

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2018

CORAM  
THE HON'BLE MR.JUSTICE S.S.SUNDAR

W.P.Nos.21164 & 21165 of 2018  
and  
W.M.P.Nos.24842 & 24843 in 2018

K.R.Gowri .. Petitioner in W.P.No.21164 of 2018  
S.Privina .. Petitioner in W.P.No.21165 of 2018

vs

1.The Director,  
Jawaharlal Institute of Post Graduate  
Medical Education and Research, (JIPMER),  
Dhanvantri Nagar,  
Puducherry 605006.

2.The Dean(Academic),  
Jawaharlal Institute of Post Graduate  
Medical Education and Research, (JIPMER),  
Dhanvantri Nagar,  
Puducherry 605006.

.. Respondents in both W.Ps.

Prayer in both W.Ps.: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the 2nd respondent dated 02.08.2018 and quash the same and consequently direct the 2nd respondent to admit the petitioners viz., minors - (1) R.Gowri and (2) S.Privina into first year B.Sc. Nursing Course JIPMER, Puducherry.

For Petitioners  
in both W.Ps. : Mr.M.Gnanasekar

For Respondents  
in both W.Ps. : Mr.M.T.Arunan  
Standing Counsel.

COMMON ORDER

The petitioners in both the Writ Petitions are minors, represented by their father. The petitioners have applied for B.Sc. Nursing Course in the JIPMER institute and they have also participated in the written examination held on 30.06.2018. They were called upon to attend certificate verification on 18.07.2018 and again asked to appear for verification before the Medical Board constituted by the JIPMER.

2. The petitioner in W.P.No. 21164 of 2018 was placed at Roll No. 110265 Category rank No. SC - 58 and she attended the medical examination on 30.07.2018. It is stated that she received a communication dated 18.07.2018 of the second respondent, by which, she was provisionally admitted to first year B.Sc, Nursing Course on 18.07.2018. It is stated that the petitioners paid the fees on the same day and attended medical examination. Whiles, the petitioner received the impugned order dated 02.08.2018 cancelling the petitioner's provisional admission on the ground that petitioner's Roll number and category Rank SC-58 are not found in the seat matrix submitted by counseling Committee. Hence, the provisional Admission given to the petitioners to the first year B.Sc Nursing Course was cancelled.

3. The petitioner in W.P.No.21165 of 2018 participated in the written examination held on 13.06.2018. From the perusal of the affidavit filed in support of the Writ Petition, it is seen that she was called for certificate verification on 18.07.2018. She was placed at Roll No. 111150 Category Rank No. PSC - 26 with Serial No. 55 in the Scheduled Caste category and she was asked to pay the fees of Rs.10,660/- on the same day and she has also paid the said fees on 18.06.2018.

4. The petitioners have attended for the medical examination on 30.07.2018 and they were informed thereafter about the cancellation of their admission and no written order was served on the petitioners. It is under these circumstances, the petitioners have approached Her Excellency Lieutenant Governor, Pondicherry, by way of a representation dated 01.08.2018. It is stated that action was taken by Her Excellency Lieutenant Governor, Pondicherry and that the respondents were advised to admit the petitioners. It is further stated that on the next day ie, on 02.08.2018, the second respondent has sent the impugned communications to the petitioners stating that on verification, it was found that the names of the petitioners were not found in the seat Matrix submitted by the counseling committee and that, the admission of the petitioners are therefore cancelled. Challenging the orders passed by the second respondent dated 02.08.2018, the petitioners have approached this Court by way of filing these Writ Petitions.

5. It is stated by the petitioners that there was no misrepresentation of false representation on behalf of the petitioners. The petitioners have got provisional admission on 18.07.2018. After collecting fees from the petitioners, the provisional admission given to them were cancelled without giving any notice, which is arbitrary and contrary to the principles of natural justice. The petitioners were informed about their admission at the time of certificate verification and that, they have paid the fees on the said date and they were informed about their provisional admission. It was therefore contented by the petitioners that the reason for the

cancellation of provisional admission on the ground that their roll numbers were not found in the matrix, cannot be accepted and they were no way responsible for any mistake.

