

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2018

C O R A M
THE HON'BLE MR.JUSTICE S.S.SUNDAR

W.P.No.21349 of 2018

Minor Shilcy A.S

Rep. by Father & Natural Guardian

Shaji A.J

...Petitioner

Vs

1. State of Tamil Nadu,
Rep. by its Principal Secretary,
Department of Medical Education,
Secretariat, Chennai - 600 009.

2. The Selection Committee,
Directorate of Medical Education
No.162, Periyar E.V.R. High road,
Kilpapuk, Chennai - 600 010,
Rep. by its Secretary.

3. Department of Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpapuk, Chennai - 600 010,
Rep. by its Director.

4. Medical Council of India,
Sector 8, Pocket-14, Phase-I,
Dwaraka, New Delhi- 110 077,
Rep. by its Secretary.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the respondents to permit the petitioner to attend the 3rd/Mop up round and further counseling process under the Government Medical Colleges/ESIC/Government Quota in self-financing colleges for the year 2018-19 and allot one seat in MBBS Degree course for the year 2018-19 in any of the Government colleges/ESIC/Government Quota in Self-financing colleges as per petitioner's eligibility.

For Petitioner

... Ms. Grahalakshmi

For Respondents 1 to 3

... Mrs.V.Annalaskhmi
Government Advocate

For Respondent 4

... No Appearance

O R D E R

This writ petition has been filed directing the respondents to permit the petitioner to attend the 3rd /Mop up round and further counseling process under the Government Medical Colleges/ESIC/Government Quota in self-financing colleges for the year 2018-19 and allot one seat in MBBS Degree course for the year 2018-19 in any of the Government colleges/ESIC/Government Quota in Self-financing colleges as per petitioner's eligibility.

2. The learned counsel for the petitioner states that she had secured A1 grade (479/500 in C.B.S.E. Syllabus) in the 12th standard examination and that she is the School Topper. The learned counsel further states that she had secured State Rank of 1173 and All India Rank of 73700 in the NEET Examination, as per the result declared on 04.06.2018. It is not in dispute that the petitioner belongs to OC category and she was placed at 39692 in the Category Rank in All India Level. It is the case of the petitioner that at the time when the petitioner was called for counseling, as per the call letter she was placed at 1173 in the General Rank of Tamil Nadu State but could not get a seat in any Government Medical Colleges/ESIC/Government Quota in self-financing colleges, in OC category. She secured PSG Medical College Coimbatore in OC category under Government Quota. In the second counseling, the petitioner was entitled to get accommodation in PSG Medical College, Coimbatore under Government Quota. However, it is stated that the petitioner was not given admission on the ground that the petitioner in her requisite application for the MBBS/BDS Courses in the first counseling on 03.07.2018 has opted only for Government Medical Colleges/ESIC and therefore she is not eligible to seek accommodation in another private self-financing college which was not opted by her.

3. It is the case of the petitioner that though PSG Medical College, Coimbatore was listed for OC in the counseling, the petitioner could not opt for PSG Medical College, Coimbatore. It is stated that by the time the petitioner's turn came, PSG Medical College, Coimbatore was not available and admission was exhausted in OC category. However, subsequent to the second counseling PSG Medical College, Coimbatore was listed for OC. Even though the petitioner was placed next in the rank and is eligible for a seat, petitioner was denied admission in PSG Medical College, Coimbatore as per Clause 31(b) of the Prospectus.

4. The learned counsel for the petitioner further states that the petitioner's ambition to get an admission in the best college which suits her merit evaluation is lost because of the terms of the Prospectus.

5. The fact that the PSG Medical College, Coimbatore was not available for the petitioner to exercise an option is not in dispute. Hence, it was contended by the learned counsel for the petitioner that admission cannot be given to any other candidate who has secured only lesser marks. Therefore, it is further submitted by the petitioner that the respondents should be directed to permit the petitioner to attend the 3rd/ Mop up round and further counseling process and should be permitted to seek allotment of a seat in MBBS Degree course for the year 2018-19 in any one of the Government Colleges or Self-Financing Colleges under Government Quota, as per petitioner's eligibility.

6. The learned counsel for the respondent filed a common counter affidavit and an additional counter affidavit. It is the case of the respondents in the counter affidavit that the writ petition is devoid of any merits as per clause 31(d) of Prospectus for MBBS/BDS courses in Tamil Nadu Government Medical/Dental Colleges and Government seats in Self-Financing Medical/ Dental Colleges for 2018-19 session. During first phase of counseling, the petitioner has opted out for Government Dental Colleges and Government Quota in Self-Financing Medical/ Dental Colleges and Rajah Muthiah Medical College for MBBS/BDS Courses. During her turn, even though the seats are available in other Self-Financing Medical Colleges, she cannot claim it during the subsequent phase of counseling. If seats are not available in a particular category at the time of counseling and candidates are willing to be wait listed in the category of seats, they must mark 'WL' in the columns(s) provided in the counseling form. If not marked in the counselling form, they will not be considered as wait listed in that category.

7. It is however stated that the General Rank of the petitioner is 1173 and that the cut off for General category is 1167 for Government Medical/ Dental Colleges and Government seats in Self-Financing Medical/ Dental Colleges for 2018-19. It is further stated that the cut off rank for General category of ESIC, Medical College K.K.Nagar is 1089. Since, the petitioner's rank is 1173, she could not get a seat at ESIC Medical College, K.K.Nagar or in PSG Medical College (cut off rank is 1167). The petitioner was not willing to be wait listed and hence as per clause 31(d) she would not be considered for PSG Medical College, Coimbatore.

8. It is further stated that though there were seats in self-financing medical colleges during the turn of the petitioner, the petitioner has not opted out the institution named by the petitioner. Hence, as per the Prospectus, the petitioner is not eligible to get a seat in the subsequent phase of counseling.

