

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10-05-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.12048 to 12053 ,12112, 12113, 12114, 12167, 12223,
12226, 12233 to 12235, 12260 of 2018, 12286 of 2018 and
WPMP.Nos. 14061 to 14066, 14123 to 14125, 14126 to 14128 , 14129
to 14131, 14193, 14270 to 14272 , 14273 to 14275, 14281 to
14286, 14318 to 14320, 14400 to 14402 of 2018

Dr.J.Yogesh .. Petitioner in WP.No.12048/2018
Dr.T.G.Subash Kaushik .. Petitioner in WP.No.12049/2018
Dr.Sukantth R.J .. Petitioner in WP.No.12050/2018
Dr. K.Sarath Kumar .. Petitioner in WP.No.12051/2018
Dr.Prashanth.N .. Petitioner in WP.No.12052/2018
Dr.Priyanka N .. Petitioner in WP.No.12053/2018

1 Dr.Jannathul Basheera
2 Dr.Sukanya
3 Dr.Anita Jude
4 Dr.Jerub Alex Silas
5 Dr.Sai Priya
6 Dr.Aiswarya
7 Dr.Sasikala .. Petitioner in WP.No.12112/2018

1 Dr.Anitha Selvam
2 Dr.Yaeshwanth Jain
3 Dr.Cyril Prabha
4 Dr.Ragavi
5 Dr.Swathy .. Petitioner in WP.No.12113/2018

1 Dr.Vidya Sakuntala
2 Dr.Aiysathul Safa
3 Dr.Usha Rani
4 Dr.Kashi Vishwanathan
5 Dr.P.Lakshmi Priya
6 Dr.Ilakkiya
7 Dr.Samnelson .. Petitioner in WP.No.12114/2018

Dr.Kavitha V .. Petitioner in WP.No.12167/2018

1 Dr.L.Gomathy
2 Dr.C.Shyamala
3 Dr.A.Suganya
4 Dr.J.Jayagayathri
5 Dr.S.Harini
6 Dr.Monica Karthikeyan
7 Dr.Sweetine.C
8 Dr.G.Asmath Ragavendar
9 Dr.S.Kiranpradeep
10 Dr.R.M. Senthil
11 Dr.V.Anantha Raman .. Petitioner in WP.No.12223/2018

1 Dr.R.Madhavamanoj
2 Dr.M.Naveena
3 Dr.K.Chandripriya
4 Dr.R.Vidhya
5 Dr.S.Mathivadhani
6 Dr.S.Gayathri
7 Dr.E.Nivetha ...Petitioners in WP.No.12226/2018

Dr.T.A.Senthamizh ...Petitioners in WP.No.12233/2018
Dr.Priyadharsini ...Petitioners in WP.No.12234/2018
Dr.T.Santhini ...Petitioners in WP.No.12235/2018
Dr.K.Karthikadevi ...Petitioners in WP.No.12260/2018
1 Dr.S. Srimaan
2 Dr. I.A. Sugany Shree ...Petitioners in WP.No.12286/2018

Vs

- 1.The Secretary
Selection of Committee (PG Courses),
Director of Medical Education,
Kilpauk, Chennai - 10.
2. The Medical Council Committee of
Medical Council of India,
MCI Building, Pocket 14, Sector 8,
Dwaraka Phase I,
New Delhi - 110 077
3. The Director General of Health Services,
MCI Building, Pocket 14 Sector 8,
Dwaraka Phase - I,
New Delhi - 110 077 ... Respondents in WP.Nos.12048 to
12053/2018

1 The Secretary
Medical Council of India Pocket-14 Sector-8
Dwarka Phase-I New Delhi-110 077

2 The Secretary
Medical Counseling Committee Pocket-14
Sector-8 Dwarka Phase-I New Delhi-110 077

3 The Secretary
Tamil Nadu Health and Family Welfare Dept.
Fort St. George Chennai-9

4 The Director of Medical
Examination Directorate of Medical Education
No.162 Periyar EVR Salai Kilpauk
Chennai-10

5 The Secretary/ Addl.
Director of Medical Education Selection
Committee No.162 Periyar EVR Salai
Kilpauk Chennai-10

...Respondents in WP.No.12112/2018,
12113/2018,12114/2018,12223/2018,
12226/2018,12233 to 12235/2018,
12286/2018

