

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2018

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THE HONOURABLE Mr.JUSTICE S.S.SUNDAR

W.P.No.21071 of 2018

and

W.M.P.Nos.24723 & 24724 of 2018

Minor T.N.Deepthi,
Rep.by his next friend,
Natural Guardian and Father
T.K.Naresh,
No.14/48, 3rd Floor,
Diwan Rama Avenue Road,
Purasawalkam,
Chennai - 600 084.

...Petitioner

Versus

- 1.Government of India,
Rep.by the Secretary to Government,
Ministry of Health and Family Welfare,
New Delhi.
- 2.Medical Council of India,
Rep.by its Secretary,
MCI Building, Pocket -14,
Sector - 8, Dwarka Phase -1,
New Delhi - 110 077.
- 3.Central Board of Secondary Education (CBSE),
Rep.its Secretary,
"Shiksha Kendra",
No.2, Community Centre,
Preet Vihar, Delhi - 110 301.
- 4.Government of Tamil Nadu,
Rep.by the Secretary to Government,
Higher Education Department,
Secretariat, Chennai - 600 009.
- 5.Director of Medical Education,
156, Poonamallee High Road,
Kilpauk, Chennai - 600 010.

... Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned

Public Notice dated 23.4.2018 issued by the 2nd respondent insofar as its restriction of exemption from the requirement of NEET with the cut off date 31.5.2018 and quash the same; consequently to extend such exemption of NEET to the petitioner enabling her to get admission in Undergraduate Medical Course at Qingdao University in China within a reasonable time to be fixed by this Court by communicating the same to the authorities concerned.

For Petitioner : Mr.R.Neelakandan

For Respondents : Mr.V.Venkatesan
SCGSC for R1
Mr.K.Karthikeyan for R4 & R5

O R D E R

This writ petition has been filed seeking issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned Public Notice dated 23.4.2018 issued by the second respondent insofar as its restriction of exemption from the requirement of NEET with the cut off date 31.5.2018 and quash the same and consequently, to extend such exemption of NEET to the petitioner enabling her to get admission in Undergraduate Medical Course at Qingdao University in China within a reasonable time to be fixed by this Court by communicating the same to the authorities concerned.

2. The case of the petitioner is that she is an aspirant of Medical Course and that she secured 483 out of 500 marks in S.S.L.C examination and has secured 1025 marks out of 1200 marks in Higher Secondary Examination conducted in March 2018.

3. The Medical Council of India issued a public notice dated 08.3.2018, making the requirement of NEET examination for admission in M.B.B.S Course in Foreign countries. The petitioner, on seeing the public notice, had applied for NEET examination and secured 80 marks out of 720 marks.

4.The Medical Council of India, after issuing notice dated 08.03.2018, issued another public notice on 23.04.2018, granting exemption from appearing NEET examination to the students for the academic year 2017-18, who left the country on or before 31.5.2018.

5. The petitioner states that Qingdao University, China has started its admission proposal only in the month of May 2018 and that the petitioner could made an application only on 23.05.2018. It is the case of petitioner that after confirmation of her admission, she proposed to leave the country for China for admission in Undergraduate Medial Course. The mark sheet for Higher Secondary Course Examination itself was issued

to the petitioner only on 16.7.2018. The petitioner further states that the notification dated 23.4.2018, gives exemption only to those candidates, who had left the Indian Shores on or before 31.05.2018, which is unfair, unjust and unreasonable. The present writ petition has been filed by the petitioner only on the ground of violation of equality.

