

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 25.05.2018

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.12965 of 2018
and
W.M.P.No.15216 of 2018

Dr.Joseph George Tharion

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government
Health and Family Welfare Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Director of Medical Education,
Kilpauk, Chennai - 600 010.
3. The Secretary,
Selection Committee for P.G. Courses,
The Directorate of Medical Education,
Kilpauk, Chennai - 600 010.
4. The Secretary,
Medical Council of India,
Pocket 14, Sector 8,
Dwaraka, New Delhi - 110 077.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents to allow the petitioner (Roll No.1805022730) to participate in the selection for admission to Post Graduate Degree Courses under Management Quota 2018-2019 Session by including his name in the Provisional Rank List based on National Eligibility Entrance Test Post Graduate 2018 (NEET PG 2018) marks secured by the petitioner and consequently, permit the petitioner to get admission in Post Graduate Degree course in Self Financing Private Colleges in Management Quota 2018-2019 sessions based on merit.

For Petitioner
For Respondents

: Mr.P.Ebenezer Paul
: Mr.K.Karthikeyan
Government Advocate

ORDER

This Writ petition is filed praying to issue a Writ of Mandamus directing the respondents to allow the petitioner (Roll No.1805022730) to participate in the selection for admission to Post Graduate Degree Courses under Management Quota 2018-2019 Session by including his name in the Provisional Rank List based on National Eligibility Entrance Test Post Graduate 2018 (NEET PG 2018) marks secured by the petitioner and consequently, permit the petitioner to get admission in Post Graduate Degree course in Self Financing Private Colleges in Management Quota 2018-2019 sessions based on merit.

2. The learned counsel for the petitioner vehemently contended that the petitioner had joined two years P.G. diploma Course in Anesthesia at CMC, Vellore and completed the same in the year 2017-2018 and appeared all the theory examinations and the practical examination is getting over by 26.05.2018. As such he has appeared for the NEET Examination conducted by the National Board of Examination and secured 545 marks out of 1200 and placed 15347 rank, and the cut of scores for General (50th percentile) is 321 and therefore, the petitioner becomes eligible for getting admission to P.G. Degree Course for the year 2018-19 in self financing management quota.

3. The learned counsel for the petitioner brought to the knowledge of this Court that there are different categories specified in the prospectus issued for admission to the Tamil Nadu Government Colleges and Government Seats in Self Financing Medical Colleges affiliated to Tamil Nadu Dr.MGR Medical University and Raja Muthaiah Medical College affiliated to Annamalai University and also in the prospectus issued for admission under Management Quota of Self Financing Medical Colleges in Tamil Nadu. As far as the above colleges, under clause III of the prospectus, the candidates who are not eligible to apply is stated, which is extracted hereunder:-

"III. NOT ELIGIBLE

6.(a) Candidates who join a Post Graduate Degree / Diploma Courses in any branch and discontinue the course on any grounds after the cutoff date fixed by the Medical Council of India are not eligible to apply for two subsequent academic years.

(b) The candidates who take an allotment for PG Degree/Diploma Courses in any branch in the final phase counselling and does not joint the course are not eligible to apply for two subsequent academic years.

7.(a) Candidates who are undergoing a Post Graduate Degree/ PG Diploma / DNB Courses are not eligible to apply for any Post Graduate Degree / Diploma Courses.

(b) Candidates who are completing a Diploma Course (including All India Quota) are not eligible in the same academic year to apply for any Post Graduate Degree Courses.

8.(a) Candidates who have completed a Post Graduate Degree / DNB / Equivalent or the candidates who possess a Post-Graduate Degree / DNB / Equivalent are not eligible to apply for admission to any other Post Graduate Degree / Diploma Course except for D.P.H. Course as detailed in clause 10.

(b) A candidate who is a diploma holder is not eligible to apply for another diploma course, but can apply for any Post Graduate Course and D.P.H. Course as detailed in clause 10.