1 The Secretary
Medical Council of India Pocket-14 Sector-8
Dwarka Phase-1 New Delhi-110 077

2 The Secretary
Medical Counseling Committee Directorate
General of Health Services Nirman Bhawan
Maulana Azad Rd New Delhi-110 011

3 The Secretary
Tamil Nadu Health and Family welfare
Department Fort St. George Chennai-9

4 The Director of Medical
Examination Directorate of Medical Education
No.162 Periyar EVR Salai Kilpauk Chennai-
10

5 The Secretary/ Addl.
Director of Medical Education Selection
Committee No.162 Periyar EVR Salai Kilpauk
Chennai-10Respondents in WP.No.12260/2018

- 1 The Secretary Medical Council
of India Dwaraka New Delhi
- 2 The Director General of Human
Services Nirman Bhavan Moulana Azad Road
New Delhi 110 011
- 3 The Secretary Selection
Committee Directorate of Medical Education
No. 162 Periyar E.V.R. High Road Kilpauk
Chennai 10
- 4 The Secretary
Health & Family Welfare Dept. Government of
Tamil Nadu Fort St. George Chennai 9
- 5 The Director of Medical
Education Government of Tamil Nadu No. 162
Periyar E.V.R. High Road Kilpauk Chennai
10
- 6 The Registrar
The Tamil Nadu Dr. M.G.R. Medical University
Chennai 32Respondents in WP.No.12167/2018

PRAYER in WP.Nos.12048 to 12053/2018: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 1st and 2nd respondents to include the petitioner's name for the selection list for counseling for the PG Courses to be conducted by them to fill up the seats for Tamil Nadu State Quota for the academic year 2018-2019.

Prayer in WP.Nos.12112/2018,12113/2018, 12114/2018,12223, 12226/2018, 12233 to 12235/2018,12286/2018:
Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of declaration, declaring bulletin No.4 in the notice dated 09.04.2018 exhibited in the website of the 2nd respondent under the caption of salient points of revised FAQs as null and void without any authority illegal and consequently permit the petitioners to participate in the Tamilnadu State counselling to be held in future for the academic year 2018-2019.

Prayer in WP.No.12167/2018: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents No. 1 to 5 to permit the petitioner to participate in the State Counselling for admission to Post Graduate Medical Courses for the academic year 2018-2019

under 50% state Quota to permit to select a course of the petitioners choice as per State Reservation Quota.

Prayer in WP.No.12260/2018:Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of declaration, declaring bulletin No.4 in the notice dated 09.04.2018 exhibited in the website of the 2nd respondent under the caption of salient points of revise FAQs as null and void without any authority illegal and consequently permit the petitioner to participate in the Tamilnadu State counselling for state quota for PG Medical courses to be held in future for the academic year 2018- 2019.

WP No.12048 to 12053 of 2018

For Petitioner : Mr.S.Vennimalai

For Respondents : Mr.V.P.Raman for R2
Mr.K.Karthikeyan, GA for R1

WP.No. 12112 of 2018

For Petitioner : Mr.T.Arockiadoss for
M/s.Dass & Viswa Association

For Respondents : Mr.V.P.Raman for R1
Mr.K.Karthikeyan, GA for R3 to R5

WP.No. 12113 of 2018

For Petitioner : Mr.V.Subramanian

For Respondents : Mr.V.P.Raman for R1
Mr.K.Karthikeyan, GA for R3 to R5

WP.No. 12114 of 2018

For Petitioner : Mr.T.Arockiadoss

For Respondents : Mr.V.P.Raman for R1
Mr.K.Karthikeyan, GA for R3 to R5

WP.No. 12167 of 2018

For Petitioner : Mr.K.S.Karthik Raja

For Respondents : Mr.V.P.Raman for R1
Mr.K.Karthikeyan, GA for R3 to R5
Ms.P.Rajalakshmi for R6

