

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2018

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.No. 17225 of 2018
and W.M.P. 20500 of 2018

Y.Gowthamy Sree Harika
D/o. Hanumantha Rao.

...Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Principal Secretary to Government,
Health & Family Welfare Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Secretary,
Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.
3. The Secretary,
Medical Council of India,
Pocket 14, Sector 8,
Dwaraka,
New Delhi - 110 077.

...Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to allow the petitioner to participate in the counseling for admission in MBBS Courses for 2018-19 session under Backward Class category based on the rank (1706) secured by the petitioner as per Provisional Rank list issued by the second respondent and to allot the MBBS seat to the petitioner in the appropriate college as per the rank secured by the petitioner with all attendant benefits.

For Petitioner : Mr.G.Sankaran
For Respondents

For R1 & R2 : Mr.K.Karthikeyan
Government Advocate.

For R3 : Mr.V.P.Raman

O R D E R

Seeking a direction to direct the respondents to allow the petitioner to participate in the counseling for admission in MBBS Course during the academic year 2018-19 session under Backward Class category based on the rank (1706) secured by the petitioner as per Provisional Rank list issued by the second respondent and to allot the MBBS seat to the petitioner in the appropriate college as per the rank secured by the petitioner with all attendant benefits, the present Writ Petition came to be filed.

2. Heard Mr.G.Sankaran, learned counsel appearing for the petitioner and Mr.K.Karthikeyan, learned Government Advocate appearing for the respondents 1 & 2 and Mr.V.P.Raman, learned counsel appearing for the third respondent.

3. The case of the petitioner is that she was born to one Y.Hanumantha Rao and V.Rajeswari/her parents and her father is working as Manager (Dairy), Tamil Nadu Co-operative Milk Producers Federation Ltd., Chennai (Aavin) from the year 1997 to till date. She completed her school studies from L.K.G and 12th standard examination in March, 2017. The petitioner has applied for admission in medical course, but she could not avail the preferred College. In that process, the petitioner has applied NEET UG-2018 and participated in the examination conducted by CBSE on 06.05.2018. Since she secured 344 marks, which is more than the pass percentage marks, it is stated that she is entitled for admission to the medical course, as per the MCI Regulations under All India Quota and as per the State Quota.

4. The learned counsel for the petitioner states that the petitioner is a permanent resident of Tamil Nadu and completed her schooling from L.K.G to 12th standard in Tamil Nadu. The learned counsel for the petitioner also states that the petitioner has possessed Community Certificate, Aadhaar Card, Ration Card and other documents to prove her nativity and community as "BC". The petitioner has applied for admission to MBBS course under the said quota and her name was included in the provisional rank list under the Government quota. When the petitioner has applied for counseling conducted on 05.07.2018, she was informed that her application cannot be considered under the BC reserved category, as she did not have the Nativity Certificate.

5. It is the case of the petitioner that she is eligible for getting admission under the State quota. It is further stated by the petitioner that as per the terms of prospectus, the petitioner should be given admission to MBBS course under BC reserved category. Therefore, the petitioner has filed this writ

petition.

6. In the counter affidavit filed by the respondents 1 and 2, it is stated that the petitioner has not submitted any documents, except Family Card to prove her parent's nativity. It is further stated that the petitioner's Birth Certificate indicates that she was born in Andhra Pradesh. It is the case of the respondents 1 & 2 that merely because the petitioner has completed her school education only in Tamil Nadu, it is not the reason to accept the petitioner's nativity, particularly in view of the prospectus clarifying that position. In the prospectus, clauses 3(f) and (g) reads as follows :-

3. Nativity :-

(f) Candidates who are Native of Tamil Nadu but studied from VI to XII Standard 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 VII to XII in Tamil Nadu will be treated as Open Category."

7. The learned Government Advocate appearing for the respondents 1 & 2 would submit that the petitioner did not challenge the requirements suggested above to prove one's nativity. Learned counsel appearing for the petitioner relied upon the publication of Directorate of Tamil Nadu E-Governance Agency, Information Technology Department, regarding the eligibility to get "Nativity Certificate". As per the publication, the Nativity Certificate is issued, subject to the applicant proving continuous residence for five years or more and it is issued by a Special Tahsildar. So, the eligibility for getting Nativity Certificate is that the applicant must be a resident of Tamil Nadu and there must be proof that he/she is a resident of Tamil Nadu continuously for five years or more. It is further stated in the communication that to prove the nativity, the applicant has to produce any one of the six documents referred to therein.