4. The learned counsel for the petitioner also pointed out clause-III (8) of the prospectus for admission in the self financing medical colleges in Tamil Nadu, which reads as under :-

"III. NOT ELIGIBLE

8. Candidates who are undergoing a Post Graduate Degree / PG Diploma / DNB Courses are not eligible to apply for any Post Graduate Degree / Diploma Courses."

5. The learned counsel for the petitioner would vehemently contended that clause-7(b) which is found in the prospectus for Government Colleges, is not found in the prospectus issued for self financing colleges. That apart, the learned counsel also contended that clause-7(b) of the prospectus for the Government Colleges, clearly states that the candidates, who are completing the diploma course are not eligible to apply for any PG Course, but in the prospectus of the self-financing colleges, the same is not found. No doubt, those words found in clause-7(b) under the prospectus issued for the Government colleges is not found in the prospectus issued for the self financing colleges and hence, the petitioner though has not completed the course and yet to complete the course by appearing in the practical examination to be held on 26.05.2018 will complete the course and be entitled to be considered under the self-financing medical colleges. The learned counsel further submitted that the exclusion of students who have completed the course, the students who are undergoing and yet to complete the course is

not found in the prospectus of self-financing medical colleges and hence, the application for the petitioner has to be considered.

6. The learned counsel for the respondents contended that the petitioner has not completed the practical examination, which is to be held on 26.05.2018 and therefore, he would come under the category of undergoing the diploma course, which is specifically mentioned in the self-financing medical college prospectus.

7. Heard the learned counsel appearing on both sides and perused the materials available on record.

8. On a careful perusal of the affidavit filed by the petitioner, it is seen that the petitioner has not completed his examinations, which is yet to be completed on 26.05.2018, though the petitioner contended that the course has been completed and he has undergone the theory examination held and only practical examinations are pending to be attended and completed by the petitioner.

9. This Court see some force in the submission made by the learned counsel for the respondents and this Court is in total agreement with the submission made by the respondents' counsel. The prospectus of the self-financing medical colleges at clause-8 clearly excludes a candidate, who is undergoing PG Degree/PG Diploma etc., to apply for any degree or diploma course in the selection. Pending practical examinations, which is yet to be attended by the petitioner, can only be termed as candidate undergoing the PG Diploma Course. Merely because clause-7(b) of the prospectus of the Government College is not incorporated under clause-8 of the prospectus of the self-financing medical colleges, in verbatim, the petitioner cannot seek eligibility for the PG Course. The petitioner having not completed in full, can only be treated as candidate undergoing the course, may it be theory or practical examination.

10. It is clear from the prospectus that the last date for submission of application or receiving the same is 26.03.2018 at 5 p.m. The petitioner is well aware that his application was not accepted till 26.03.2018 at 5 p.m. Thereafter almost after two months, the present Writ Petition is filed before this Court seeking a direction to consider the petitioner's application by the respondents and to allow him to participate in the counselling. Certainly I am not able to accept the callous attitude of the petitioner when the petitioner is very well aware that her application was not accepted as the last date as fixed in the prospectus ie., 26.03.2018 should have immediately approached this Court at the earliest point of time. However,

having waited till the last date of the counselling to get over, the petitioner has to suffer for his attitude. Under these circumstances, the plea made by the petitioner cannot be accepted.

11. Under these circumstances, this Court is of the view that the petitioner is not eligible to apply for the PG Decree Course as the petitioner is undergoing the PG Diploma Course and not eligible to apply for any course in both category.

12. In the result, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar/Vacation Officer

/true copy/

Sub Asst. Registrar

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To

1. The Principal Secretary to Government
Government of Tamil Nadu
Health and Family Welfare Department
Secretariat, Fort St. George
Chennai - 600 009.
2. The Director of Medical Education,
Kilpauk, Chennai - 600 010.
3. The Secretary,
Selection Committee for P.G. Courses,
The Directorate of Medical Education,
Kilpauk, Chennai - 600 010.
4. The Secretary,
Medical Council of India,
Pocket 14, Sector 8,
Dwaraka, New Delhi - 110 077.

+1cc to M/s.P.Ebenezer Paul, Sr.No.34156 (30.05.18)

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and
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CS/25/05/18