

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.09.2018

C O R A M
THE HONOURABLE Mr.JUSTICE S.S.SUNDAR

W.P.No.25387 of 2018
and
W.M.P.No.29538 of 2018

The Tamil Nadu Dental College Consortium,
Represented by its Secretary
Mr.Isiri Ganesh.

... Petitioner

Vs.

1. Union of India,
Represented by its Secretary,
Ministry of External Affairs,
New Delhi.
2. Union of India,
Represented by its Secretary,
Ministry of Health and Family Welfare
A wing, Nirman Bhavan
Maulana Azad road,
New Delhi 110 011.
3. Dental Council of India,
Represented by its President,
Aiwan E Galib Marg,
Kotla Road, Temple Lane,
New Delhi 110 002.
4. The Secretary,
The Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R.High Road,
Kilpauk, Chennai 600 010.
5. State of Tamilnadu,
Represented by its Secretary,
Ministry of Health & Family Welfare,
Namakkal Kavignar Maaligai,
Fort St.George,
Chennai 600 009.

... Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to conduct counselling till 30th September 2018 for admission to BDS Degree Courses under the Management Quota in Self Financing Dental Colleges in Tamil Nadu for the year 2018 - 2019 so as to enable the Petitioner Colleges to fill up

the vacant seats under the Management Quota.

For Petitioner : M/s.Kavitha Deenadyalan

For Respondents: Mr.G.Baskaran for R1 & R2,
Central Govt. Standing Counsel.

Dr.Seethalakshmi for R3,
Standing Counsel.

Mrs.V.Annalakshmi for R4 & R5,
Government Advocate.

O R D E R

The petitioner is a Consortium of Dental Colleges in Tamil Nadu. The individuals who are members of the Consortium have established their Colleges after procuring necessary permission from the Central Government as per the relevant Acts and Rules in force to run a Dental College. Each of the constituent of Consortium is stated to have approvals for admitting around 100 students. It is stated that the members of the Consortium surrendered 50 seats to the state of Tamil Nadu every year and the admission to the 50 seats surrendered to the State Government was done by the 5th respondent.

2. It is further stated that this year the 5th respondent has issued a Government Order vide G.O.M.S.No.212, dated 04.06.2018. Whereby, the State of Tamil Nadu has decided to conduct counselling for all the seats including the seats allotted under Management Quota based on NEET examination results.

3. It is stated that the prospectus for the admission to MBBS/ BDS Degree courses under the Management Quota in Self Financing Medical/Dental Colleges in Tamil Nadu for the year 2018 - 2019 was issued on 10.06.2018, wherein the 1st phase of Counselling was to take place between 07.07.2018 to 10.07.2018 and the 2nd phase of Counselling was to take place between 22.07.2018 and 24.07.2018. Though the Counselling was conducted and completed on 31.08.2018 and on 01.09.2018, it is stated by the petitioner that at the end of Counselling Session about 35 seats remain vacant in the Government quota seats and around 505 seats remain vacant under the management quota. It is stated that for the first time in the history of medical admission such huge number of seats remain unfilled. In view of the shocking position, the petitioner states that the last date for admitting the students in BDS Degree courses should be extended till the end of 30th September as per the time schedule fixed by the Hon'ble Supreme Court in Priya Gupta V. State of Chhattisgarh &

Ors. [(2012) 7 SCC 433].

4. The learned Counsel for the petitioner submitted that there was some delay in re-scheduling of the dates and therefore many of the students who might have opted for BDS Degree courses did not have information about the re-scheduling. Other reasons were also stated by the petitioner in the affidavit filed in support of the petition to sustain the prayer for extension of time for admitting the students for the academic year 2018 - 2019.

5. The learned Counsel appearing for the Government has no serious objection.

6. However, the learned Counsel appearing for the Dental Council of India, the 3rd respondent in the writ petition has expressed serious objections for extending the time. It is stated that as per the communication received from the Dental Council of India dated 27th September 2018, instructions has been given to all the institutions to adhere to the time schedule and the directions of the Hon'ble Supreme Court in the case of Priya Gupta V. State of Chhattisgarh & Ors. [(2012) 7 SCC 433]. Since the last date upto which the students can be admitted/joined against stray vacancies had been fixed as 15th September, it is submitted that extension of time schedule will have serious consequences and therefore it cannot be permitted.

7. The learned Counsel appearing for the 3rd respondent further submitted that time schedule indicated in the communication can be modified only by the Central Government, for the reason to be recorded in writing and that the writ petition is unsustainable without even making a representation before the 2nd respondent.

8. The learned Counsel further submitted that the reasons stated by the petitioner in the affidavit cannot be countenanced and the Dental Colleges cannot be shown any indulgence to extend the time which was fixed by the Dental Council of India, in tune with the direction of the Hon'ble Supreme Court.

9. It is not in dispute that the Hon'ble Supreme Court in Priya Gupta V. State of Chhattisgarh & Ors. [(2012) 7 SCC 433], has prescribed the last date up to which the students can be admitted against vacancies arise due to any reason as 30th September. It is true that the Hon'ble Supreme Court was conscious that the ultimate date cannot be resorted in every possible case and only in exceptional cases the last date can be resorted to.

10. This Court is of the view that in the State of Tamil Nadu the present vacancy position is unprecedented. There is no

immediate material before this court to form an opinion that the members of the petitioner Consortium are responsible for this position prevailing in the state of Tamil Nadu.

11. It is likely that many of the seats will go waste if the time is not extended upto 30th September. The Rules are intended only to maintain the standard of education and other objectives as indicated by the Hon'ble Supreme Court, time and again in several cases on different occasions. This Court is also conscious that the extension of time cannot be granted without strong reasons and on mere asking due to some difficulty either by the candidate or by the institution.

12. In this case it is a fact on record that more than 500 seats remain vacant. The learned Counsel for the petitioner states that a considerable number of students are likely to join the Course as the managements have reduced the fees. If the seats are not filled up, the individual institutions may suffer as they have to provide infra structure and faculty, even if few students are only available in the institution for this academic year. There is no other strong reason for denying relief to the petitioner. Hence this Court is inclined to allow the writ petition as prayed for and the 4th and 5th respondents are directed to conduct Counselling till 30th September 2018, for admission to BDS Degree Courses under the Management Quota in Self Financing Dental Colleges in Tamil Nadu for the year 2018 - 2019, so as to enable the petitioner Colleges to fill up the vacant seats under the Management Quota.

13. The learned Counsel for the 3rd respondent submitted that this may not be a precedent for the next year and strict adherence to the time schedule should be directed. The learned Counsel appearing for the 3rd respondent is right in her submission. This Order cannot be a precedent for future. No individual College shall seek extension of time on the ground stated in this writ petition.

14. In the result, the writ petition is allowed with the above directions. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

msvm

To

1. The Secretary,
Union of India,
Ministry of External Affairs,
New Delhi.
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Chennai 600 009.

+1cc to Mr.S.Seethalakshmi, Advocate, S.R.No.67167
+1cc to Mr.G.Baskaran, Advocate, S.R.No.67183
+1cc to the Government Pleader, S.R.No.67814

सत्यमेव जयते

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rrs 04/10/2018

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