

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.01.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.19823 of 2017
and
WMP No.21399 of 2017

Prasitha Parthasarathy (Minor)
rep. by his father and natural guardian
V.Parthasarathy

... Petitioner

Vs

1. The Union of India
rep. by the Secretary to Government
Ministry of Health & Family Welfare,
New Delhi - 110 011.
2. The State of Tamil Nadu
rep. by the Secretary to Government,
Ministry of Health and Family Welfare,
Fort St. George, Chennai - 600 009.
3. The Secretary to Government,
Higher Education Department,
Secretariat,
Fort St. George, Chennai - 600 009.
4. The Secretary to Government,
Youth Welfare and Sports Development Department
Secretariat, Fort St. George,
Chennai - 600 009.
5. The Director,
National Cadet Corps Directorate,
Tamil Nadu Pondicherry and Andhaman Nicobar
Fort St. George,
Chennai - 600 009.
6. The Director,
Director of Medical Education,
Kilpauk, Chennai- 600 010.

7. The Secretary,
Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai.

8. Medical Council of India,
rep. by its Secretary,
Pocket 14, Sector -8
Dwarka Phase-I, New Delhi.

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Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to implement G.O.Ms.No.354 dated 08.07.1997 of Higher Education Department (D1) and thereby reserve one seat for NCC Cadets of Outstanding merits in undergraduate Medical course in each college in the State of Tamil Nadu for the Academic Year 2017-18 where NCC Scheme is available.

For Petitioner : Mr.R.Parthasarathy

For R2 to R7 : Mr.C.Munusamy, SGP (Edn)

ORDER

The petitioner has come up with this writ petition for a Mandamus, directing the respondents to implement G.O.Ms.No.354 Higher Education (D1) Department, dated 08.07.1997 and reserve one seat for NCC Cadets of Outstanding merits in undergraduate Medical course in each college in the State of Tamil Nadu for the Academic Year 2017-18, where NCC Scheme is available.

2.When the matter was taken up for consideration, the learned counsel for the petitioner fairly submitted that the admission to the medical course for the Academic Year 2017-18 is already over. However, placing reliance on the decision of this Court in S.Gayathri Devi v. State of Tamil Nadu and another [2000-1-LW.744], the learned counsel submitted that it would be satisfied, if a direction is given to the respondents to consider the representation dated 09.07.2017 submitted by the petitioner and pass appropriate orders, in the light of G.O.Ms.No.354 Higher Education (D1) Department, dated 08.07.1997.

3.Reiterating the averments made in the counter affidavit, the learned Special Government Pleader (Education) appearing for the respondents 2 to 7 submitted that as per the order dated 01.11.2002 passed in W.A.No.3221 of 2002 and WA.MP.No.5348 of 2002 etc. batch, the number of Special Categories under Special reservation for MBBS/BDS course has been reduced from 15 to 4

viz., (i)Physically Handicapped Quota; (ii)Eminent Sports Persons Quota; (iii)Children of Freedom Fighter Quota; and (iv) Children of Ex-servicemen Quota. Subsequently, based on the order dated 10.10.2014 passed in WP.No.23104 of 2014, only three Special Categories of students are considered for admission to MBBS/BDS courses. The learned Special Government Pleader further submitted that in the event of increasing Special Category under NCC, the meritorious candidates, who have applied under General Category, will be more affected, since out of the total number of seats available, considerable number of seats are earmarked for admission under the above referred Special Categories.

4.Heard both sides and perused the records.

5.It is seen that the Government has passed an order in G.O.Ms.No.354, Higher Education (D1) Department, dated 08.07.1997 reserving one seat for NCC cadet of outstanding merit in any under Graduate Course in each college and one seat in any post Graduate Course and Polytechnic where NCC Scheme is available.

6.In the decision in S.Gayathri Devi (supra) cited on the side of the petitioner, this Court has observed at para 10, as follows:

"Even though this is a policy decision of the Government to reserve a seat under various categories, it cannot be stated that there is no policy for the Government to provide reservation, and the petitioner seeks only to implement the earlier decision of the Government to provide a reservation for NCC cadets in the Medical Course. It is in the fitness of things that students who devote their valuable time in training and equipping themselves on the defence side of the country should be encouraged. Denial of such a reservation is discriminatory since such a reservation is provided in other professional courses like Engineering."

7.Thus, considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court, in the interest of justice, directs the respondents to consider the representation of the petitioner dated 09.07.2017 and pass appropriate orders, on merits and in accordance with law and also in the light of G.O.Ms.No.354 Higher Education (D1) Department, dated 08.07.1997, within a period of six weeks from the date of receipt of a copy of this order. While passing such order, the respondents shall also bear in mind the order dated 01.11.2002 passed in W.A.No.3221 of 2002 and WA.MP.No.5348 of 2002 etc. batch.

8.The writ petition is disposed of as indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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Dwarka Phase-I, New Delhi.

+1cc to Mr.R.Parthasarathy, Advocate, S.R.No.3840

+1cc to the Government Pleader, S.R.No.3635

W.P.No.19823 of 2017

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cs/05/02/18



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