9. The learned counsel for the respondents 1 and 2 further filed an additional counter affidavit has stated the position as follows:

"9. It is submitted with reference to the averment in para 5 of the affidavit that initially, PSG Medical College Coimbatore was listed for open category in the counseling the candidates who were before the petitioner's A.R.No.7086 have been allotted that seats for which the OC seats were exhausted during the petitioner turn on PSG Medical College. The Cut Off of General rank under open category for PSG Medical College is 1167 and petitioner General rank is 1173. So, she could not take the seat at PSG Medical College. Hence, the petitioner during the turn of 237 seats were available under Government Quota in Self-Financing Medical Colleges, she has opted out herself. Though the petitioner has not taken any seats under government quota in self-financing medical colleges. As per the Clause 31(b) of th Prospectus for MBB/BDS Courses in Tamil Nadu Government Medical/Dental colleges and Government seats in self-financing medical/dental colleges for 2018-19 session, it is clearly stated as:

(b) If a candidate opts out of Government Quota in Self-Financing Medical/ Dental College, when seats are available in Self-Financing Medical/ Dental Colleges, he/she cannot claim it during the subsequent phase of counseling."

10. Having regard to the stand taken by the respondent 1 and 2, with reference to clause 31(d) of prospectus, the petitioner is not entitled to seek admission in PSG Medical College, Coimbatore, in the second counseling as she has not opted for the college or preferred to a wait listed candidate. It is stated that the admission process is over and another candidate has been allotted a seat in an Medical Colleges namely under Government quota in the private institution. The petitioner has

not impleaded the candidate, who have been allotted a seat.

11. Having regard to the fact that the process of admission is over, this Court is not inclined to entertain this writ petition. It is to be noted that the petitioner is bound by the Prospectus and the petitioner admittedly has not opted the PSG Medical College Coimbatore or preferred to be a wait listed candidate. It is the admitted fact that the petitioner attended the first counseling and did not opt for PSG Medical College Coimbatore. In the said circumstances, as per the Prospectus, she is not eligible to opt for PSG Medical College Coimbatore under Government Quota in terms of the Prospectus. Considering the fact that the admission is over now and the petitioner has not impleaded candidate who has now been admitted in PSG Medical College Coimbatore. There is no scope for entertaining this writ petition.

12. This Court has no reason to entertain this writ petition in view of Clause-31(b) and 31(d) of the Prospectus as the petitioner is precluded from seeking admission to a college which she has not opted during the first round of the counseling.

13. In the result, this writ petition is dismissed as devoid of merits. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary,
State of Tamil Nadu,
Department of Medical Education,
Secretariat, Chennai - 600 009.
2. The Selection Committee,
Directorate of Medical Examination
No.162, Periyar E.V.R. High road,
Kilpapuk, Chennai - 600 010,
Rep. by its Secretary.
3. The Deaprtment of Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpapuk, Chennai - 600 010,
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4. The Medical Council of India,
Sector 8, Pocket-14, Phase-I,
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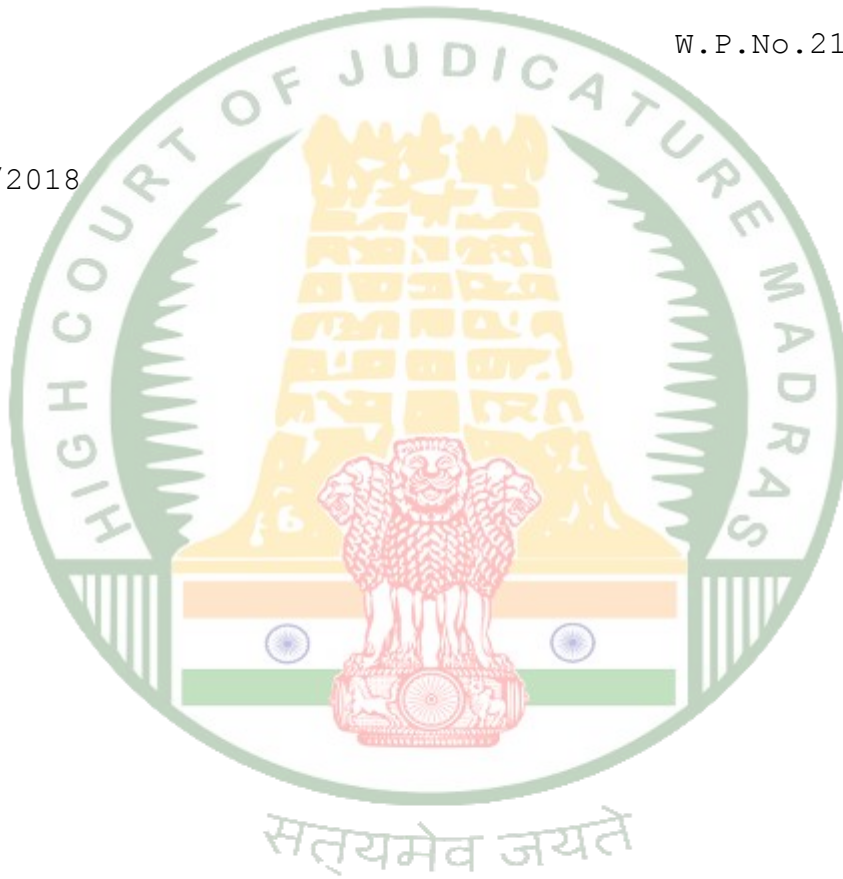
5. The Government Advocate
Madras High Court
Chennai - 600 104.

+1cc to the Government Pleader, S.R.No. 62975

W.P.No.21349 of 2018

SPD(CO)

rrs 28/09/2018



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