

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.14924 of 2018

P.Prerna P.Jain

... Petitioner

Vs.

1. The Director,
National Eligibility-cum-Entrance Test,
Shiksha Kendra,
No.2, Community Centre,
Preet Vihar, New Delhi-110 301.
2. The Authority - The Medical Council of India (MCI),
Pocket-14, Sector 8, Dwarka, Phase-I,
New Delhi-110 077.
3. The Director of Medical Education (DSD),
Selection Committee,
Director of Medical Education,
No.162, E.V.R.Periyar Salai,
Kilpauk, Chennai-600 010.
4. The Medical Counselling Committee,
Director General of Health Services,
E/2A, 1st Floor, Rajaji Bhavan,
Besant Nagar, Chennai-90.
5. The Regional Director,
CBSE-Southern Region,
Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents to change the petitioner communal category from UR to OBC/BC and include her name in the provisional merit list so as to enable her to get admission in the self-financial Medical/Dental Colleges under Management Quota, based on her representations, dated 09.06.2018 and 12.06.2018 to the second respondent through e-mail and in person, in the light of the common order passed in the batch of Writ Petitions in W.P.No.35180 of 2016, dated 07.10.2016 as well as the order passed in W.P.No.18894 of 2017, dated 07.08.2017.

For Petitioner : Dr.G.Babu

For Respondents: Mr.G.Nagarajan for RR-1 and 5
Mr.V.P.Raman for R-2
Mr.A.Raja Perumal, Addl.G.P. for RR-3

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to change the petitioner's communal category from UR to OBC/BC and include her name in the provisional merit list so as to enable her to get admission in the self-financial Medical/Dental Colleges under Management Quota, based on her representations, dated 09.06.2018 and 12.06.2018 to the second respondent through e-mail and in person, in the light of the common order passed in the batch of Writ Petitions in W.P.No.35180 of 2016, dated 07.10.2016 as well as the order passed in W.P.No.18894 of 2017, dated 07.08.2017.

2. The case of the petitioner is that she belongs to OBC, but while the application for the purpose of NEET examination was filled up, the community category of the petitioner was mentioned as UR, which has been wrongly entered and the fact is that she belongs to OBC and it is a minority community and the Tahsildar concerned has issued Community Certificate to that effect.

3. The respondents 1 and 5 filed counter affidavit stating that the relief sought for by the petitioner cannot be granted, more particularly, in the light of the Information Bulletin issued for the conduct of NEET (session 2016-2017) and the relevant Clause 8 therein states that, "any correction pertaining to the photograph, signature and right hand index finger impression will be intimated through e-mail and SMS and the same will be available in the candidate's login account; other corrections are not permissible, therefore, ensure submission of correct data". Further, the responsibility of the CBSE is limited to the conduct of the entrance test, declaration of results and providing All India Rank to the counselling authorities/admitting institutes. In the case on hand, already the results were declared on 04.06.2018. It is further stated in the counter that the question of correcting the petitioner's community cannot be entertained, as it is the fault on the part of the petitioner in not filling the application properly with reference to the community, notwithstanding the clear instructions given in the Information Bulletin that the candidates should be very careful in filling the application form. The petitioner sought direction against the second respondent to change the petitioner's communal category from UR

to OBC/BC and include her name in the provisional merit list, so as to enable her to get admission in the self-financial medical/dental colleges under the Management quota, based on her representations dated 09.06.2018 and 12.06.2018 to the second respondent. The respondents 1 and 5 have nothing to do with the same, and hence, they prayed for dismissal of the Writ Petition.

4. Heard both sides and perused the materials available on record.

5. It is the fact that the petitioner belongs to OBC minority community and that she does not belong to UR, which is not in dispute. It is stated that she inadvertently entered the community as UR while filling up the entrance test application form.

6. In a similar matter, this Court, in W.P.No.16706 of 2017, dated 17.07.2017, held as follows:

"5. It is true that the petitioner applied under the unreserved category. The explanation given by the petitioner is that without properly going through the online application, she wrongly quoted as unreserved. The mistake committed by the petitioner appears to be due to inadvertence. The community certificate issued by the revenue authorities dated 19.07.2013 and the transfer certificate issued by the School on 17.05.2017 and OBC certificate issued on 25.05.2017 would undoubtedly confirm the contention of the petitioner that she belongs to OBC.

6. To err is human and an inadvertent mistake committed by a child, who just finished +2, cannot be employed against her interest, especially when the documents are otherwise. Therefore, this Court has got no hesitation to direct the 2nd and 4th respondents to treat the petitioner under the OBC category, on submission of relevant original documents to the 4th respondent, within one week from the date of receipt of a copy of this order. The exercise has to be complied with, at the earliest, as, so far, rank list has not been published and counselling has not yet commenced.

With the above observations, this petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed."

7. In view of the above factual matrix of this case and the similar order passed by this Court, as extracted above, this Court has to follow the same. Accordingly, this Court directs the respondents to treat the petitioner under OBC/BC category on submission of relevant original records to the respondents within one week from the date of receipt of a copy of this order. The entire exercise shall be complied with by the respondents at the earliest, and the petitioner's name shall be included in the rank list of OBC/BC and she may be called for counselling, if she is otherwise found fit.

8. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

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Besant Nagar, Chennai-90.

5. The Regional Director,
CBSE-Southern Region,
Anna Nagar,
Chennai.

+1cc to Mr.G.Nagarajan, Advocate Sr.41963
+1cc to Dr.G.Babu, Advocate Sr.41789

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