

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2018

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Writ Petition No.31056 of 2017

L.Vikram

... Petitioner

...vs...

- 1 The Secretary to Government
Department of Health and Family Welfare
Government of Tamilnadu Fort St. George
Chennai-9
- 2 The Central Board of Secondary Education,
Rep. by its Secretary National
Eligibility cum Entrance Test Unit Siksha
Kendra 2 Community Centre Preet Vihar
New Delhi
- 3 The Secretary
Dental Council of India Aiwan E Galib Marg
Kotla Road Temple Lane New Delhi 110 002
- 4 The Director
Directorate of Medical Education No.162
Poonamallee High Road Kilpauk Chennai 600 010
- 5 The Secretary
Selection Committee Director of Medical
Education Kilpauk Chennai 600 010
- 6 The Registrar
Tamilnadu Dr.M.G.R. Medical University
No.69 Anna Salai Guindy Chennai-20 ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to consider the category of the petitioner in application No.80524856 bearing Roll No.908322082 from unreserved category (UR) to Other Backward Class (OBC) in the NEET Exams 2017 and consequently directing

5th respondent to allot a A.R.No in OBC category to the petitioner so as to enable the petitioner to continue the BDS course.

For Petitioner : Mr. R.Subburaj,
for M/s. Mahadeer Shivaji

For Respondents : Mr. C.Munusamy, Spl.G.P.,
for R-1, R-4 & R-5.
Mrs. Seethalakshmi, for R-3,
Mr. G.Nagarajan, for R-2,
Mrs. D.Rajalakshmi, for R-6.

O R D E R

Seeking a direction against the respondents to consider the category of the petitioner in Application No.80524856 bearing Roll No.908322082 from unreserved category (UR) to Other Backward Class (OBC) in the NEET Exams 2017 and consequently to direct 5th respondent to allot a A.R. number in OBC category to the petitioner so as to enable the petitioner to continue the BDS course, this writ petition came to be filed by the petitioner.

2. The petitioner belongs to OBC Category and he completed his Plus Two examinations in the academic year 2016 and scored 920 out of 1200. He applied for NEET Exam 2017 and secured 122 marks. While applying for NEET Application, in online, he mentioned his category as "UR" instead of OBC, by mistake. The OBC Cutoff is 107-130 and his mark is 122. Thereafter, on another option, he joined BDS Course in Sri Venkateswara Dental College at Thalambur, Chennai, under management quota. At the time of admission, he produced all the certificates and the management also sent a letter to the fifth respondent. But, as on date, the respondents have not allotted AR Number to the petitioner. Hence, he made a representation to the respondents. Since no order has been passed on the said representation, this writ petition is filed before this Court.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader as well as the standing counsel appearing for the respondents.

4. The learned counsel appearing for the petitioner, apart from reiterating the abovesaid facts, submitted that the petitioner belongs to the community, which has been classified as other backward class (OBC); though, the petitioner's certificate would disclose that he belongs to OBC, because of the mistake committed by him inadvertently, he has been treated

under UR (unreserved) category; if, the petitioner is treated under OBC category, he is eligible to get the medical seat; therefore, the petitioner has come before this court, seeking a direction to treat the petitioner as OBC, and not in the category of UR (unreserved) as wrongly mentioned by him.

5. The learned Special Government Pleader as well as the learned Standing Counsel appearing for the respondents submitted that it is the information given by the petitioner that he belongs to unreserved category and based on that only, he was treated under the unreserved category.

6. It is true that the petitioner applied under the unreserved category. The explanation given by the petitioner is that, without properly going through the online application, he wrongly quoted as unreserved. The mistake committed by the petitioner appears to be due to inadvertence. The community certificate issued by the revenue authorities, the transfer certificate issued by the School and OBC certificate issued by the Tahsildar would undoubtedly confirm the contention of the petitioner that he belongs to OBC.

7. To err is human and an inadvertent mistake committed by a student, who just finished Plus Two cannot be employed against his interest, especially when the documents are otherwise.

8. Further, the identical subject matter has been dealt with in detail, by this Court in various decisions and one such case being W.P.No.17400 of 2017 (C.Gayathri v. The CBSC, Rep. by its Secretary, New Delhi and two others) where-under, after discussing in detail the issue involved, this Court has disposed of the said writ petition, by directing the respondents therein to consider the claim of the petitioner and treat the petitioner therein as Backward Class Community, while considering for admission to MBBS Course. Pursuant to the said decision, many writ petitions, on the same subject matter, came to be allowed by this Court.

9. Therefore, this Court has got no hesitation to direct the respondents to treat the petitioner under the OBC category, on submission of relevant original documents before them, especially the 4th respondent, within one week from the date of receipt of a copy of this order. If the fourth respondent is satisfied that the petitioner belongs to OBC Category, the writ petitioner shall be allowed to continue with his studies, as one belonging to the OBC Category, since the writ petitioner has secured more than OBC cut off. Now that the petitioner has completed the first year BDS course. Therefore, the writ petition stands disposed of, by treating the studies of the petitioner under OBC Category and on that basis, he shall be

allowed to continue and complete his studies. The said exercise has to be complied with, at the earliest, more particularly, within a period of four weeks from the date of receipt of a copy of this order.

10. With the above observations, this petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS IX)

//True copy//

Sub Assistant Registrar

srk

To

- 1 The Secretary to Government
Department of Health and Family Welfare
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Chennai-9
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Tamilnadu Dr.M.G.R. Medical University No.
69 Anna Salai Guindy Chennai-20

+1cc to Mr.R.Subburaj, Advocate SR.No.4880
+1cc to Mr.G.Nagarajan, Advocate SR.No.4974
+1cc to Dr.S.Seethalakshmi, Advocate SR.No.5061

W.P.No.31056 of 2017

GN(09/02/2018)