sd/-
Secretary

BOARD OF HIGHER SECONDARY EXAMINATION

Candidate's Signature: sd/-

24) BDS certificate of Mrs.C.Suba, mother of the appellant, is extracted hereunder:-

TAMIL NADU GOVERNMENT DENTAL COLLEGE AND HOSPITAL
CHENNAI 600 003.

GRADUATION CERTIFICATE

This certificate of graduation of
Bachelor of Dental Surgery (BDS)
is given to
Dr.C.Suba
on the occasion of the
Graduation Day Celebrations on 6/1/99.

WEB COPY

Principal
Tamil Nadu Government
Dental College & Hospital
Chennai 600 003.

Dated: 6/1/99.

25) Bonafide certificate issued to the appellant by Prakash

Higher Secondary School, Ahmedabad.

26) Bonafide certificate issued to the appellant by Divyapath Science School, Ahmedabad.

27) Bonafide certificate issued to the appellant by the New Tulip International School.

28) Certificate issued by the New Tulip International School

29) 12th Hall Ticket of the appellant

30) Aadhar Card of the appellant, is extracted hereunder:-

Unique Identification Authority of India

GOVERNMENT OF INDIA

Enrollment No.2141/43464/76531

To

Aparna R.Kumar
403 binori-monela
near sandesh press bodakdev
Ahmedabad city
Bodakdev
Ahmadabad City
Ahmedabad
Gujarat 380 054
9925616410

Your Aadhaar No.
3124 8355 0498

31) Pre-Despatch check list for the use of the appellant

32) Application cover for admission to MBBS/BDS Degree course.

"Regd.Post / Speed Post/Courier Service/By Person

Application No.139558

APPLICATION FORM FOR ADMISSION TO MBBS/BDS DEGREE COURSE IN
GOVERNMENT MEDICAL /DENTAL COLLEGES & GOVERNMENT QUOTA SEATS IN
SELF-FINANCING MEDICAL /DENTAL COLLEGES IN TAMIL NADU FOR 2018-
2019 SESSION

From: (Candidate's Mailing Address)

Aparna Rajendra Kumar,
403, Binori-Moneta,
Bodakdev, Ahmedabad,
E.V.R.High Road,
Gujarat.

To

The Secretary,
Selection Committee,
No.162, Periyar
Kilpauk, Chennai - 600

010.

Pin Code:380 054."

30. At this juncture, we deem it fit to reproduce the documents, enclosed along with the application submitted by the appellant, and considered by the Selection Committee, Medical Education Department, Tamilnadu, to grant admission to the appellant to a seat in Government Medical College, Stanley Medical College, Chennai, treating her as native of Tamilnadu:-

"1) Application Form for Government Medical/Dental Colleges and Government seats in self-financing Medical/Dental colleges.

2) CBSE - National Eligibility cum Entrance Test (UG) - 2018 Result

3) Provisional Admit Card for NEET (UG)

4) Grade sheet cum certificate of performance obtained by the appellant in Secondary School Examination

5) Statement of Marks - Higher Secondary Certificate Examination

6) School Leaving Certificate of the appellant issued by the New Tulip International School.

7) Community Certificate issued by the Government of Tamil Nadu.

8) Nativity Certificate issued by the Government of Tamil Nadu.

9) Birth Certificate issued by Greater Chennai Corporation.

10) Certificate of Birth issued under Section 12/17 of the Registration of Births and Deaths Act, 1969.

11) Birth certificate of the father of the appellant issued by Corporation of Chennai.

12) Birth certificate of the mother of the appellant issued by Dindigul Municipality.

13) Appellant's passport copy.

14) Appellant father's passport copy.

15) Appellant mother's passport copy.

16) SSLC Mark sheet of appellant's father.

17) 12th Mark sheet of appellant's father.

18) Community certificate of C.Suba, mother of the appellant.

19) Community certificate of father of the appellant.

20) B.Sc. degree certificate of father of the appellant.

21) M.Sc. degree certificate of father of the appellant.

22) SSLC Mark sheet of Mrs.C.Suba, mother of the

appellant.

23) 12th Mark sheet of Mrs.C.Suba, mother of the appellant.

24) BDS certificate of Mrs.C.Suba, mother of the appellant.

25) Bonafide certificate issued to the appellant by Prakash Higher Secondary School, Ahmedabad.

26) Bonafide certificate issued to the appellant by Divyapath Science School, Ahmedabad.

27) Bonafide certificate issued to the appellant by the New Tulip International School.

28) Certificate issued by the New Tulip International School

29) 12th Hall Ticket of the appellant.

30) Aadhar Card of the appellant.

31) Pre-Despatch check list for the use of the appellant

32) Application cover for admission to MBBS/BDS Degree course.

31. In the confirmation of on-line application submitted to NEET (UG), 2018, the appellant has stated that she belongs to Tamil Nadu and in the application submitted to the Selection Committee, Directorate of Medical Education, Kilpauk, Chennai - 10, against column No.7 (Nativity) she has stated Tamil Nadu as Native, and accordingly encircled No.1.