WP.No. 12223 of 2018

For Petitioner : Mr.P.Suresh Babu

For Respondents : Mr.V.P.Raman for R1
Mr.K.Karthikeyan, GA for R3 to R5

WP.No. 12226 of 2018

For Petitioner : Mr.T.Arockiadoss for
M/s.Dass & Viswa Association

For Respondents : Mr.V.P.Raman for R1
Mr.K.Karthikeyan, GA for R3 to R5

WP.No. 12233 to 12235 of 2018

For Petitioner : Mr.R.Selvakumar

For Respondents : Mr.V.P.Raman for R1
Mr.K.Karthikeyan, GA for R3 to R5

WP.No. 12260 of 2018

For Petitioner : Mr.R.Bharath Kumar

For Respondents : Mr.V.P.Raman for R1
Mr.K.Karthikeyan, GA for R3 to R5

WP.No. 12286 of 2018

For Petitioner : Mr.P.Suresh Babu

For Respondents : Mr.V.P.Raman for R1
Mr.K.Karthikeyan, GA for R3 to R5

COMMON ORDER

These batch of writ petitions were filed for securing admission to Post Graduate medical courses under the scheme of admission. The relief sought for in all these writ petitions are common on the ground that the writ petitioners have not been given an opportunity to avail the State quota as per the scheme of admission provided for post graduate degree courses and now they are prevented without any valid reason.

2. The respective learned counsel appearing on behalf of the writ petitioners mainly contended that all the writ petitioners are the successful candidates in the NEET

examination and secured higher marks. The names of all the petitioners were included in the All India level rank list and admissions were allotted to them. However, it is pleaded that their names ought to have been incorporated in the State rank list also and in the event of such incorporation, they will be getting a choice of their branch and choice of their College. Ultimately, the grievances of the petitioners are that they must be provided with an opportunity to avail the courses of their choice and the College, since they have secured higher mark in the NEET examination. By curtailing their opportunity in respect of the State level counselling, they are deprived of their right of availing various branch of P.G. Medical Courses, in the State Institutions. Thus, these writ petitioners are constrained to move the present writ petitions.

3. Though various issues are raised in respect of choice of the students and the rights involved, this Court at the first instance raised a question under which provisions of law, these petitioners acquire legal rights to have such a choice of availing a branch or College at their choice. Though there is no direct answer from the respective counsel appearing on behalf of the writ petitioners, this Court has curiously looked into the provisions of the Indian Medical Council Act, 1956 (102 of 1956) and the Post Graduate Medical Education Regulation 2000. The Post Graduate Medical Education Regulation 2000 was issued in exercise of power conferred by Section 33 read with section 20 of the Indian Medical Council Act, 1956 (102 of 1956),

4. Section 2 deals with general condition observed by Post Graduate teaching Institutions.

5. Section 2(ii) states that post graduate curriculum shall be competency based. Thus, the merit is the criteria provided under the regulation.

6. Now, let us look into the Regulation 9 which speaks about the procedure for selection of candidate for the post graduate courses and the procedure reads as follows:

''9. Procedure for selection of candidate for Postgraduate courses shall be as follows:

I. There shall be a single eligibility cum entrance examination namely 'National Eligibility-cum-Entrance Test for admission to Postgraduate Medical Courses' in each academic year. The overall superintendence, direction and control of National Eligibility-cum-Entrance Test shall vest with Medical Council of India. However, Medical Council of India with the previous approval of the Central Government shall select

organization/s to conduct 'National Eligibility-cum-Entrance Test for admission to Postgraduate courses'.

IV. The reservation of seats in medical colleges/institutions for respective categories shall be as per applicable laws prevailing in States/ Union Territories. An all India merit list as well as State-wise merit list of the eligible candidates shall be prepared on the basis of the marks obtained in National Eligibility-cum-Entrance Test and candidates shall be admitted to Post Graduate courses from the said merit lists only.'

