

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2018

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.17220 of 2018

S.Pratibha Bharati

... Petitioner

vs.

1. The Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpauk, Chennai 600 010.
2. Dhanalakshmi Srinivasan Medical College,
rep. by its Principal Officer,
Siruvachur, Perambalur - 621 113.
3. Medical Council of India,
rep. by its Secretary,
Pocket 14, Sector 8,
Dwaraka Phase I,
New Delhi - 110 077.

.... Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the 1st Respondent herein to admit the Petitioner for the MBBS Course under the State Quota in the category of Backward Classes pursuant to Caste Certificate and Nativity Certificate issued by the competent authority, to the 2nd Respondent Private Medical College under Government seat, which was allotted to the Petitioner on the date of Counselling dated 05.07.2018, pursuant to the call letter issued by the 1st Respondent or to any other Government or any Private Medical College in which the seats are surrendered for non-joining under the All India Quota on 2nd or 3rd Counselling to be held on or before 30th July and so as to enable the Petitioner to attend the Course without any gap before the cut-off date of admission prescribed for MBBS admissions.

For Petitioner : Mr.K.M.Vijayan,
Senior Counsel
for M/s.K.M.Vijayan Associates

For Respondents: Mrs.V.Annalakshmi,
Government Advocate

O R D E R

Petitioner has come up with the present Writ Petition seeking a direction to the 1st Respondent herein to admit her for MBBS Course under the State Quota in the category of Backward Classes pursuant to the Caste Certificate and Nativity Certificate issued by the competent authority, to the 2nd Respondent Private Medical College under Government seat, which was allotted to her on the date of Counselling dated 05.07.2018, pursuant to the call letter issued by the 1st Respondent or to any other Government or any Private Medical College in which the seats are surrendered for non-joining under the All India Quota in the 2nd or 3rd Counselling to be held on or before 30th July and so as to enable her to attend the Course without any gap, before the cut-off date of admission prescribed for MBBS admissions.

2. According to the Petitioner, she was born in Tamil Nadu and studied upto Standard XII in the State of Tamil Nadu. She appeared for NEET for admission to MBBS/BDS Course for the academic year 2018-19 and scored 353 and was called for Counselling on 05.07.2018 under the Backward Class category.

3. The grievance of the Petitioner is that in spite of having valid Backward Class Certificate and Nativity Certificate issued by the competent authority, she is under 'Open Category' wait list, instead of 'BC' admission list. It is her contention that the 1st Respondent has no authority to deny without valid reason her Community Certificate, which is a public document.

4. The 1st Respondent has filed counter affidavit, wherein, it is stated that the nativity of the Petitioner and that of her parents is Bihar and hence, the Petitioner was considered under 'Open Category' at the time of Counselling, as per Clause 3(g) of the Prospectus.

5. Learned Senior Counsel appearing for the Petitioner submitted that even though the Petitioner's candidature has been considered under 'Open Category', she belongs to Backward Class Community and is a native of Tamil Nadu and that she has to be allotted a seat in the second round of Counselling under 'BC' category, as a native of Tamil Nadu.

6. Heard the learned counsel for the parties and perused the material documents available on record.

7. It is seen that nowhere in the Prospectus, the word 'Nativity' is defined. For the purpose of deciding the nativity of a candidate, his/her place of birth alone cannot be taken

into account, as a child would have been born in one State and would have been brought up in a different State. In the case on hand, the Petitioner did her entire Schooling till Standard XII in the State of Tamil Nadu. She has also produced her Birth Certificate, Ration Card and Aadhar Card of her father to prove that she is a native of Tamil Nadu. Also, she has produced her Community Certificate to show that she belongs to Backward Class Community.

8. In view of the above, it is clear that the Petitioner is a native of Tamil Nadu and the 1st Respondent is directed to consider the Petitioner's candidature under 'BC' category, subject to the production of requisite documents by her.

9. It is made clear that if the Community of the Petitioner as stated in her Application for MBBS/BDS Course is found to be false at a later point of time, the qualification that may be obtained by her, will not be treated as a valid one.

The Writ Petition is disposed of with the above direction and observation. No costs. Consequently, connected W.M.P.No.20495 of 2018 is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpauk, Chennai 600 010.

2. The Secretary,
Medical Council of India,
Pocket 14, Sector 8,
Dwaraka Phase I,
New Delhi - 110 077.

+1cc to M/s.K.M.Vijayan Associates, Advocate sr.no.51226
+1cc to Mr.V.P.Raman, Advocate sr.no.51220
+1cc to Government Pleader sr.no.51846

W.P.No.17220 of 2018

nr 01/08/2018