6. The respondents have filed a detailed counted affidavit and the second respondent is the deponent in the counter affidavit.

7. It is the specific case of the respondents that the total number of seats available in B.Sc Course are 153 and that, the distribution of 153 seats was mentioned in the prospectus, in which the number of seats available in B.Sc Nursing Course is 75 and out of which, 8 seats were reserved for male candidates on horizontal basis and the remaining 66 seats were reserved for female candidates. It is the further case of the respondents that the first counseling for admission of candidates was conducted on 18.07.2018 and the short listed candidates' certificate were reported for certificate verification in the morning and those who were eligible were informed to report on the same day for counselling. It is stated by the respondents that the candidates, who were toppers in each category, alone were allowed to sit in the Auditorium at JIPMER Academic Centre, Puducherry. It is further stated that the remaining candidates were allowed to sit in the Lecture Hall at JIPMER academic Centre, Puducherry with their parents. It is also stated that the seat matrix were made in such a way that the remaining candidates would know the seats filled in each course.

8. According to the respondents, the first counseling was conducted according to the category rank i.e. as per the roaster point allocation and all the 153 seats were filled at the first counseling and the candidates, who have not opted the course as well as the remaining candidates were informed that they will be eligible to attend the 2nd counseling. It is the specific case of the respondents that at the end of counseling, the total number of candidates submitted the certificates and number of candidates paid the fees were tallied with number of seats. The respondents stated that the list of candidates with seat matrix were verified with each course later and that on verification, it was found that the names of the petitioners were not found in the seat matrix as well as in the candidates opting course sheet. It is also pointed out by the respondents that though the two candidates, who opted to study B.Sc(MLT) course had not submitted the original certificates and paid the fees on the same day. Hence, the total number of 153 seats were tallied with the total number of candidates who submitted their certificates and the number of candidates who paid fees. On verification, it was found that the Scheduled Cast ended with SC-48 rank in the first counselling and in between rank No. SC-48 and SC-58, there were four candidates.

9. The petitioner in W.P.No.21165 of 2018 was ranked PSC-26. However in the category of the petitioner, the admission of the course ended with PSC-22 in the first counseling. It is further stated that between PSC 22 to PSC 26 there was one more candidate, whose names was also similar to the petitioner in W.P.No. 21165 of 2018. Because of the similarity of the name of the petitioner, it is stated that the petitioner in W.P.No.21165 of 2018 has managed to pay the fees without even attending the counseling process. It is the specific case of the respondents that the petitioners in both cases were given provisional admission by mistake and that they have paid the fees without any intimation about their admission.

10. The respondents have further stated that the petitioner in W.P.No.21165 of 2018 was never admitted and that by mistake, the fees have been collected by the clerk in the Administrative Office of the respondents. It is further stated that an enquiry has been initiated against the irregularity alleged to have been committed by the above person.

11. This Court is able to see that the respondents have not given proper explanation as to how such an error or mistake could happened while issuing the admission card letter to the candidate.

12. The petitioners have not disputed their rank position as indicated in the counter affidavit filed by the respondents. Perusal of the counter affidavit in W.P.No.21164 of 2018, shows that three more candidates are now ahead of the petitioner and one candidate is ahead of the petitioner in the other petition in W.P.No.21165 of 2018. The petitioners, after the written examination, knew very well that they are not eligible to get admission to B.Sc Nursing Course as per the selection process. When the petitioners are not eligible, by mistake, the admission card was issued to petitioner in W.P.No.21164 of 2018 and fees was collected from the petitioner in W.P.No.21164 of 2018. However, the mistake or error committed by the respondents cannot be taken advantage by the petitioners as the process of admission to any medical education has to be administered in strict adherence to the rules. There cannot be excess admission on any account. The petitioners have not satisfied this Court about their eligibility to get admission. Having regard to the facts, this Court cannot entertain these Writ Petitions challenging the order of the second respondent cancelling the admission given to the petitioners. By sheet mistake or error committed by some clerical staff of the respondents, the petitioners cannot be given any right. The admission process is expected to be completed only as per regulations and in the order of merit. There is no estoppel against the statute and it is lawful to set right the wrong committed due to inadvertence

or by mistake. Therefore, the petitioners are not entitled to challenge the order of the second respondent in view of the position that admissions have been given illegally to the petitioners.