Clause 9 (A) denotes Common Counseling and the same is extracted hereunder:

9A. Common Counseling:

(1) There shall be a common counseling for admission to all Postgraduate Courses (Diploma/ MD/ MS/ DM/ M.Ch.) in all Medical Educational Institutions on the basis of merit list of the National Eligibility-cum-Entrance Test.

(2) The designated authority for counselling for the 50% All India Quota seats of the contributing States shall be conducted by the Directorate General of Health Services. Such counselling as per the existing scheme shall be only for Diploma and MD/MS courses.

(3) The counseling for all Postgraduate Courses (Diploma/ MD/ MS/DM/ M.Ch.) in all Medical Educational Institutions in a State/Union Territory, including Medical Educational Institutions established by the Central Government, State Government University, Deemed University, Trust, Society or a Company/ Minority Institutions/ Corporations shall be conducted by the State Government. Such common counselling shall be under the over-all superintendence, direction and control of the State Government.

7. Accordingly, the common counseling shall be conducted for the purpose of grant of admission to post graduate medical courses. The Hon'ble Supreme Court of India in I.A.No.7 and 8 and W.P(Civil) No.76 of 2015 with WP.Nos.314 and 328 of 2015 passed a detailed order on 18.01.2016. In the said order guidelines were issued for the purpose of granting admission to the post graduate medical courses. Based on the regulations, the Supreme Court has dealt with the procedures to be adopted and to be followed for admitting the students in post graduate medical courses. The relevant paragraph is extracted hereunder:

'3. In the appendix in 'Postgraduate Medical Education Regulations, 2000' included vide amendment notification dated 23rd March, 2006, the time schedule for completion of admission

process for postgraduate courses stands substituted by the following schedules:-

Time schedule for completion of admission process for PG (Broad Speciality) Medical Courses for All India Quota and State Quota

s.n o	Schedule for admission	Broad Speciality All India State Quota	Quota
1	Conduct of Entrance Examination	Month of December of January	Month
2	Declaration of result of the qualifying exam/entrance exam	By 15 th of January February	By 15 th of
3	1 st round of counselling/admission	Between 12 th March to 4 th April to 24 th 15 th April	Between march
4	Last date for joining/reporting the allotted college and the course.	By 3 rd By 22 nd April	April
5	2 nd round of counselling/admission for vacancies	Between 23 rd Between 11 th May to 30 th to 20 th May	April April
6	Last date of joining for the 2 nd round of counselling/admission	By 10 th By 27 th May	May
7	Commencement of the academic session/term	1 st 1 st May	may
8	Last date up to which students can be admitted/joined against vacancies arising due to any reason	- By 31 st May	

Note:

1. All India Quota Seats remaining vacant after last date for joining i.e. 10th May will be deemed to be converted into state quota.

2. Institute/College/courses permitted after 28th February will not be considered for admission/allotment of seats for current academic year.

3. In any circumstances, last date for admission/joining will not be extended after 31st May''.

8. It is categorically enumerated that there must be first round of counselling and thereafter the second round of counselling to be conducted. The dates for the counsellings were also prescribed. Subsequently the Hon'ble Apex Court in W.P.(C). No.357 of 2018 also passed an order in relation to the notification dated 20.02.2018 issued by the Medical Council of India in respect of Post Graduate Medical Education Amendment Regulation, 2018. The admission schedule for the academic year 2018-19 as per the regulation is follows:

sr.no	Schedule for Admission	Central Counselling	State Counselling
		All India Quota	Deemed+ Central Institute

1	Conduct of Exam	By 10 th January		
2	Declaration of Result	By end of January		
3	1 st Round of Counselling	12 th March-24 th March	12 th March-24 th March	25 th March-5 th April
4	Last date of Joining	3 rd April	3 rd April	12 th April
5	2 nd round of counselling	6 th April-12 th April	6 th April-12 th April	15 th April-26 th April
6	Last date of Joining	22 nd April	22 nd April	3 rd May
7	Mop up Round		12 th May-	4 th May
8	Late date of joining		22 nd May	8 th May

1	Conduct of Exam	By 10 th January		
9	Forwarding the list of students in order of merit equalling to ten times the number of vacant seats to the Medical Colleges by the Counselling Authority		27 th May	13 th May
10	Last date of joining		31 st May	18 th May

9. The Supreme Court of India further states that the first round of counselling of All India quota was completed on 07.04.2018. The first round of counselling of the State quota was also completed in the first week of April 2018. The process for the second round of counseling commenced on 13.04.2018.

