

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2018

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.16813 of 2018
and
W.M.P.No.20002 of 2018

Ms.Riddhie Kothari

.. Petitioner

Vs.

1. The Secretary to Government,
Government of Tamil Nadu,
Health and Family Welfare,
Fort St.George, Chennai-600 009.
 2. The Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R High Road,
Kilpauk, Chennai-600 010.
 3. The Medical Council of India,
Rep. by President,
Pocket 14, Sector 8,
Dwarka Phase-I, New Delhi-110 077.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to re-consider the petitioner for MBBS (UG) for the academic year 2018, in accordance with the Prospectus and in accordance with law.

For Petitioner : Mr.G.Surya Narayanan
For Respondents : Mrs.V.Annalakshmi, Govt. Advocate
for RR-1 and 2
Mr.V.P.Raman for R-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 re-consider the petitioner for MBBS (UG) for the academic year 2018, in accordance with the Prospectus and in accordance with law.

2. It is the case of the petitioner that she was born on 22.01.2000. She studied III Std. to VIII Std. in Karaikal at the Union Territory of Pondicherry and she studied IX Std. to XII Std. in Kendriya Vidyalaya, Island Grounds, Chennai. Her parents are said to have been living in Thiruvvarur. She obtained 501/720 marks in the NEET (UG) and got All India Ranking of 21256 and 48th rank for Open Category in Tamil Nadu and in the Tamil Nadu Rank List, she was placed in 207th Rank. On 02.07.2018, she was called for counselling, but she was not considered, because of her father's nativity. It is submitted by the learned counsel for the petitioner that the petitioner being a meritorious student and she having studied in Tamil Nadu, atleast she should be considered in the Open Category.

3. Though the respondents have not filed counter affidavit, however, the learned Government Advocate appearing for the respondents 1 and 2 contended that the petitioner belongs to Rajasthan and that she has studied in Karaikal at the Union Territory of Pondicherry from III Std. to VIII Std. and she studied only from IX Std. to XII Std. in Tamil Nadu. The petitioner, even though secured more marks, she has not fulfilled any of the conditions prescribed in the Prospectus. It is further submitted that as the petitioner is not falling under any of the category with regard to the nativity and she studied in Pondicherry and thereafter in Tamil Nadu and hence, she would not be entitled to the relief prayed for in this Writ Petition.

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

5. It is not in dispute that the petitioner is a major having born on 22.01.2000 in Rajasthan. The petitioner has studied from III Std. to VIII Std. in Karaikal, even though the petitioner's father is said have shifted to Thiruvvarur. She has studied in Kendriya Vidyalaya, Chennai, from IX Std. to XII Std. It is also not in dispute that the petitioner has secured All India Rank of 21256 and 48th rank in Open Category in Tamil Nadu and in the Tamil Nadu, she is placed in 207th rank.

6. A reading of the Prospectus regarding MBBS/BDS admission of 2018-2019, more particularly, Clause 3, will make it clear that the petitioner is not the native of Tamil Nadu. The petitioner is said to have produced the Nativity Certificate, dated 28.06.2018 of her father, apart from other documents. For the sake of convenience, Clause 3(f) (g) and (j) of the Prospectus for admission to MBBS/BDS is extracted below:

"3. Nativity:

.. .. .

(f) Candidates who are Native of Tamil

Nadu, but studied from 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 certificates such as Birth Certificate / SSLC / 10th / 12th / Degree / Diploma / Professional Course and Ration Card / Passport to substantiate their place of birth in Tamil Nadu, 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.

(g) Other State candidates who are not native of Tamil Nadu should have studied Standard VI to Standard XII in Tamil Nadu will be treated as Open Category.

.....

(j) If the photocopies of the supporting documents are not produced, then the application form will be summarily rejected."

7. On a perusal of the above clauses, it is clear that the petitioner cannot be treated as a native of Tamil Nadu. Firstly, she has not enclosed the Nativity Certificate before the last date of submission of application form, which is mandatory, and secondly, the so-called Nativity Certificate should have been enclosed with the application form on or before the last date, i.e. 15.06.2018. Since the Nativity Certificate is dated 28.06.2018, she could not have enclosed it along with the application form.

8. That apart, she can be treated only as a candidate belonging to other State and as per Clause 3(g), she should have studied VI Std. to XII Std. in Tamil Nadu. Hence, the petitioner cannot be treated as a candidate of native of Tamil Nadu. As the petitioner has studied in Karaikal, for the purpose of the admission to Medical College, the Karaikal cannot be treated as part of Tamil Nadu. Hence, by no stretch of imagination, it can be construed that the petitioner has studied in Tamil Nadu from VI Std. to XII Std. As the petitioner has studied only from IX to XII Std. in Tamil Nadu, and that she hails from Rajasthan and the Nativity Certificate of her father, dated 28.06.2018, is dated after the date of submission of the application form, i.e. 15.06.2018, the petitioner is not entitled to any relief in the Writ Petition.

9. With the above observations, the Writ Petition is dismissed. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

CS

To

1. The Secretary to Government,
Government of Tamil Nadu,
Health and Family Welfare,
Fort St.George, Chennai-600 009.
2. The Secretary, Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R High Road,
Kilpauk, Chennai-600 010.
3. The Medical Council of India,
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Pocket 14, Sector 8,
Dwarka Phase-I, New Delhi-110 077.

+1cc to the Government Pleader, S.R.No. 44028

W.P.No.16813 of 2018

TR(13/07/2018)

सत्यमेव जयते

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