13. In W.P.No.21164 of 2018, it is to be seen that the admission given to the petitioner was on the basis of a communication issued on 18.07.2018. After giving the intimation about the admission, she asked to appear for medical examination. Thereafter, the medical examination was conducted.

14. It is stated that only after the medical examination, the petitioners were informed about the cancellation of their admission. Having regard to the fact that the mistake was only by the second respondent, and that the petitioners have been forced to come before this Court. It is submitted that the petitioners should be suitably compensated.

15. It is true that the petitioners have not committed any fault. The second respondent in the counter affidavit has stated as if the petitioner has fraudulently obtained admission. There is nothing on record to show that the petitioners have committed any irregularity to get the communication regarding their admission. Though the second respondent in the counter affidavit has stated as if the petitioners have fraudulently obtained admission, no materials have been produced before this Court. Similarly, the fact that the petitioners were given admission by mistake is also proved by the respondents. The second respondent has already taken a stand that action has been taken against some clerk in the Administrative Office of the second respondent for the wrong communication by which the petitioners, were made to pay the admission fees. Though this Court is of the view that the petitioner in W.P.No. 21164 of 2018 could be awarded some compensation, considering the reputation of the respondent and the need to preserve its reputation in public interest, no cost or compensation is awarded for the inconvenience caused to the petitioners.

16. In view of the above, the Writ Petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-  
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

bkn/vsg

To

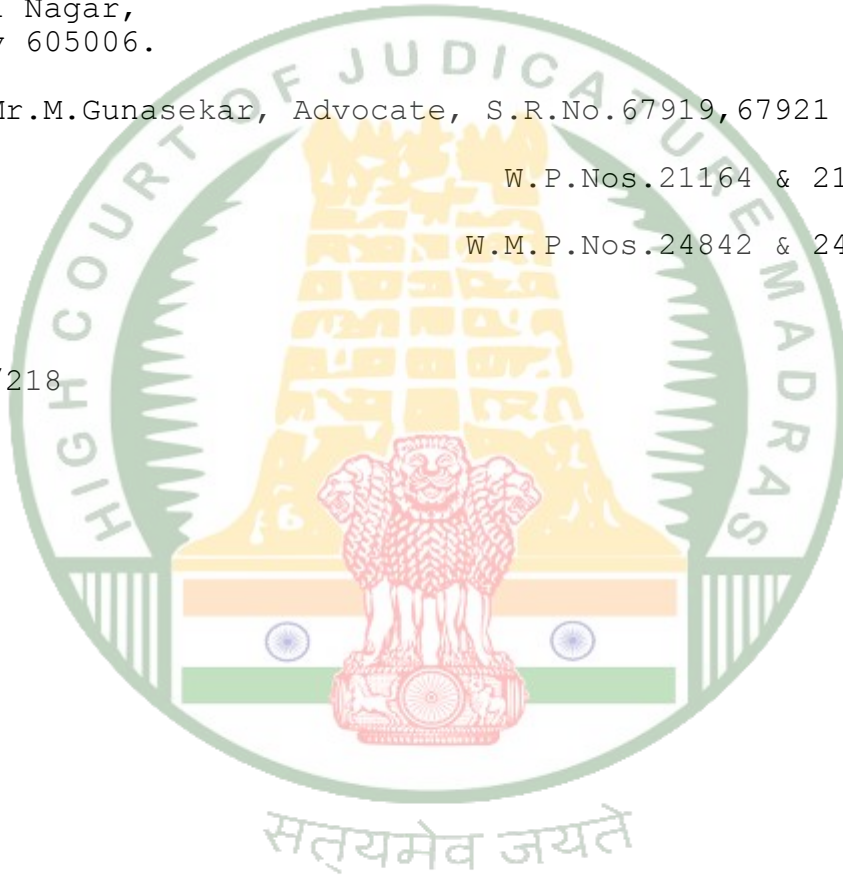
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+2ccs to Mr.M.Gunasekar, Advocate, S.R.No.67919,67921

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