10. The grievance of the writ petitioners is that there is an enormous delay on the part of the State Government in releasing the State rank list enabling the candidates to opt for the State quota by availing the seats of their choice and the medical Institution. However, the learned Government Advocate appearing on behalf of the State Government contended that on account of the interim order and the final order passed in some writ petitions, there is a delay on the part of the State Government in finalising the State level rank list. The State Government is not responsible for the delay in not releasing the State rank list. In view of the interim order, the State could not publish the rank list in time in consonance with the central ranking list published.

11. The learned Government Advocate states that even now the writ petitions are pending in this regard, before the Hon'ble Division Bench, in spite of the fact that the Hon'ble Supreme Court of India fixed the time schedule for completion of the admission to these post graduate medical courses. This Court is of the strong opinion that time schedule prescribed in the regulations as emphasized by the Apex Court of India as cited supra are to be followed scrupulously by the competent authorities, while undertaking the process of admission to post

graduate medical courses. There cannot be any violation and any such violation will lead to chaos in grant of admissions to these post graduate medical courses. The time schedule prescribed must be followed in all respects and in certain individual cases if necessary can be dealt with separately and in order to grant relief for a single case or specific case, entire process cannot be stalled. After all, very few are approaching this Court. Large number of candidates are longing for admission to post graduate medical courses. Plight of those candidates are also to be considered, and the admissions on en masse cannot be stopped or paralyzed on account of the litigation filed by few candidates. The Constitutional right of every citizen has to be protected in all respects. The constitutional right of an opportunity to all other candidates cannot be withheld. The balancing approach in this regard are certainly required and even to be followed by the Constitutional Courts. The Constitutional Courts cannot neglect the right of every student, who is aspiring to secure an admission to the post graduate medical courses. Rights of both the litigants and non litigants are to be considered in a balancing manner by adopting a pragmatic approach. Those persons who are not before this Court are also to be protected in respect of such admission to post graduate medical courses. In the event of granting an interim order by stalling the entire proceedings, the candidates, who are longing to secure admission in a routine course also get affected. Contrarily, if the case of an individual is decided on merits, then the appropriate relief would have been granted and there is a possibility of granting all reliefs sought for in the event of establishing the right by the persons who all are approaching this Court.

12. Thus, this Court is of an opinion that the time schedule fixed already in the regulation and by Hon'ble Supreme Court, must be adhered without any compromise.

13. The learned Government Advocate appearing on behalf of the State Government informed this Court that they are strictly following the directions given by the Hon'ble Supreme Court of India. The order passed in WP.No.(C).257 of 2017 [Dar-Us-slam and others Vs. Medical Council of India and Others] as follows:

"..3. As per the Judgment of this Hon'ble Court in the case of Ashish Ranjan Vs. Union of India & Ors. [(2016) 11 SCC 225] there shall be only two rounds of common counseling each conducted by the DGHS/ State Government or authority designated by the State Government for All India Quota (including Deemed University) and State Quota Seats respectively.

4. After the second round of counseling for All India Quota Seats, the students who take admission in All India Quota seats should not be allowed/permitted to vacate the seats. This would ensure that very few seats are reverted to the State Quota and also All India quota seats are filled by students from the all India merit list only. The students who take admission and secure admission in Deemed Universities pursuant to the second round of counseling conducted by the DGHS shall not be eligible to participate in any other counseling..”

