

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2018

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Writ Petition Nos.32223 & 32224 of 2017

S.Flavin Kirthana ... Petitioner in WP No.32223/2017
Minor. D.Manasa,
Rep. by her natural guardian and father,
M.Devaraj ... Petitioner in WP No.32224/2017
...vs..

- 1 The Chairman, Central Board of Secondary Education,
Siksha Kendra, No.2, Community Centre Preet Vihar
New Delhi
- 2 The Secretary
Dental Council of India Aiwani E Galib Marg
Kotla Road Temple Lane New Delhi 110 002
- 3 The Secretary
Selection Committee Director of Medical Education
No.165 Periyar EVR High Road, Kilpauk Chennai 600 010
- 4 The Secretary,
Tamilnadu Dr.M.G.R. Medical University
No.914 Poonamallee High Road, Arumbakkam,
Chennai - 600 106
5. The Principal, KSR Institute of Dental Science and
Research, KSR Kalvi Nagar, Kuchipalayam Post,
Tiruchengode,
Namakkal District 637 215 ... Respondents in both W.Ps.

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to consider the petitioners' representations, dated 02.12.2017 for amending Online CBSE NEET (UG) 2017 application submitted by the petitioner, S.Flavin Kirthana, and petitioners' daughter, namely, D.Manasa, respectively, wrongly mentioned category column UR instead of OBC in the respondent's office file.

For Petitioner in both W.Ps. : Mr. S.Sivakumar
For Respondents in both W.Ps. : Mr. Seethalakshmi, for R-2
Mr. G.Nagarajan, for R-1

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O R D E R

Seeking a direction against the respondents to consider the petitioners' representations, dated 02.12.2017 for amending Online CBSE NEET (UG) 2017 application submitted by the petitioner,

S.Flavin Kirthana, and petitioners' daughter, namely, D.Manasa, respectively, in correcting the caste category from UR, instead of OBC, in the respondent's office file, this writ petition came to be filed by the petitioners.

2. The petitioners belong to OBC Category and they completed their Plus Two examinations in the academic year 2017 and scored 1059 and 1057, respectively, out of 1200. They applied for NEET Exam, 2017 and secured 44.31% and 48.67% with All India Rank Nos.606068 and 558886. While applying for NEET Applications, in online, they mentioned their category as "UR" instead of OBC, by mistake. Thereafter, on other option, they joined BDS Course in the fifth respondent College, under management quota. At the time of admission, they produced all the certificates and the management also sent letters to the third respondent. But, as on date, the respondents have not allotted AR Numbers to the petitioners. Hence, they made a representation to the respondents. Since no order has been passed on the said representations, these writ petitions are filed before this Court.

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

4. The learned counsel appearing for the petitioners, apart from reiterating the abovesaid facts, submitted that they belong to the community, which has been classified as other backward class (OBC); though, the petitioners' certificates would disclose that they belong to OBC, because of the mistake committed by them inadvertently, they have been treated under UR (unreserved) category; if, the petitioners are treated under OBC category, they are eligible to get the medical seats; therefore, the petitioners have come before this court, seeking a direction to treat the petitioners as OBC, and not in the category of UR (unreserved) as wrongly mentioned by them.

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 petitioners that they belong to unreserved category and based on that only, they were treated under the unreserved category.

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

7. To err is human and an inadvertent mistake committed by students, who just finished Plus Two cannot be employed against

their 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 petitioners under the OBC category, on submission of relevant original documents before them, especially the third respondent, within one week from the date of receipt of a copy of this order. If the third respondent is satisfied that the petitioners belong to OBC Category, the writ petitioners shall be allowed to continue with their studies, as one belonging to the OBC Category. Now that the petitioners have completed the first year BDS course. Therefore, the writ petitions stand disposed of, by treating the studies of the petitioners under OBC Category and on that basis, they shall be allowed to continue and complete their 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, these petitions are disposed of. No costs.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

srk

To

- 1 The Chairman, Central Board of Secondary Education,
Siksha Kendra, No.2, Community Centre Preet Vihar
New Delhi
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5. The Principal, KSR Institute of Dental Science and
Research, KSR Kalvi Nagar, Kuchipalayam Post,
Tiruchengode,
Namakkal District 637 215

+1 cc to Mr.S.Sivakumar, Advocate SR.NO. 6028

+1 cc to M/s.S.Seethalakshmi, Advocate SR.NO. 5062

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JK 19/02/18



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