32. Perusal of the Registration details, for admission to Gujarat Professional Medical Professional Medical Institutions, as against column No. Gujarat domicile, the appellant has stated "Yes". Certificate of Domicile dated 30.05.2018, issued by the Deputy Commissioner of Police, Control Room, Ahmedabad City, Office of the Commissioner of Police, Ahmedabad, states that the appellant is a resident of State of Gujarat. For brevity the said details are reproduced:-

"OFFICE OF THE COMMISSIONER OF POLICE,
AHMEDABAD

No.1349/2018

Date : 30.05.2018

DOMICILE CERTIFICATE
(Issued by authority of Govt. of Gujarat)
on the basis of evidence mentioned below

This is to certify that Kum.APARNA R Kumar R/o 403, BINORI MONETA, NR. SANDESH PRESS, BODAKDEV, AHMEDABAD, was born in TAMIL NADU State of Union of India on 10th-February-2001 and she is a resident of

the State of Gujarat. This certificate is issued on the basis of the following documents.

1. The answers and proof submitted by the applicant in the questionnaire
2. Date of Birth, Matriculation Pass Certificate, School Leaving Certificate, Birth Certificate
3. Affidavit forfeiting the domicile right of TAMIL NADU State
4. Inquiry Report of - VASTRAPUR - Police Station
Outward Number- 3051/2018 date : 25/05/2018

Place : Ahmedabad

Date : 30.05.2018

(H.R.MULIYANA) IPS
Deputy Commissioner of Police
Control Room, Ahmedabad City"

33. As rightly contended by Mrs.Nalini Chidambaram, learned senior counsel for the appellant that the said certificate relates only to domicile and not nativity. Domicile is different from Nativity.

34. As per Clause 3(k) of the prospectus, even if he/she has got an option to apply in more than one State, and if the candidates applies in Tamil Nadu, as native of Tamil Nadu, he / she cannot apply to any other State showing that State as Native.

35. As per Clause 3(1), of the said prospectus, if it is found that the candidate has applied as a native of any other State other than Tamil Nadu then the admission will be cancelled at any stage.

36. A bare reading of Clause 3(k) of the prospectus makes it clear that the candidate has an option to apply in more than one State, and if the candidates applies in Tamil Nadu, as native of Tamil Nadu, he / she cannot apply to any other State showing that State as Native.

37. In the case on hand, there is absolutely no material to indicate that the appellant has applied in more than one State, claiming herself as native of Tamil Nadu, for the seats in Tamil Nadu and simultaneously applied for admission to MBBS/BDS courses in any other State, showing that State as native State.

38. There are no materials even to form a prima facie opinion that the appellant had applied for a seat in Gujarat, claiming herself to be a native of that State. Had there been any material indicating that the appellant had simultaneously

applied for admission, for MBBS/BDS course, in two different states, claiming nativity, in the respective States, then, certainly Clause 3(k) of the prospectus to MBBS/BDS can be put against the candidate and in such circumstance, by virtue of Clause 3(l), if it is found that the candidate has applied, as native of any other State, other than Tamil Nadu, then, admission can be cancelled at any stage.

39. Except the data sheet, stated to have considered there are no materials, warranting invocation of Clauses 3(k) and 3(l) to cancel the admission granted to the appellant in Government Stanley Medical College, Chennai.

40. On the date when the appellant filed the writ petition, her assumption was that because she had declared her address for communication as Gujarat and that she had taken her examination from said place, she was not considered, as Native of Tamilnadu, but that was not the case of the respondent before the Writ Court.

41. Respondent, before the writ Court has contended that based on the data furnished in the light Clause 3(k) of the prospectus, respondent came to the conclusion that she cannot apply in more than one State.

42. There is no fraud or any attempt to deprive admission to any genuine student. When the appellant has disclosed all the facts to the Court, there should not be any conclusion that, she has approached this Court with unclean hands. On the basis of a solemn affidavit, the appellant has sought for a prayer.

43. Relief can be granted or denied, as the case may be. But true disclosure of facts, cannot be held as false statement to the Court, and consequently, to declare that the appellant has approached this Court, with unclean hands.

44. Observation of the Writ Court is that strictures could be passed against the appellant, but taking note of tender age, it was avoided and that being a girl child, her future should not be spoiled. In our considered opinion that when the appellant has not made any distorted or false statement before this Court, observations of the Writ Court, that strictures could be passed, is again unwarranted. We are not in agreement with the observations and the decision of the Writ Court.

45. Going though the material on record, we are of the view that there is no fraud or false statement, made in the supporting affidavit to the writ petition.

46. In the result, the writ appeal is allowed. Order dated 06.07.2018, made in W.P.No.16223 of 2018, directing automatic cancellation of allotment granted to the petitioner/Aparna Rajendra Kumar D/o Rajendrakumar, to pursue MBBS Course in Government Stanley Medical College, Chennai-1, is set aside.

Writ Appeal is allowed. No Costs. Consequently, connected Civil Miscellaneous Petitions are closed.

47. Petitioner/Aparna Rajendra Kumar D/o Rajendrakumar, be permitted to join MBBS Course in Government Stanley Medical College, Chennai-1 and attend classes, from tomorrow (01.08.2018).

48. Mr.T.N.Rajagopalan, learned Government Pleader and Deputy Director, present in Court, are directed to communicate the orders of this Court to the Secretary, Selection Committee, Admission to MBBS/BDS Courses 2018-19 Session, Directorate of Medical Education, Kilpauk, Chennai-10 and to the Dean, Government Stanley Medical College, Chennai-1, forthwith, for compliance.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ars/dm

To

The Secretary,
Selection Committee,
Admission to MBBS/BDS Courses 2018-19 Session,
Directorate of Medical Education,
Kilpauk, Chennai 600 010.

+1cc to Mr.C.Uma, Advocate, S.R.No.52048

W.A.No.1512 of 2018

C.M.P.Nos.12110 and 12111 of 2018

सत्यमेव जयते

GSP (01/08/2018)

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