14. The Government of Tamil Nadu have constituted a Committee, to identify the remote and difficult areas for awarding incentive marks to the service candidates for admission to post graduate courses / diploma course for the academic year 2018-19 vide G.O.Ms.466, Health and Family Welfare (MCA.1) Department dated 11.12.2017. The Committee constituted have analysed various aspects prevailing in the State and after considering all the grounds and situations, the Committee had submitted the report to the Government and the Government accordingly accepted the recommendation and identified the remote and difficult areas for the purpose of awarding incentive marks to the service candidates. In this regard, the Government issued GO.Ms.No.75, Health and Family Welfare Department dated 08.03.2018 by incorporating the places identified for awarding incentive marks to the service candidates who are working in the remote and other difficult areas. In respect of those litigations, the Hon'ble High Court of Madras in its order dated 18.04.2018 allowed W.P.No.7231 of 2018. The State preferred an appeal and therefore, the State Government was unable to release the merit list and the delay is not at the instance of the State Government.

15. Relying on the judgment of the Supreme Court, the learned Government Advocate contended that the State has followed the regulation issued by the Government Of India and the directions issued by the Hon'ble Supreme Court in the matter of grant of admissions to the post graduate medical courses. The learned Government Advocate relied on the orders issued by the Government of India, Director General of Health services, New Delhi dated 03.05.2018 which reads as follows:

Office of ADG (ME)	GOVERNMENT OF INDIA
Ph.No.011-23062493	DIRECTORATE GENERAL OF
Fax No.01123061907	HEALTH SERVICES,
Email: adgme@nic.in	NIRMAN BHAWAN,
	NEW DELHI - 110108

Date : 03/05/2018

Though E-mail /Speed Post

To,

All Health Secretaries (State Govts.)/Director
(Medical Education) of all State Govts.

Sub: Debarring of candidates holding the PG course
(MD/Ms and MDS) seat in round -1 and round - 2 of All
India Quota / Deemed University through online PG
Counselling - 2018 for participation in any other
counselling - Reg.

Sir,

Please find herewith the attached list of the
candidates holding the PG course (MD/MS and MDS) seat in
round-1 and round-2 of All India Quota/Deemed University
through online PG Counselling - 2018.

As per the directions laid down by Hon'ble Supreme
Court of India in W.P.(c) 267/2017 in the case of Dar-
Us-Salam and Ors.Vs. Medical Council of India and Ors.
Such candidates further are not eligible to vacate the
allotted seat after round-2 of the online PG counselling
of All India Quota and Deemed Universities. Moreover,
all these candidates are not been eligible for
participation in any other counselling to be conducted
by State Govts./Counselling authorities.

In this regard, you are hereby requested to please
comply with the directions of the Hon'ble Supreme Court
of India to avoid any further legal
complications/contempt of the Court.

Yours faithfully,

(Prof.(Dr.) B.Srinivas)

Assistant Director General (ME)

Directorate General of Health Services

Tel.23062493, Fax-23061907

Email id:- adgme@nic.in

Enclosure:

1.List of Candidates as mentioned in the subject cited
above.

Copy to:

1.PPS to DG, DGHS

2.Chairman, MCC, DGHS

3.File

16. This Court has considered all the contentions raised on behalf of the writ petitioners and the counter statements made by the learned Government Advocate.

17. Now that, the procedures to be followed has already been well enumerated both in the Post Graduate Medical Education Regulation 2000 and by the Hon'ble Supreme Court of India in the cases (cited supra). The time schedule fixed under the regulation and as per the directions of the Supreme Court of India ought to be followed scrupulously by the State Government. Undoubtedly there is a delay in publishing the State ranking list by the State Government. However, the State Government cannot be faulted with in view of the fact that there was an interim order preventing them from publishing the State level ranking list. Now, W.A.No.1051 of 2018 is pending. Thus, the State Government is unable to publish the State rank list. As of now it is for the State Government to pursue the appeal and after obtaining suitable orders from the Hon'ble Division Bench of this Court, the State Government is at liberty to act accordingly in respect of releasing of State level merit list. At the time of publishing the State level merit list all the candidates, who all are eligible on merits and in accordance with the regulations ought to be considered and the time schedule fixed also to be adhered to.

18. Article 41 of the Constitution of India also reads as follows:

"41. Right to work, to education and to public assistance in certain cases: The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want."