8. This Court is unable to recognise the communication released by the Information Technology Department, which is relied on by the learned counsel appearing for the petitioner in

the present case, in view of the prospectus issued by the Selection Committee, Directorate of Medical Education during the academic year 2018-19. However, the learned counsel appearing for the petitioner submits that the petitioner in this case has possessed sufficient documents to prove her case that she satisfy the requirements to prove her nativity as per the prospectus. Further, the learned counsel appearing for the petitioner states that the petitioner has got some document to prove her nativity.

9. In the above circumstances, this Court is inclined to pass the following order :-

(i) The petitioner is directed to produce all the documents in her possession to prove her nativity, within a period of one week from the date of receipt of a copy of this order to the second respondent; and

(ii) On receipt of the same, the second respondent is directed to consider the petitioner's claim on merits and in accordance with law and decide the same.

(iii) On satisfaction of the nativity of the petitioner, the second respondent shall permit the petitioner to participate in the counseling for the medical college admission during the academic year 2018-19 under the BC category based on the rank secured by her and allot MBBS seat to the petitioner in any one of the medical colleges.

10. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-

Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

rts

To

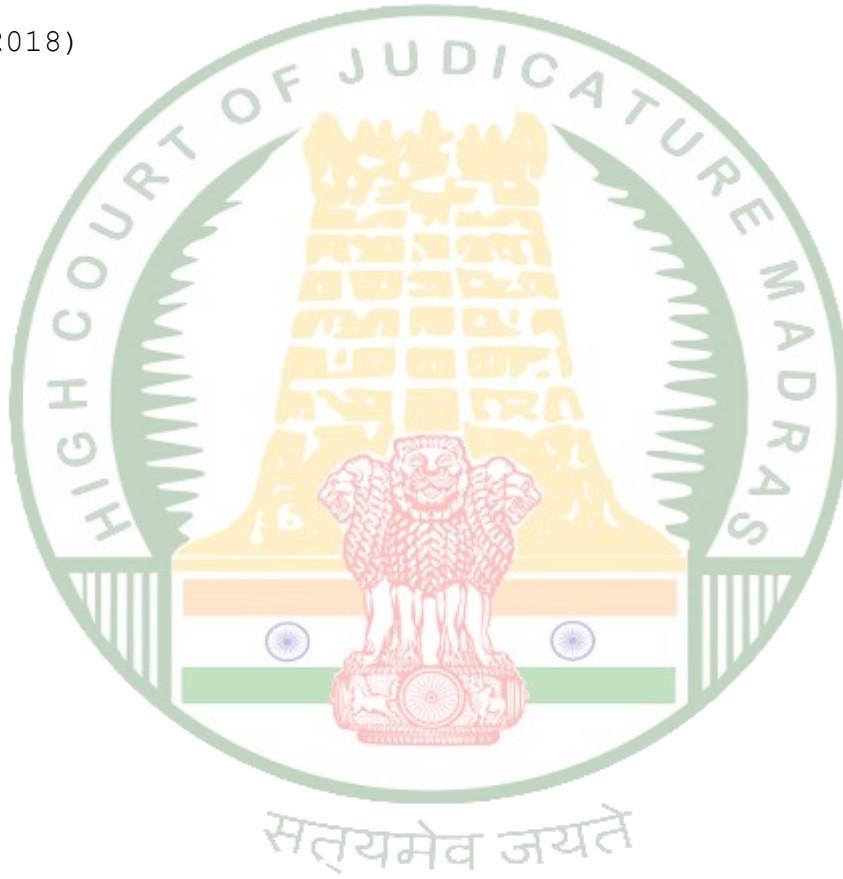
1. The Principal Secretary to Government,
Health & Family Welfare Department,
Secretariat, Fort St. George,
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2. The Secretary,
Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.

+1 CC to Mr.V.P. Raman, Advocate sr 56239.
+1 CC to Mr.G. Sankaran, Advocate sr 56250.
+1 CC to Govt. Pleader sr 56422.

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BS (CO)
SP (16/08/2018)



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