

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2018

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.16370 of 2018

and WMP.No.19536 of 2018

V.Sarankumar

..Petitioner

Vs

The Secretary,
Selection Committee
Admission to MBBS/BDS Courses 2018-19 Sessions
Directorate of Medical Education
Kilpauk, Chennai-600010

.. Respondent

PRAYER : Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Mandamus, directing to the respondent to forthwith consider the claim of the petitioner for admission to the MBBS/BDS Course for the year 2018-19 Session, on the basis of his birth, nativity certificate of Ambasamundram, Tamilnadu, and belonging to BC Community instead of OC Community, without reference to the address of communication and to permit him to join, commence and complete his MBBS/BDS Course.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.Manishankar, AAG

Assisted by

Mr.T.N.Rajagopalan, GP

WEB - - - COPY

ORDER

The petitioner has come forward with the present writ petition to issue writ of mandamus directing the respondent to forthwith consider the claim of the petitioner for admission to the MBBS/BDS Course for the year 2018-19 Session, on the basis of his birth, nativity certificate of Ambasamundram, Tamilnadu, and belonging to BC Community instead of OC Community, without reference to the address of communication and to permit him to join, commence and complete his MBBS/BDS Course.

2. The case of the petitioner is that he was born at Ambasamudram and he belongs to Sengunthar Community, classified as Backward Class and he had completed schooling from 6th std to 12th std as follows;

Sl. No	Standard studied	Year of passing	Name and Address of School	District with Code	State
1	6 th Std	2011	Y.R.T.V. Mat.Hr.Sec.School ,Sivakasi-626123	Virudhunagar 32	Tamil Nadu
2	7 th Std	2012	-do-	-do-	-do-
3	8 th Std	2013	-do-	-do-	-do-
4	9 th Std	2014	-do-	-do-	-do-
5.	10 th Std	2015	Hilton Mat.Hr.Sec.School ,Old Courtallam - 627814	Tirunelveli 27	-do-
6	11 st Std	2016	GreenPark Mat.Hr.Sec.School ,Bodhupatty, Namakkal-637003	Namakkal 14	-do-
7	12 th Std	2017	-do-	-do-	-do-

3. It is submitted by the petitioner that he studied from 1st standard to 12th Standard in Tamil Nadu and he fulfilled the nativity as per Clause 3(d) of the Prospectus for admission to MBBS/BDS Degree Courses in Tamil Nadu. Since he belongs to BC category, he would be entitled to be called for counseling under the said category. However, he was called for under the Open Category.

4. Mr. Manishankar, learned Additional Advocate General appearing for the respondent would contend that in his application the petitioner has mentioned the nativity of Puducherry and that in terms of Clause 3(c) of Prospectus, the nativity of the petitioner cannot be claimed as that of Tamil

Nadu and he has not produced any of the documents which are required in terms of Clause 3(f) of the Prospectus.

5. In reply, the learned counsel for the petitioner would submit that clause 3(f) has no application to the facts of this case. Even though he has enclosed documents and he has also got original, that may be produced at the time counseling. He has further submitted that one of the clauses mentioned in Clause 3 is more applicable, namely Clause 3(d) and Clause 3(f) is not at all applicable.

6. In reply, the learned Additional Advocate General appearing for the respondent would submit that the petitioner's candidature can be considered under Open Category and there is no reason for the petitioner to mention that he belongs to Union Territory of Puducherry both in the correspondent State and constant State.

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

8. For the sake of convenience Clauses 3(c), (d) and (f) of the Prospectus are extracted below;

3. NATIVITY

...

c. Candidate who have applied for NEET UG-2018 as a person from other State cannot claim as a Native of Tamil Nadu.

d. Candidates belonging to Native of Tamil Nadu who have studied Standard VI to Standard XII in Schools of Tamil Nadu need not submit their "Nativity Certificate

e. Permanent Residence Certificate in lieu of Nativity Certificate will not be accepted.

f. Candidates who are Native of Tamil Nadu, but studied from standard VI to Standard XII outside Tamil Nadu either partly or completely in one or more States should produce the true copies of their parent's certificate such as Birth Certificate/SSLC/10th / 12th/Degree/Diploma/Professional course and Ration Card/Passport to substantiate their place of birth in Tamilnadu to establish the relationship between the parent and the candidate along with the Nativity Certificate of the candidate. Otherwise, they will be considered under Open Category.

