

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2018

CORAM:
THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.18474 and 18475 of 2018

P.Mohanapriya
J.Aravind Kumaran

...Petitioner in W.P.No.18474 of 2018
... Petitioner in W.P.No.18475
of 2018

vs.

1. The Secretary,
Dental Council of India,
Aiwan-E-Galib Marg,
Kotla Road,
New Delhi - 110 002.
2. The Controller of Examinations,
SRM University,
No.3, Veeraswamy Street,
West Mambalam,
Chennai 600 033.
3. The Dean,
SRM Dental College,
Bharathi Salai,
Ramapuram,
Chennai 600 089. ... Respondents in both
W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records pertaining to the Letter No.DE-BOS(248) Admission - 2018/3245, dated 29.06.2018 of the 1st Respondent and the consequential letter dated 13.07.2018 of the 3rd Respondent and quash the same.

For Petitioner in both W.Ps. :Mr.S.Dhanasekaran
For 1st Respondent in both W.Ps. :Mr.Haja Mohideen Gisthi
For Respondents 2 & 3 in both W.Ps.:Mr.S.Panneerselvam,
for M/s.E.Saraswathi

C O M M O N O R D E R

Petitioners have come up with the above Writ Petitions seeking to quash the letter dated 29.06.2018 of the 1st Respondent and the consequential letter dated 13.07.2018 of the 3rd Respondent.

2. According to the Petitioners, they have successfully completed 10th Standard in March 2014 and XII Standard in March 2016 under State Board. The Petitioner viz. P.Mohanapriya in W.P.No.18474 of 2018 belongs to 'Kaikolar' Community, which is classified as Backward Community and wrote NEET for getting admission in Medical Course and secured 132 marks out of 720, i.e. 45.57%. The Petitioner viz. J.Aravind Kumaran in W.P.No.18475 of 2018 belongs to 'Jongam' Community, which is classified as Most Backward Community and he appeared in the NEET Examination, 2016 and secured 125 marks out of 720, i.e. 42.77%.

3. In the NEET Examination, both the Petitioners have mentioned that they belong to OBC category and since their NEET score is above the cut-off marks, they were selected for BDS Course in the 3rd Respondent/SRM Dental College, Ramapuram, under the Management Quota. As per the admission intimation dated 26.09.2016, both the Petitioners were asked to produce copies of their testimonials including Community Certificate and they produced all the Certificates to the 3rd Respondent/College for verification. Thereafter, both the Petitioners attended the 1st year BDS Course and successfully completed the 1st year Examination.

4. While so, during October 2017, the 3rd Respondent/College directed the Petitioners to produce OBC Certificate in the prescribed format and immediately, the Petitioners obtained OBC Certificate, dated 12.10.2017 from the Tahsildar concerned and produced the same to the 3rd Respondent/College. Thereafter, the 1st Respondent/Dental Council of India vide letter dated 31.10.2017, specifically requested the 3rd Respondent to furnish certified copy of the Community Certificate of the Petitioners within 10 days and immediately, the 3rd Respondent/College forwarded the OBC Certificates dated 12.10.2017 of the Petitioners, respectively, to the 1st Respondent on 09.11.2017.

5. All of a sudden, the 1st Respondent/Dental Council of India, vide letter dated 29.06.2018, directed the 3rd Respondent/College to discharge the Petitioners immediately on the ground that Community Certificates were issued after the cut-off date for admission in B.D.S. Course and hence, they were not eligible for admission under Reserved Category (OBC) and that the same amounts to violation of selection procedure prescribed in the BDS Course Regulation, 2007. Consequently, the 3rd Respondent/College vide letter dated 13.07.2018, discharged both the Petitioners from B.D.S. Course stating that they secured less than 50% in NEET 2016 and that they produced their Community Certificates after the cut-off date for admission in B.D.S. Course. Aggrieved by the same, the

Petitioners are before this Court.