19. The "State", being a model, undoubtedly has to follow the Regulations and the Statutes and the orders passed by the Supreme Court of India in the matter of publishing the merit ranking list. However, the ground raised in these batch of writ petitions are that the petitioners are aggrieved to get their choice of getting a P.G. medical seat under the State Quota. Choice or option can never be claimed as a matter of right nor such a choice granted to the students cannot be construed as a legal right, so as to claim a P.G. medical seat based on such a choice before the Court of Law.

20. The dictionary meaning for the word "choice" is "the act of booking or deciding between two or more possibilities". Further meaning is "the opportunity or power to choose between two or more possibilities". Thus, choice is a chance and can never be a legal right. Choice of a branch or choice of a medical institution is subject to the availability of seats in a particular branch and subject to the availability of such a branch in a particular medical institution. It is not the case, as if, an admission to P.G. Medical course has been denied to these batch of writ petitioners. All these writ petitioners, now before this Court, are undoubtedly meritorious and they had already secured their respective seats for P.G. Medical courses under the All India Quota. Simply because these writ petitioners are already admitted in other States, they cannot say that once again they must be considered for the admission under the State Quota of their own choice and as per their wishes.

21. If at all, these writ petitioners are eligible to avail the seats for admission to P.G. Medical Courses under the State Quota, then they are at liberty to opt the same. However, such a claim cannot be considered as a legal right, so as to grant a relief, as such, sought for in these batch of writ petitions. Choices and the options are provided under the Regulations and the prospectus issued to the students in the prospectus. Thus, the procedures contemplated under the Regulations and prospectus are to be followed scrupulously by the Competent Authorities at the time of undertaking the process of admission to P.G. Medical Courses. If any such violation is committed by the competent authorities, then alone the students can move the writ petitions for the purpose of eradicating such discriminations or violations.

22. No such instances are now brought to the notice of this Court in view of the fact that State ranking list is yet to be published. Publication of State ranking list is kept in abeyance on account of the order passed by this Court in a writ petition. The State preferred a writ appeal and the same is pending for adjudication. Thus, at this point of time, there is no point in blaming the respondents for not releasing the State ranking list for filling up the seats under the State Quota.

23. Our great Nation possessing vast extent of land and the population is also in excess as of now. The intellectual caliber of the young minds of our great Nation are undoubtedly vibrant and, numerous number of students are now aspiring to secure seats to undergo various Medical Courses of distinct branches. Under these circumstances, it is the duty of the State to ensure that adequate number of Medical Colleges are made available to the citizen of this great Nation to pursue their studies of

their choice and to choose the institutions.

24. This Court is of an opinion that starting more Medical Institutions, both at the State level and Central level, are certainly imminent on account of the current needs of our Nation and in the event of starting such required number of colleges, the State and Central are performing their duties as expected under the Directive Principles of State Policy enumerated in the Constitution of India.

25. The Hon'ble Supreme Court of India, time and again, expanding the scope of the right to life and liberty ensured under Article 21 of the Constitution of India. Providing a decent medical facility is one of the component ensured by the Apex Court under Article 21 of the Constitution of India to every citizen. Life does not mean a mere life. In *Maneka Gandhi vs. Union of India* [1978 (1) SCC 248] case, it is elaborated that a decent life to a citizen should be ensured by the State. Decent life includes adequate medical facilities to the citizen. Adequate medical facilities, now being a fundamental right of a citizen. Unless adequate number of medical practitioners are available in commensuration with the population, then the State is failing in its duty to comply with the constitutional perspectives in this regard.

26. In recent days, the Hon'ble Supreme Court has expressed its views that Directive Principles are not made for non-implementations. Directive Principles in certain circumstances are to be enforced even by issuing the required directions by the Constitutional Courts. Thus, in a growing vibrant democracy, the Directive Principles enshrined under the Constitution, cannot be forgotten by the States nor kept only in the book of the Constitution. It is slowly to be implemented by the State and the State should ensure such implementation of Directive Principles are progressively made by showing sensitiveness in implementing the Directive Principles under the Constitution.