9. It is not in dispute that the petitioner has studied in the State of Tamil Nadu and secured 1174 out of 1200 marks in 12th standard and 364 marks in NEET Examination. According to the petitioner, his father was employed in Lakshmi Vilas Bank and transferred to Puducherry branch last year and that was the reason why he mentioned Puducherry in his application. He has further stated that if a person is residing in Puducherry for a period of 5 years then his origin would be native of Puducherry. The learned counsel further submitted that if his statement is found false, he will not be eligible to admission to MBBS Course.

10. A reading of the prospectus would make it clear that Clause 3(f) will be applicable if Clause 3(d) is not satisfied. In this case, I have gone through the records produced by the learned Additional Advocate General which shows that the petitioner has not produced any of the documents required as per Clause 3(f) of the Prospectus. However, as the petitioner has studied in the State of Tamil Nadu and has produced details of his schooling from 6th Standard to 12th Standard in the State of Tamil Nadu and specifically stated that there is no need of Nativity Certificate if clause 3(f) is not applicable to the facts of this case, as the petitioner is governed by Clause 3(d) of the prospectus and the petitioner has already been called for counseling under the OC category, his candidature has to be considered under BC category based on the certificate produced by him.

11. If at any stage of the course or after acquiring degree, it is found that the petitioner does not belong to the State of Tamil Nadu and if there is false representation of his Community, the degree he may obtain would have no validity and he cannot pursue further education and cannot practice based on the qualification obtained and that the petitioner was called for Counseling exclusively only on the basis that he is a native of Tamil Nadu.

12. Hence, the case of the petitioner shall be considered for counseling under BC category and not under OC category. Accordingly, the Writ Petition stands disposed of. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

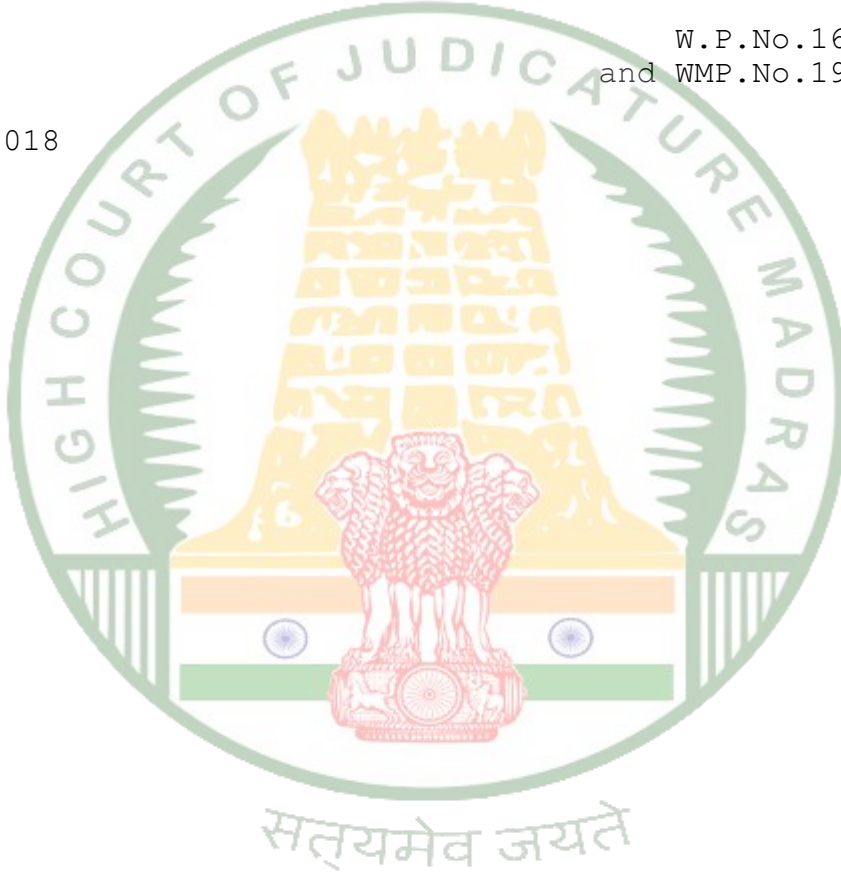
ak/aeb

To
The Secretary,
Selection Committee
Admission to MBBS/BDS Courses 2018-19 Sessions
Directorate of Medical Education
Kilpauk, Chennai-600010.

+lcc to Mr.L.Chandrakumar, Advocate, S.R.No.43438

SSI(CO)
BM 09/07/2018

W.P.No.16370 of 2018
and WMP.No.19536 of 2018



WEB COPY