

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

WRIT PETITION No.14769 of 2018

A.Sarandev (Minor)

rep. by his father & Natural Guardian,
N.Arikrishnan

...Petitioner

Vs.

1. The Secretary to Government,
Ministry of Health & Welfare,
Government of India,
New Delhi.

2. Union of India,
rep. by its Chief Secretary,
Government of Puducherry,
Gobert Avenue,
Puducherry.

3. The Dean (Academic),
III-Floor, Academic Section,
JIPMER Academic Centre,
Dhanvantri Nagar P.O.,
Puducherry - 605 006.

4. The Medical Council of India,
rep. by its Secretary,
New Delhi.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the 3rd Respondent to fill up Pondicherry - Scheduled Caste seats and delete the Migrant - Scheduled Caste candidates from the Pondicherry - Schedule Caste merit list in the M.B.B.S. Course 2018-19 session.

For Petitioner :Mr.D.Sreenivasan

For 1st Respondent :Mr.M.Sundar,
Central Govt. Standing Counsel

For 2nd Respondent :Mr.C.T.Ramesh,
Addl. Government Pleader (Pondy)

For 3rd Respondent :Mr.M.T.Arunan

O R D E R

Petitioner has come up with the present Writ Petition seeking a direction to the 3rd Respondent to fill up Pondicherry - Scheduled Caste seats and delete the Migrant - Scheduled Caste candidates from the Pondicherry - Schedule Caste merit list in the M.B.B.S. Course 2018-19 session.

2. According to the minor Petitioner, he appeared for JIPMER M.B.B.S. Course and secured 76.216 percentile. Though, he comes under the Scheduled Caste category, the 3rd Respondent has categorized him under the Pondicherry Scheduled Caste category. The reservation earmarked under Pondicherry-Scheduled Caste category in JIPMER is only 6 seats. In the Merit List under the Pondicherry-Scheduled Caste category, the minor Petitioner is in 10th position. While so, it is the case of the Petitioner that Serial Nos.1, 2, 4, 6, 7 and 8 do not belong to Pondicherry Scheduled Caste category, since they are not from Pondicherry origin and that the 3rd Respondent has to distinguish between a Migrant SC candidate, who is holding a Residency Certificate of Pondicherry Union Territory from the origin Schedule Caste of Pondicherry Union Territory and that the seats reserved under the SC category will be applicable only to the origin Scheduled Caste.

3. For better understanding, clause (v) of the Prospectus for M.B.B.S. Course in JIPMER, Pondicherry is extracted hereunder:

(v) Puducherry - Unreserved (P-UR):

A candidate is considered to belong to the UT of Puducherry (P-UR), if he/she satisfies at least one of the following domicile criteria (Refer Annexure - IV) for the Format of Certificates):

(a) Those candidates or whose parent (either mother or father or both) or Guardian (in the case of children who have lost both parents) has been residing continuously in this Union Territory for at least five years immediately preceding the date of application.

(b) Those who have passed SSLC/HSC or any other public examination and for that purpose had undergone academic studies continuously for 5 successive classes immediately preceding the qualifying examination (including the year of the qualifying examination) in recognized education institution(s) located in Puducherry Union Territory and having their residence in the Puducherry Union Territory for 5 years continuously during that period.

(c) Children whose parents are Central Government Servants, State Government Servants, Defence Personnel, Central Paramilitary Forces, Employees of Public Sector Undertakings, wholly or substantially run either by the Central Government or by the Puducherry Union Territory administration, posted and serving in the Puducherry Union Territory for at least a minimum continuous period of three years immediately prior to the last date of submission of application AND children of the above said employees should have studied in the Higher Secondary Course of two years in any of the Schools in the U.T. of Puducherry and should have also passed the Higher Secondary Examination from the same School. (G.O.Ms.No.04, Puducherry, dated 09.02.2016 of the Chief Secretariat, (Hr. & Tech. Edn.) Puducherry].

(d) Children of Defence Personnel who were killed or disabled in action and who have declared Puducherry as their home town.

4. On a reading of the above, it is very clear that a candidate who has fulfilled the above conditions alone can be considered to belong to the Union Territory of Pondichery. In the counter affidavit filed by the 3rd Respondent/JIPMER, it is stated that the minor Petitioner had already got a seat. As long as the Prospectus does not discriminate or violate public policy, there cannot be specific restrictions with regard to intake of candidates and that the decision taken by the 3rd Respondent, cannot, at any stretch of imagination, held to be bad.

5. In view of the above, as the minor Petitioner has got an M.B.B.S. seat, no further orders are necessary in this Writ Petition. Accordingly, this Writ Petition is closed. No costs. Consequently, connected W.M.P.Nos.17462 and 17463 of 2018 are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To:

1. The Secretary to Government,
Ministry of Health & Welfare,
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4. The Medical Council of India,
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New Delhi.

+1cc to M/S.D.Sreenivasan, Advocate Sr.46435
+1cc to the Government Pleader Sr.46696
+1cc to M/S.M.T.Arunan, Advocate Sr.46908

W.P.No.14769 of 2018

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srg 6/8/2018