



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2018

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CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P. (MD) No.15786 of 2018

and

W.M.P (MD) No.14136 of 2018

Sakaya Sirpica Britto

... Petitioner

vs.

1. The Chairman,
Central Board of Secondary Education,
Shiksha Kendra, No.2, Community Center,
Preet Vihar, New Delhi- 110 092.

2. The Regional Officer, CBSE,
1630A, "J" Block, 16th Main Road,
Anna Nagar West, Chennai - 4.

3. The Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, Periyar EVR High Road,
Kilpauk, Chennai - 10.

4. The Director,
(Public Health and Preventive Medicine)
Directorate of Health Service,
359, Anna Salai, Teynampet,
Chennai.

... Respondents

(R3 & R4 impleaded as respondents vide order
dated 02.08.2018 in W.M.P(MD)No.14956 of 2018)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to carry out the petitioner's community category as other backward class instead of unreserved category in the respondents official website and their office so as to enable to participate in the forthcoming counseling for management / payment seat in the private college based on the request of the petitioner (Reg.No.41264768) dated 09.07.2018.



For Petitioner : Mr.V.P.Rajan
For R1 & R2 : Mr.G.Nagarajan
For R3 & R4 : Mr.K.Chellapandian,
Additional Advocate General
Assisted by Mr.V.Anand
Government Advocate

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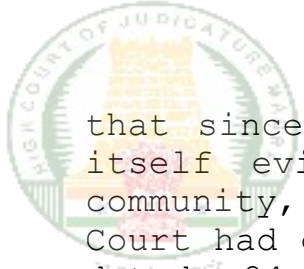
ORDER

The petitioner had scored 826 marks out of 1200 in the Plus Two examination and in the NEET Examination she had scored 105 marks out of 720. The petitioner belongs to backward community and the cut off marks for the backward community for the management seat as well as the payment seat in the private colleges was fixed between 118 to 96. It is now represented that the petitioner had inadvertently filled in an application stating that she belongs to unreserved category, though she held a community certificate dated 10.11.2011, which evidences that she belongs to backward community.

2. In view of the same, she had given a representation on 09.07.2018, seeking for consideration of her candidature under the backward community category. Since her request has not been considered for counselling in this category, the present writ petition has been filed.

3. The learned Additional Advocate General submitted that the mistake of the petitioner should not be put against them. According to him, the application reveals her community is unreserved. Further more, the information Bulletin in the NEET very clearly states that the particulars filled in the application form must be chosen carefully and once the options are chosen, the same can not be changed. Since there was no mistake committed on the part of the respondents herein, the petitioner does not deserve any consideration.

4. It is no doubt true that the respondent herein are bound within their own norms and regulations and particularly in the light of the instructions in the information Bulletin, the petitioner herein ought to have taken utmost care while filling in her application. But, it is quite understandable that such inadvertant mistakes may possibly occur at times and it is for these kind of circumstances that the Courts of law are established with powers to redress the grievances of such persons, who commit errors. Article 226 of the Constitution of India is an enabling provision with such powers to come to the assistance of a bonafide person who commits such inadvertant errors. Though the norms do not entitle the petitioner for a relief, I am of the view



that since the community certificate was issued in the year 2011 itself evidencing the petitioner belongings to backward class community, the mistake ought to have been made inadvertently. This Court had on occasion to deal with a like set of facts in an order dated 24.08.2017 passed in W.P(MD)No.15960 of 2017. While directing the respondents therein, to consider the petitioner as candidate, this Court had observed as follows:

"6. It is not in dispute that the petitioner while making the on-line application for the NEET examination has referred the category as UR (Unreserved), instead of OBC (Other Backward Class). It is stated that the petitioner has inadvertently made such mistake, when the fact remains that she belongs to Backward Class. In support of her contention, the petitioner relied on the Community Certificate and Other Backward Class Certificate issued by the competent Revenue Official dated 23.06.2017 and 09.05.2017 respectively. Perusal of the said certificates made available in the typed set of papers would indicate that the petitioner belongs to Backward Class community. The transfer Certificate issued by the School to the petitioner also indicate that she belongs to Backward Class community.

7. Therefore, it is evident that the petitioner has inadvertently referred the category wrongly in the on-line application, while submitting for NEET examination. When the petitioner belongs to Backward Class community and the overwhelming documents are there in support of such claim, I do not think that she can be denied an opportunity to get admission under the reserved category for Backward Class community, only because she has referred to the category as Unreserved in the on-line application. Since the merit list has not been issued so far and the counseling has also not taken place, I am of the view that no prejudice would be caused, if the respondents are directed to consider the claim of the petitioner and treat her as Backward Class Community, while considering her application for admission to M.B.B.S. Course based on the marks obtained in the NEET examination."

5. In the light of the above observations of this court and also taking into account, that such a the mistake committed should not spoil a bright student's future, it would be appropriate to give her an opportunity to participate in the counselling, which is tentatively scheduled during the second week of August 2018.

6. In the result, the writ petition stands allowed with a direction to the third respondent to permit the petitioner herein to participate in the counselling for the admission to the MBBS Course for year 2018-2019, in the backward community category. The petitioner shall also produce a certified copy of her community



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certificate at the time of counseling. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar (CS-I)

To

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 4. The Director,
(Public Health and Preventive Medicine)
Directorate of Health Service,
359, Anna Salai, Teynampet,
Chennai.
- + 1 CC TO Mr.V.P.RAJAN, ADVOCATE IN SR No. 76955
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 77003

DAS

TE/KAK/SAR-1 : 06/08/2018 : 4P/7C

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