

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2018

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.17414 of 2018
and W.M.P.No.20706 of 2018

S.Ashok Kumar (Minor)
Rep. By his Father & Natural Guardian
E. Saravanan

... Petitioner

Versus

1.The Secretary to Government,
Ministry of Health & Welfare,
Government of India,
New Delhi.

2.Union of India,
Rep by its Chief Secretary,
Government of Puducherry,
Gobert Avenue,
Puducherry.

3.The Dean (Academic),
III - Floor,Academic Section,
Jipmer Academic Centre,
Dhanvantri Nagar P.O.,
Puducherry - 605 006.

4.The Medical Council of India,
Rep by its Secretary,
Pocket - 14, Sector - 8, Dwarka
New Delhi - 110 077.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the third respondent to fill up P-SC seats as per the Judgements of the Supreme Court (1990 (3) SCC 130) & (1994 (5) SCC 244) and delete the Migrant-SC candidates from the P-SC merit list in the MBBS Course.

For Petitioner : Mr. D. Sreenivasan

For Respondents :Mr.B.Nambiselvam (for R2)
Additional Government Pleader(Pdy)

:Mr.M.T.Arunan (for R3)

:Mr. V.P.Raman (for R4)

O R D E R

The petitioner is a minor represented by his father. He has passed +2 examination with 1008 marks. The petitioner applied for entrance examination exclusively conducted by the third respondent and secured 70.413%.

2 The third respondent is in-charge for the admission of MBBS Course in JIPMER. The petitioner belongs to Scheduled Caste and as per the prospectus issued by the third respondent, the petitioner comes under the category of Scheduled Caste in Pondicherry. It is not in dispute that six seats has been reserved for the Scheduled Caste candidates in Pondicherry.

3 It is stated by the petitioner that the benefit under Scheduled Caste category is to be extended only as per the Constitution (Pondicherry) Scheduled Caste Order (1964). It is contented by the petitioner that all the seats which are reserved for Scheduled caste students of Pondicherry, should be extended only to persons belonging to Scheduled Caste category in Union Territory of Pondicherry.

4 The grievance of the petitioner is that the third respondent has released the merit list under Pondicherry Schedule Caste category and the petitioner is in 18th position. The petitioner points out that few students in the rank list do not belong to Scheduled Caste of Pondicherry, as they have migrated from other States to pondicherry. It is the specific case of the petitioner that among the selected candidates particularly who have ranked in 4th, 9th and 15th position did not belong to Scheduled Caste in Pondicherry as their origin is not Pondicherry.

5 Since among the selected candidates some of the candidates do not come as per the Presidential Order, it is stated that the third respondent has to distinguish between Scheduled Caste candidates of other States who is simply holding the residential certificate of Pondicherry from that of the Scheduled Caste candidates of Pondicherry, who have the origin of Union Territory of Pondicherry. It is further stated that

this Court and the Hon'ble Supreme Court has repeatedly held that the reservation of Scheduled Caste candidate can be given only to Scheduled Caste who comes under the Presidential Order and not to any one, particularly, the migrants by producing the residential certificate or a certificate to show that the students has studied only in the Union Territory of Pondicherry.

6 The position is covered by the judgement of the Hon'ble Division Bench of this Court in the case of Attavanai Ena Makkal Vs The Secretary to Government in Writ Appeal No. 782 of 2014 dated 22.09.2014. It has been held that in the matter of admission in the Educational Institutions controlled and administered by Central Government of the SC and ST candidates, a person who is considered as Scheduled Caste as per the Presidential notification applicable to any of the States or the Union Territories, is also entitled to the benefit of such category of Pondicherry Schedule Caste, provided such Candidate or his parents is residing continuously within the Union Territory of Pondicherry for at least five years or such candidate is the child of a Central or State Government servant posted and serving in the Union Territory of Pondicherry for a period of one year. Even the Hon'ble Supreme Court in the case of Marri Chandra Shehar Rao Vs. S.G.S. Medical College, reported (1990) 3 SCC 130, has acknowledged the position that SC and ST are entitled to derive benefits of All India Services or admissions in educational institutions controlled or administered by the Central Government irrespective of the State they belong.

7 Even though the learned counsel for the petitioner relied upon the judgment of the Division Bench of this Court in the case of Pondicherry Schedule Caste people welfare Association Vs. Union of India in Writ Appeal No.1225 of 2015, wherein it has been held that there is no question of considering the Scheduled Caste from other States, who have migrated to the Union Territory of Pondicherry to get the benefit of reservation treating them as candidate belonging to Schedule Caste of Pondicherry in the matter of admission to Educational Institutions, the Judgement of the Division Bench relied upon by the petitioner is applicable to all other Educational Institutions private and Government, but not to the educational institutions administered or controlled by the Union Government.

8 Hence in view of the law that has been settled and ruled by the Division Bench of this Court in the above judgement, there is no merit in this Writ Petition. Hence, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mpa/rpl
To

- 1.The Secretary to Government,
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New Delhi.
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- 4.The Secretary,
Medical Council of India, Pocket - 14, Sector - 8, Dwarka
New Delhi - 110 077.

+1cc to Mr.M.T.Arunan, Advocate, S.R.No.64899
+1cc to Mr.V.P.Raman, Advocate, S.R.No.65212
+1cc to Mr.D.Sreenivasan, Advocate, S.R.No.65336
+1cc to the Government Pleader, S.R.No.65745

W.P.No.17414 of 2018
and
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NMI (CO)
GSP(15/10/2018)