

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2018

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.13907 of 2017

Melissa Sathyan

... Petitioner

vs.

1. Union of India,
Through its Chief Secretary,
Government of Puducherry,
Chief Secretariat,
Puducherry.
2. The Secretary,
Education Department,
Government of Puducherry,
Puducherry.
3. The Convenor,
CENTAC,
Pondicherry Engineering College Complex,
Puducherry.
4. Medical Council of India,
Pocket 4, Sector 8,
Dwaraka Phase I,
New Delhi - 110 077.
5. Union of India,
rep. by its Secretary,
Ministry of Health and Family Welfare,
'C' Wing, Nirman Bhawan,
Maulana Azad Road,
New Delhi - 110 011.
6. The Director General of Health Services,
Directorate General of Health Services,
Ministry of Health and Family Welfare,
Nirman Bhavan, Moulana Azad Road,
New Delhi - 110 108.

... Respondents

(Respondents 5 and 6 impleaded vide order dated 03.07.2017 in W.M.P.No.17567 of 2017 in W.P.No.13907 of 2017)

Writ Petition filed under Article 226 of the Constitution

of India praying for the issuance of a writ of mandamus directing the Respondents to grant admission to the Petitioner to Post Graduate Medical seat either in ENT or Ophthalmology or General Medicine or Paediatrics Branch (in that order of preference) under Government quota in any one of the Medical Colleges in Puducherry for the academic year 2017-2018 and further subsequent academic years.

(Prayer amended as per order dated 28.04.2018 in W.M.P.No.12799 of 2018 in W.P.No.13907 of 2017)

For Petitioner : Mr.Sai Srujan Tayi
for M/s.Giridhar and Sai

For Respondents 1 to 3: Mr.C.T.Ramesh,
Addl. Government Pleader (Pondy)

For 4th Respondent : Mr.V.P.Raman

For Respondents 5 & 6 : Mr.B.Rabu Manohar

O R D E R

The Petitioner has come up with the present Writ Petition seeking a direction to the Respondents to admit her in a Post Graduate Medical seat either in ENT or Ophthalmology or General Medicine or Paediatrics Branch (in that order of preference) under Government quota, in any one of the Medical Colleges in Puducherry for the academic year 2017-2018 and further subsequent academic years.

2. According to the Petitioner, she belongs to Backward Class Community and is a permanent resident of Mahe. It is her case that she successfully pursued M.B.B.S. Degree from Vinayaka Mission Medical College, Karaikal and was awarded M.B.B.S. Degree in July 2016. Subsequently, she enrolled for NEET Examination and a revised rank list was published on 26.05.2017, whereby, the Petitioner was qualified to do her Post-Graduation.

3. It is further stated by the Petitioner that P.G. Medical Seats under Government Quota across various branches available in all the Colleges in Puducherry is 165. After the publication of NEET results, admission to Government Quota was processed through CENTAC and unfilled seats were sought to be filled up through CENTAC.

4. Subsequent to the developments that took place, an announcement was made on the website of CENTAC after 5.00 p.m. On 30.05.2017, that 71 more seats were still available under

Government Quota for P.G. seats. The Petitioner came to know from the news channels on 30.05.2017 that several ineligible candidates ranked much lesser than her, including rank holders of 73,000, have been selected against the Government Quota. Hence, she immediately submitted a representation through the website of CENTAC and also marked a copy of the same to the office of the Lieutenant Governor, stating that it is physically impossible for her to travel all the way from Mahe to Puducherry within half a day, as Mahe is about 625 kms away from Puducherry and can be accessed either by road or by rail. Furthermore, there is only one Government bus between Mahe and Puducherry, which leaves at 4.15 p.m. from Mahe everyday and reaches Puducherry at 8.00 a.m. the following morning. Also, only two trains run in a week between Mahe and Puducherry, on Friday and Sunday, leaving at 7.00 p.m. and reaching Puducherry the following morning at 11.00 a.m.

5. Hence, the Petitioner mailed all the academic records and requisite Demand Draft for admission and sought to reserve one P.G. Medical seat either in ENT or Ophthalmology or General Medicine or Paediatrics Branch, in such order of preference and to grant admission to her in any one of the Colleges in Puducherry. She further represented that she will catch the next available transport either by bus or train to reach Puducherry to appear in person by 01.06.2017.

6. In furtherance to the said representation, the Petitioner also requested her Uncle, Lakshmanan residing at Puducherry and another relative viz. Ajit to carry with them, copies of her educational Certificates and they were present at CENTAC Office at 10.00 a.m. on 31.05.2017. Her Uncle was permitted to meet only the subordinate officials of CENTAC and upon being apprised of the Petitioner's inability to be present in person and the representation being uploaded in the website of CENTAC the previous night, requesting for grant of admission and upon perusal of the educational Certificates of the Petitioner and its verification, CENTAC staff orally directed the Petitioner's Uncle to furnish a Demand Draft for Rs.5.5 lakhs immediately and accordingly, the Petitioner's Uncle proceeded to obtain the same.