6. Learned Counsel for the Petitioners submitted that the Petitioners have paid necessary Examination Fee for the 2nd year, which is scheduled to commence on 01.08.2018 and contended that the 1st and 3rd Respondents failed to see that discharging students in the midst of the Course, without even giving them an opportunity of hearing or notice, is illegal and unconstitutional.

7. Learned Standing Counsel appearing for the 1st Respondent/Dental Council of India, submitted that the candidature of the Petitioners is considered not merely based on the declaration of their Community in the Application form, but also based on the physical verification of their Community Certificates. He went on to submit that it may be correct that the Petitioners have applied under OBC category at the time of Counselling for BDS Course, but the Petitioners have not produced their Community Certificates before the cut-off date. Hence, the 1st Respondent/Dental Council of India has no other option except to cancel the admission of the Petitioners and accordingly, they have sent a communication to the 3rd Respondent/College to discharge the Petitioners from B.D.S. Course and accordingly, 3rd Respondent/College discharged the Petitioners from their College. According to the learned Standing Counsel, there is no illegality in the order passed by the Dental Council of India that requires interference.

8. Learned counsel appearing for Respondents 2 and 3 submitted that the Petitioners have produced OBC Certificates and that the 3rd Respondent/College has no hesitation in allowing the students to pursue their studies. According to the learned Counsel, only bound by the decision of the 1st Respondent/Dental Council of India, the 3rd Respondent/College has discharged the Petitioners from B.D.S. Course and that they are willing to abide by any direction that may be issued by this Court.

9. Heard the learned counsel on either side and perused the material documents available on record.

10. It is not in dispute that the Petitioners have applied under OBC category and have qualified NEET. On a reading of the impugned communication, it is seen that the 3rd Respondent/College has forwarded the Community Certificates of the Petitioners, when the same was demanded by the 1st Respondent/Dental Council of India. As could be seen from the records, the Petitioners have already completed their I year B.D.S. Course and they have even paid the Examination Fee for the II year B.D.S. Course and the Examination for the II year is scheduled to commence on 01.08.2018.

11. Also, it is seen from the records that the Petitioners have produced OBC Certificate at the time of Counselling itself and they cannot be discharged from the Course, for the simple reason that they have not produced their Community Certificate before the cut-off date, when they have sought admission under OBC category. The 1st Respondent/Dental Council of India could think of discharging the Petitioners, only if the Community stated by them in the Application Form differs from that found in their Community Certificate. Such is not the case here. The Community stated by the Petitioners in their Application seeking admission to B.D.S. Course tallies with their Community Certificate.

12. Hence, as an exceptional case, this Court directs the 1st Respondent/Dental Council of India to permit the Petitioners herein continue their studies in the 3rd Respondent/College, as the Petitioners are not at fault. It is made clear that this order cannot be treated as a precedent.

13. It is further made clear that the Community of the candidates mentioned in their Application seeking admission, should tally with their Community Certificate. Getting a Medical seat under Open Category and later producing a Community Certificate that the candidate belongs to Reserved Category, will not hold water. The details filled in the application will have to be taken into account, more particularly, when the candidates are unable to produce Community Certificate at the time of Counselling, i.e. to say, that the subsequent production of any document will not ratify or eradicate the mistake committed by the candidates and such candidates will have to be considered only in the Open Category and not under Reserved Category, as they demand.

In fine, Writ Petitions are allowed with the above direction and observation. No costs. Consequently, connected W.M.P.Nos.21793 to 21795 of 2018 in W.P.No.18474 of 2018 and W.M.P.Nos.21796 to 21798 in W.P.No.18475 of 2018 are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To:
The Secretary,
Dental Council of India,
Aiwan-E-Galib Marg,
Kotla Road,
New Delhi - 110 002.

+6cc to Mr.S.Dhanasekaran, Advocate, S.R.No.50690 & 50689

+1cc to Mr.S.Haja Mohideen Gisthi, Advocate, S.R.No.50680

+1cc to Mr.B.Saraswathi, Advocate, S.R.No.51235

W.P.Nos.18474 and 18475 of 2018

GSP (30/07/2018)



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