

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.A.No.1535 of 2018

and

C.M.P.Nos.12396 and 12397 of 2018

Riddhie Kothari ... Appellant

-vs-

1.The Secretary to Government,
Government of Tamil Nadu,
Health and Family Welfare Department,
Fort St.George, Chennai-600 009.

2.The Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R.High Road,
Kilpauk, Chennai-600 010. ... Respondents

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.16813 of 2018 dated 06.07.2018.

WP.No.16813 of 2018

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus to Direct the respondent to reconsider the petitioner for MBBS (UG) for the academic year 2018 in accordance with the prospectus and in accordance with law

For Appellant :: Mr.J.S.Dolia for
M/s.Aiyar and Dolia

For Respondents :: Mr.Mani Shankar,
Addl.Advocate General
assisted by
Mr.P.S.Sivashanmugasundaram,
Spl.GP for R1

Mr.C.Munusamy, Spl.GP (Edn.)

for R2

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

It is the case of the appellant that she was born on 22.01.2000. She studied III Std. to VIII Std. in Karaikal at the Union Territory of Pondicherry and she studied IX Std. to XII Std. in Kendriya Vidyalaya, Island Grounds, Chennai. Her parents are said to have been living in Thiruvavarur. She obtained 501/720 marks in the NEET (UG) and got All India Ranking of 21256 and 48th rank for Open Category in Tamil Nadu and in the Tamil Nadu Rank List, she was placed in 207th rank. On 02.07.2018, she was called for counselling, but she was not considered, because of her father's nativity. Hence, she filed a writ petition in W.P.No.16813 of 2018 before this Court praying for a direction to the respondents to re-consider her for MBBS (UG) for the academic year 2018, in accordance with the Prospectus and in accordance with law.

2.It was argued on behalf of the appellant before the writ Court that since the appellant being a meritorious student and she having studied in Tamil Nadu, at least she should be considered in the Open Category.

3.Counter was filed on behalf of the respondents before the writ Court in which it has been stated that the appellant belongs to Rajasthan and that she has studied in Karaikal at the Union Territory of Pondicherry from III Std. to VIII Std. and she studied only from IX Std. to XII Std. in Tamil Nadu. The appellant, even though secured more marks, she has not fulfilled any of the conditions prescribed in the Prospectus. It was further submitted that as the appellant is not falling under any of the categories with regard to the nativity and she studied in Pondicherry and thereafter in Tamil Nadu, she would not be entitled to the relief prayed for.

4.After hearing both sides, the learned single Judge dismissed the writ petition by order dated 05.07.2018 on the ground that the appellant cannot be treated as a native of Tamil Nadu, and further she can be treated only as a candidate belonging to other State.

5.Challenging the order passed in the writ petition, the present writ appeal has been filed.

6.The learned counsel for the appellant has submitted that the appellant has fulfilled all the requirements and enclosed all the required documents as prescribed, but she has been denied admission to the MBBS (UG) Course, by the respondents.

7. Per contra, the learned Addl. Advocate General appearing for the first respondent and the learned Special Government Pleader appearing for the second respondent have submitted that as per Clause 3(f) of the Prospectus for admission to MBBS/BDS Course, 'candidates who are native of Tamil Nadu, but studied from 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'. As per Clause 3(g), 'other State candidates who are not native of Tamil Nadu should have studied Standard VI to Standard XII in Tamil Nadu will be treated as Open Category'. As per Clause 3(j), 'if the photocopies of the supporting documents are not produced, then the application form will be summarily rejected'. Referring to the above, the learned Addl. Advocate General has submitted that the appellant has not submitted the true copies of her parent's certificates as stated in the Prospectus and she has produced only the Ration Card. Further, she has not enclosed the Nativity Certificate before the last date of submission of application form, which is mandatory, and secondly, the so-called Nativity Certificate should have been enclosed with the application form on or before the last date, i.e. 15.06.2018. Since the Nativity Certificate is dated 28.06.2018, she could not have enclosed it along with the application form.

8. But, the learned counsel for the appellant has submitted that the date of Nativity Certificate of the appellant is 30.05.2018 and hence it cannot be stated that the said certificate has not been enclosed along with the application form, which is dated 15.06.2018.

9. Heard the learned counsel on either side and perused the materials available on record.

10. It appears that the appellant has not complied with Clause 3(f) of the Prospectus for admission to MBBS/BDS Course, as per which she has to 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. But she has produced only the Ration Card and not the other documents

relating to her father's nativity, as required. Hence, the respondents were unable to consider the case of the appellant. Thus, she was not accommodated under the State Quota.

11. In view of the above stated circumstances, we are not inclined to issue a direction to the respondents to re-consider the case of the appellant, as prayed for in the writ petition. But, this Court will not stand in the way of the appellant securing admission under the Open / General Category.

12. With the above observation, the writ appeal is disposed of. No costs. Consequently the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Secretary to Government,
Government of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George, Chennai-600 009.
2. The Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpauk, Chennai-600 010.

+1cc to Mr. Aiyar & Dolia, Advocate, S.R.No.51779

+1cc to the Government Pleader, S.R.No.52412

W.A.No.1535 of 2018
and

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GSP(07/08/2018)

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