7. While so, at 2.30 p.m. on 31.05.2017, the Petitioner's Uncle was orally informed that all seats under the Government Quota have been filled and that the Petitioner has to apply only under the Management Quota. Though the Petitioner immediately made a representation to consider her eligibility and sought admission, the same remained unanswered. Hence, having no other equally efficacious alternative remedy, the Petitioner is before this Court by way of the present Writ Petition.

8. Learned counsel for the Petitioner contended that the Respondents failed to see that the Petitioner has a vested right by virtue of her rank, to get selected for admission to P.G. Medical Seat of her choice and that the Respondents did not communicate to the Petitioner about the date and schedule of counselling well in time to enable her attend the counselling and thus deprived her valuable right to get admission.

9. It is the further contention of the learned counsel for the Petitioner that the Respondents failed to see that the Petitioner had duly uploaded copies of her Mark Sheets on the morning of 31.05.2017 in the website of CENTAC with a copy marked to the office of the Lieutenant General along with a representation explaining her circumstances and inability to be present physically for the counselling on 31.05.2017 with due request for reserving a seat for admission. It is also his contention that the Respondents failed to see that sufficient seats were available under Government Quota in the branches of ENT or Ophthalmology or General Medicine or Paediatrics and that the Petitioner is eligible to obtain a P.G. seat in any one of these branches.

10. In reply, learned Additional Government Pleader (Pondy) submitted that the Petitioner is a meritorious candidate and she has successfully passed NEET Examination and pursuant to the interim order of this Court, one seat has been reserved and that she has paid a sum of Rs.6,78,000/- towards fees meant for the seat under Government Quota. He added that classes for the present academic year commenced on 04.06.2018 and went on to state that seats under Government Quota have not been filled up and that the Respondents are willing to abide by any directions of this Court.

11. Heard the learned counsel on either side. The Petitioner had initially come up with the prayer seeking for a direction to the Respondents to grant admission to her to Post Graduate Medical seat either in ENT or Ophthalmology or General Medicine or Paediatrics Branch (in that order of preference) under Government quota in any one of the Medical Colleges in Puducherry for the academic year 2017-2018.

12. On 06.06.2017, this Court granted an interim order directing the Respondents to reserve one seat for the Petitioner for the academic year 2017-2018. As admissions for the said academic year was over by then, the Petitioner filed a Petition in W.M.P.No.12799 of 2018 seeking to amend the prayer in the Writ Petition as "directing the Respondents to grant admission to the Petitioner to Post- Graduate Medical seat either in ENT or Ophthalmology or General Medicine or Paediatrics Branch (in that order of preference) under Government quota in any one of

the Medical Colleges in Puducherry for the academic year 2017-2018 and further subsequent academic years". The amendment Petition was ordered on 28.04.2018.

13. The Petitioner is a resident of Mahe and the announcement that 71 more seats for Post-Graduate Courses were still available under Government Quota was made on the website of CENTAC on 30.05.2017 only after 5.00 p.m. As the Petitioner did not have any immediate mode of transport at Mahe to attend the counselling on 31.05.2017 at Puducherry, she uploaded copies of her Mark Sheets in the morning of 31.05.2017 in the website of CENTAC with a copy marked to the office of the Lieutenant General along with a representation, explaining her circumstances and inability to be present physically for the counselling on 31.05.2017. Moreover, to represent her, the Petitioner had sent her Uncle to be present at the place of Counselling with copies of her Educational Certificates.

14. In view of the above, when there is no fault on the part of the Petitioner to attend the counselling on 31.05.2017 and also taking note of the fact that the Petitioner is a meritorious student and that she had already lost one academic year, this Court is of the view that there is no justification on the part of the Respondents to deprive the Petitioner a P.G. seat for the present academic year, more particularly, when a seat has been reserved by means of an interim order.

15. Hence, this Court directs the Respondents herein to accommodate the Petitioner in a Post-Graduate Medical seat in General Medicine in Sri Venkateshwara Medical College Hospital and Research Centre, Pondicherry under Government Quota for the present academic year.

16. The Writ Petition is allowed with the above direction. No costs. Consequently, connected W.M.P.No.15092 and 15093 of 2017 and W.M.P.Nos.12800 and 12801 of 2018 are closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

(aeb)

To:

1. Union of India,
Through its Chief Secretary,
Government of Puducherry,
Chief Secretariat,
Puducherry.
2. The Secretary,
Education Department,
Government of Puducherry,
Puducherry.
3. The Convenor,
CENTAC,
Pondicherry Engineering College Complex,
Puducherry.
4. Medical Council of India,
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Directorate General of Health Services,
Ministry of Health and Family Welfare,
Nirman Bhavan, Moulana Azad Road,
New Delhi - 110 108.
7. Sri Venkateshwara Medical College
Hospital and Research Centre,
Puducherry.

+1cc to Mr.Gridhar & Sai, Advocate SR.No.35504
+1cc to Mr.V.P.Raman, Advocate SR.No.35307
+1cc to Government Pleader (Puducherry) SR.No.35497

W.P.No.13907 of 2017

PPA (CO)
GN(11/06/2018)