

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.05.2018

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.12890 of 2018
and
W.M.P.No.15137 of 2018

Dr.A.P.S.Guru Praveen

... Petitioner

Vs.

1. Directorate of Medical Education
Government of Tamilnadu
Kilpauk, Chennai - 600 010.
2. The Secretary
Selection Committee
Directorate of Medical Education
Kilpauk, Chennai - 600 010.
3. The Medical Counsel of India,
Rep.by Secretary, Dwarakha phase,
New Delhi.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd respondents to consider the petitioner's application dated 03.05.2018 submitted through online in view of the notification issued by the 2nd respondent for revised cut off scores issued by the National Board of Examination, New Delhi to secure admission to Post Graduate Degree / Diploma and M.D courses in Tamilnadu Government Medical College and Government seats in self financing medical colleges for Session 2018 - 2019 and the same may tagged with the original application uploaded in online on 16.03.2018 at 10 a.m.

For Petitioner : Mr.P.C.Harikumar

For Respondents : Mr.K.Karthikeyan,
Government Advocate

O R D E R

This Writ Petition has been filed to direct the 1st and 2nd respondents to consider the petitioner's application dated 03.05.2018 submitted through online in view of the notification issued by the 2nd respondent for revised cut off scores issued by the National Board of Examination, New Delhi to secure admission to Post Graduate Degree / Diploma and M.D courses in Tamilnadu Government Medical College and Government seats in self financing medical colleges for Session 2018 - 2019 and the same may tagged with the original application uploaded in online on 16.03.2018 at 10 a.m.

2. The petitioner who belongs to Most Backward Community (M.B.C), had appeared in the NEET examination for PG 2018 conducted by the National Board of Examination and had secured 573 marks out of 1200 marks. As contended by the petitioner, the second application is eligible to be accepted, pursuant to the notification for extension of time for submitting the PG Medical Courses dated 03.05.2018 issued by the second respondent. The petitioner claims that he has secured 573 marks out of 1200 marks in NEET examination and the cut off marks for open reservation is 321, for OBC/SC/ST are 281 and open reservation for physically handicapped is 300 and hence, the petitioner application ought to have been accepted by the second respondent as the notification dated 03.05.2018 permits the candidates who are not applied earlier i.e on or before 26.03.2018.

3. The petitioner would submit that on 16.03.2018, when the second respondent has invited application for admission to the Post Graduate Degree in Tamilnadu Government Medical Colleges, the petitioner was suffering from chicken kunia and was not feeling well and therefore, the petitioner was not able to submit the application before the specified period from 16.03.2018 to 26.03.2018, even though he has secured more than the cut off marks.

4. The National Board of Examination has revised the cut of scores, as a result of which, the respondents herein again issued the notification and thereby, extended the last date for submitting the application upto 03.05.2018 permitting the candidates who have not applied earlier that is on or before 26.03.2018. The said notification is hereunder extracted:

KIND ATTENTION TO THE CANDIDATES SEEKING ADMISSION TO POST GRADUATE DEGREE / DIPLOMA COURSES IN TAMILNADU GOVERNMENT MEDICAL COLLEGES AND GOVT. SEATS IN SELF FINANCING MEDICAL COLLEGES AFFILIATED TO THE TAMILNADU DR.MGR MEDICAL UNIVERSITY AND RAJAH MUTHIAH MEDICAL COLLEGE AFFILIATED TO ANNAMALAI UNIVERSITY 2018 - 2019 SESSION

"Keeping in view of the revised cut off score issued by the NBE in Consultation with the Ministry of Health and Family Welfare, Candidates who have eligible by revised percentile released by National Board of Examination and not applied before for General Category cut off score between 262 and 320, for SC/ST/OBC cut off score between 225 and 280 and Physically challenged cut off score between 244 and 299 can download the application and filled in application along with Demand Draft for Rs.3000 in favour of "The Secretary, Selection Committee, Kilpauk, Chennai - 10." and hand over in person to the Secretary, Selection Committee, Kilpauk, Chennai before 03.05.2018 05.00 PM.

5. The second respondent in the above notification, has also notified the cut off scores for General category as 262 to 320. The petitioner having secured more marks than the cut of marks of 321 in the General category, he is eligible to be considered, but the petitioner name was not found in the counseling list and he was also not called for to attend the said counseling. Thereafter, it was found that the persons who have obtained lesser marks, have been called for counseling and also got admission in PG courses.

6. Aggrieved by the same, the petitioner has approached this Court to redress his grievance.

7. The learned counsel for the respondents contended that the petitioner having not applied on or before 26.03.2018, he is not eligible to apply under the revised notification dated 03.05.2018 and this Court is not able to accept the stand taken by the Government, when the revised notification specifically permits the candidates who have not applied before and who have eligible as per the revised notification presently released by the National Board of Examination. However, fixing the General category between 262 to 320 is not in dispute.

8. The petitioner has secured more marks under the General Category which is more than the cut off marks fixed under the revised notification issued by the second respondent. The petitioner having secured more than the cut off marks fixed by the respondent, his application ought to have been accepted. The contention of the respondent has no valid reasons, because, in the said revised notification, no such condition has been enumerated.

9. Under these circumstances, this Court is of the view that the petitioner's application should have been accepted by the respondents and hence, this Court hereby directs the respondents 1 and 2, to consider the petitioner's application dated 03.05.2018 as per the cut off marks secured by him. If by any reason the respondents are not able to upload the petitioner's application, the petitioner is permitted to submit his application manually and the same has to be considered as per the cut of marks secured by him. Accordingly, the Writ Petition is allowed. Consequently, the connected miscellaneous petition is closed.

-s/d-

Vacation Officer/Assist Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Directorate of Medical Education
Government of Tamilnadu
Kilpauk, Chennai - 600 010.
2. The Secretary,
Selection Committee
Directorate of Medical Education
Kilpauk, Chennai - 600 010.
3. The Secretary,
Medical Counsel of India,
Dwarakha phase,
New Delhi.

+1 cc to Mr.P.C.Harikumar Advocate sr 34161

+1 cc to the Govt Pleader sr 34172

W.P.No.12890 of 2018

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