

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.02.2018

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.10995 of 2017

and

W.M.P.No.11963 of 2017

S.Vishnu Bargavi

..Petitioner

vs

1.The Director,

NEET Examination,
Shiksha Kendra - 2,
Community Centre,
Preet Vihar,
Delhi - 110 092.

2.The Registrar,

The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Mount Road, Anna Salai,
Guindy, Chennai - 600 032.

3.The Controller of Examinations,

The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Mount Road, Anna Salai,
Guindy,
Chennai - 600 032.

4.The Dean,

Melmarivathur Adhiparasakthi Institute of Medical
Sciences and Research,
Melmaruvathur - 603 319.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent herein to forthwith issue the revised order copy of the petitioner wherein her category was changed from backward community to other backward class category pursuant to the orders of this Court in W.P.No.31388 of 2016 dated 29.9.2016.

For Petitioner

: Mr.AR.L.Sundareswaran
for M/s.AL.Ganthimathi

For RR1

: M/s.G.Nagarajan

For R2 & R3

: Mr.P.R.Gopinathan

O R D E R

The petitioner has come up with the present writ petition for a Mandamus, directing the 1st respondent herein to forthwith issue the revised order copy, changing her category from backward community to other backward class community, pursuant to the order of this Court dated 29.9.2016 passed in W.P.No.31388 of 2016.

2. According to the petitioner, she belongs to Hindu Kaikolar Community, which falls under the Category of Other Backward Class. However, while applying for NEET Examination, she notified her category as General Category instead of OBC, due to inadvertent mistake. Immediately, she approached the first respondent and requested to change her category, which was refused. Hence, she filed a writ petition in WP.No.31388 of 2016, which, by order dated 29.9.2016, was allowed, by directing the first respondent to treat the petitioner as per her communal status and pass appropriate orders. Pursuant to the same, the first respondent changed the category of the petitioner, due to which, she was admitted in MBBS course at the fourth respondent Institute. Be that as it may, by a letter dated 08.02.2017, the third respondent has requested the fourth respondent to send the revised result of the petitioner as per the communal status issued by the first respondent, so as to enable them to register the petitioner in MBBS course, failing which, the petitioner will be discharged from the course and she will not be registered with the University. Immediately, the petitioner sent a representation to the first respondent on 16.02.2017 to issue a revised order copy of NEET 2016. Since there was no response on the said representation, she made another representation dated 11.04.2017, which was not considered by the first respondent so far. Hence, this writ petition.

3. When the matter was taken up for consideration, the learned counsel for the first respondent filed a counter affidavit, stating that the CBSE Board was the authority only to conduct NEET examination, after receiving the applications from the eligible candidates, public the results, prepare the mark list and ranking list and send the same to the Ministry of Human Resources and Development, Govt. of India as well as the All India Medical Council and hence, they have no further role to play. However, the counter affidavit proceeds to state in further paragraph Nos.8 and 9 that one B.Nesaline Isha filed a WP(MD)No.10623 of 2017 praying for the similar relief, directing the NEET authorities to issue a revised certificate, which was ordered by the Madurai Bench of Madras High Court, against which, WA(MD)No.1203 of 2017 was filed by the first respondent. The said Writ Appeal was disposed of, in the following terms:

"Considering the above, we are of the view that the appeal needs to be disposed of, clarifying that the first respondent/writ petitioner shall be allowed to continue with her studies as one belong to the OBC Category. It is for the reason that once she is entitled to get a seat as a OBC Candidate, she cannot be denied as such. It is not as if she is not otherwise entitled. Her admission has never put under challenge by any other candidate. Now, she is completed the first year. Therefore, this Writ Appeal stands disposed of by treating the studies of the first respondent/writ petitioner as an OBC category and on that basis, she is allowed to continue and complete her studies.

In such view of the matter, no certificate is required for the first respondent. It is also to be noted by her clarification that the respondent has secured more than OBC cut off."

Under these circumstances, as the issue involved in the writ petition is the same as in W.A(MD) No.1203 of 2017, as held by the Division Bench judgment, similar direction may be issued to the concerned authorities and this writ petition may be disposed of accordingly. It is also stated therein that the first respondent has not filed any appeal as against the earlier order dated 29.09.2016 passed in WP.No.31388 of 2016 in favour of the petitioner herein.

4.In the light of the averments made in the counter affidavit filed by the first respondent, the learned Senior Counsel for the petitioner and the learned counsel for the respective respondents, agreed to dispose of this writ petition in line with the judgment dated 08.09.2017 made in WA(MD) No.1203 of 2017.

5.In view of the above, following the Division Bench judgment cited supra, this writ petition stands disposed of, by treating the petitioner as one belongs to the OBC category and by allowing her to continue and complete her studies as such, without insisting any certificate or order from any authority. No costs. Consequently, connected Miscellaneous Petition is closed.

kak/r

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Director,
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No.69, Mount Road, Anna Salai,
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Chennai - 600 032.

+1cc to M/s.AL.Gandhimathi, Advocate Sr.No.15122
+1cc to M/s.G.Nagarajan, Advocate Sr.No.14910
+1cc to Mr.P.R.Gopinathan, Advocate SR.No.15515

KJ(CO)
sm:23.4.2018

W.P.No.10995 of 2017

सत्यमेव जयते
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