27. We need more Doctors and more Specialists in various branches of medicine. Unless an opportunity is provided to these intellectuals to pursue the P.G. Medical Courses of their choice, then these young minds will end up with frustrations and they will not be in a position to serve better to the Nation. Best of these Doctors are to be made available to the citizen of this country. The State must provide all opportunities to these students to pursue the courses of their choice in all branches of medicine. This being the view taken by this Court, it is left open to the State and its authorities to think about these aspects and take some initiatives for the purpose of starting more number of Medical Colleges, both in the States as well as at the National level.

28. Right to participate in the process of admission is a fundamental right. Equal opportunity to participate in the admission process is a constitutional mandate. However, such an opportunity provided to participate in the process of admission or selection will not confer any legal right for the purpose of choosing a place of their choice or a branch, which is not contemplated either under the Statute or under the prospectus issued to these students. The authority competent are bound to follow the Regulations issued by the Medical Council of India, Government of India and the procedures prescribed in the prospectus/ instructions issued to the students. The prospectus issued to these writ petitioners are not under challenge. Thus, the writ petitioners had accepted the prospectus and the terms and conditions stipulated therein. In the event of any violation of terms and conditions stipulated in the prospectus, then alone the writ petitioners can move a writ petition for redressal of their grievances in this regard. Contrarily, they cannot come out with a writ petition by stating that more chances are to be given to these students for the purpose of choosing the branch of study or choice of their place.

29. In the instant writ petitions, the State is not responsible for non-publication of State merit rank list to fill up the State Quota. The delay is on account of the pendency of the litigations before this Court. Thus, in all means, the State should ensure that the merit ranking list is published without any further delay by obtaining necessary orders from the Courts and at the time of filling up the seats for P.G. Medical Courses, the authorities competent are bound to follow the Regulations and the instructions provided in the prospectus.

30. This being the factum of the case, this Court is of an undoubted opinion that the writ petitioners have not established any legal right, so as to consider the reliefs, as such, sought for in these batch of writ petitions. The grounds raised in respect of the choice of the students are also untenable.

31. Accordingly, all these writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

sk/ka

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary
Selection of Committee (PG Courses),
Director of Medical Education,
Kilpauk, Chennai - 10.
2. The Medical Council Committee of
Medical Council of India,
MCI Building, Pocket 14, Sector 8,
Dwaraka Phase I,
New Delhi - 110 077
3. The Director General of Health Services,
MCI Building, Pocket 14 Sector 8,
Dwaraka Phase - I,
New Delhi - 110 077
- 4 The Secretary
Medical Council of India Pocket-14 Sector-
8 Dawarka Phase-I New Delhi-110 077.
- 5 The Secretary
Health & Family Welfare Dept. Government of
Tamil Nadu Fort St. George Chennai 9
- 6 The Director of Medical
Education Government of Tamil Nadu No. 162
Periyar E.V.R. High Road Kilpauk Chennai 10
- 7 The Secretary / Additional
Director of Medical Education Selection
Committee No.162 Periyar E.V.R.Salai
Kilpauk Chennai-600 010.
- 8 The Director General of Human
Services Nirman Bhavan Moulana Azad Road
New Delhi 110 011
- 9 The Registrar
The Tamil Nadu Dr. M.G.R. Medical University
Chennai 32

+1cc to Government Pleader Sr.No.33586 & 33584
+2cc to M/s.P.Sureshbabu, Advocate SR.No.33570, 33569
+6cc to M/s.S.Vennimalai Advocate Sr.No.33590
+2cc to M/s.K.S.Karthik Raja, Advocate Sr.No.33591

+1cc to Mr.V.P.Raman, Advocate Sr.No.33600
+1cc to M/s.Dass & Visva, Advocate Sr.No.33604
+1cc to M/s.R.Bharathkumar, Advocate Sr.No.33581
+3cc to M/s.R.Selvakumar, Advocate sr.No.33572

RSK(CO)
sm:6.6.2018

W.P.Nos.12048 to 12053 ,12112, 12113,
12114, 12167, 12223, 12226, 12233 to 12235,
12260 of 2018, 12286 of 2018



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