6. Since the notification dated 08.03.2018 issued by the Medical Council of India reflects the policy decision of the Medical Council of India. The petitioner has no grievance for introducing the requirement of NEET to get admission for M.B.B.S or any equivalent to the Medical Course in the Medical University / College / Institute outside the country on or after May 2018. The further notification dated 23.4.2018 reads as follows:

"The Medical Council of India (MCI) with the prior approval of the Government of India, Ministry of Health & Family Welfare, New Delhi has made Amendments in the "Screening Test Regulations, 2002" and also in "Eligibility Requirement for Taking Admission in an undergraduate medical course in a Foreign Medical Institution Regulation, 2002" vide Notifications dated 1st March, 2018, for the requirement of National Eligibility cum Entrance Test (NEET) in respect of the Indian Citizen / Overseas Citizen of India who are desirous for taking admission in MBBS or its equivalent medical course in a medical University / College / Institute outside the country on or after May, 2018.

In this context, large number of representations/ emails/letters were received from the respective students/parents/associations etc. regarding exempting of all Indian Citizens/Overseas Citizen of India who have taken admission in Philippines/any other foreign country and are currently pursuing BS/Pre-medical course/language course in such foreign countries on or before 31st May, 2018 from the requirement of appearing in NEET 2018.

Accordingly, all the concerned persons are hereby informed that the matter was legally examined and further considered by the Executive Committee of the Council at its meeting held on 12/04/2018 and it has been decided that all Indian Citizens/Overseas Citizen of India who have taken admission in Philippines/any other foreign country and are currently pursuing BS/Pre-medical course/language course in such foreign countries would be exempted from the requirement of NEET 2018. However, such candidates have to apply to the Medical Council of India for eligibility certificate in terms of Section 13(4B) of the IMC Act, 1956 and the concerned

applicants have to furnish certified copy of their admission record in BS or any other pre-medical course/language course in the foreign countries, passport containing the visa and immigration towards exit from India as well as entry in that foreign country with their application for eligibility certificate. Any other document, if required while processing the application, will be sought for by the Council office on case to case basis.

In this regard, it is clarified that this is only a one-time exemption granted keeping in view the peculiar facts and circumstances that have arisen and all those who leave the Indian Shores for pursuing pre-medical/language/medical course on or after 31st May, 2018 shall not be exempted from the requirement of NEET 2018 in terms of the amendment dated 1st March, 2018 to the Screening Test Regulations, 2002 and Eligibility Requirement for Taking Admission in an Undergraduate Medical Course in a Foreign Medical Institution Regulation, 2002.

The decision has the approval of the Hon'ble Supreme Court mandated Oversight Committee."

7. Considering the facts of the case and the terms of the Public notice dated 23.4.2018, this Court is able to see that the exemption granted is only to those students who are pursuing medical course as on 31.05.2018 in a foreign institution.

8. The learned counsel for the petitioner submitted that the impugned public notice is in violation of Article 14 of the constitution of India as the impugned notification has brought in discrimination among equals. The learned counsel further stated that the admission for Undergraduate Medical Course in some of the countries starts only from the month of May 2018 and that therefore, the impugned notification is in nature of compelling the students to leave the country on or before 31.5.2018, which is unjust, unfair and unreasonable. The learned counsel also stated that there is no logic in fixing cut off date as 31.5.2018.

9. The petitioner has not challenged the policy decision of Medical Council of India and it is purely in public interest. The new requirement of pass in NEET examination, is a condition precedent to get clearance for M.C.I to pursue the Medical Course outside India and the cut off date was fixed on 31.5.2018.

10. It is only to save those candidates who have secured admission in a Foreign institution before notification, the cut off date is fixed as 31.5.2018, this cannot be taken as unfair, unjust, discriminatory or unreasonable and this Court find that

there is no merit in this writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Government of India,
Ministry of Health and Family Welfare,
New Delhi.
- 2.The Secretary,
Medical Council of India,
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- 5.The Director of Medical Education,
156, Poonamallee High Road,
Kilpauk, Chennai - 600 010.

+1cc to Mr.R.Neelakandan, advocate sr.no.56338
+1cc to Mr.V.Venkatesan, Advocate sr.no.56370
+1cc to Government Pleader sr.no.57273

W.P.No.21071 of 2018
and
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nr 12/09/2018