

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2019

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THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.3547 of 2019
and W.M.P.No.3869 of 2019

Dr.MAM.Arivazhangan

.. Petitioner

Vs.

1. National Board of Examinations,
Medical Enclave, Ansari Nagar,
Mahathma Gandhi Marg (Ring Road),
New Delhi-110 029
rep. by its Secretary
 2. Selection-cum-Counseling Authority,
NEET PG 2019,
The Directorate of Medical Education,
Kilpauk, Chennai-600 010.
 3. The Director of Public Health and
Preventive Medicine,
No.359, DMS Complex,
Teynampet, Chennai-600 006.
- .. Respondents

* * *

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 and 2 herein to declare the petitioner (ID No.PG 026176) as Candidate belonging to OBC Category in the NEET-PG Examination, 2019 based on Backward Class Community Certificate of the petitioner and further declare him as eligible and qualified for the ensuing admission and counselling in National Eligibility-cum-entrance Test PG 2019 based on the marks secured by the petitioner in the category of Other Backward Class (OBC).

For Petitioner : Mr.M.Venkadeshn

For Respondents : Mr.P.Naveenkumar
for M/s.Anandsamy and Dhruva
for R1

Mr.V.Kandhirvelu,
Special Government Pleader
(Higher Education) for R2

O R D E R

Mr.P.Naveenkumar, learned Standing Counsel accepted notice on behalf of the first respondent and Mr.V.Kandhirvelu, Special Government Pleader (Higher Education) accepted notice on behalf of the second respondent.

2. With the consent of the learned on either side, this writ petition is taken up for final hearing.

3. The petitioner, who is a Doctor, seeks a direction to the respondents 1 and 2 to declare him as a Candidate belonging to OBC Category in the NEET-PG Examination, 2019 based on Backward Class Community Certificate and further declare him as eligible and qualified for the ensuing admission and counselling in National Eligibility-cum-entrance Test PG 2019 based on the marks secured by the petitioner in the category of Other Backward Class (OBC).

4. The petitioner registered himself to appear for PG NEET Examination 2019 through on-line on 02.04.2018, pursuant to the notification issued by the first respondent. In the said examination, he secured 304 marks out of 1200 under the General category. As per Clause 14.1 of the Information Bulletin issued by the first respondent, which specifies qualifying criteria, the candidates belonging to General category have to secure 50% marks to get qualified, while 40% marks is sufficient for the SC/ST/OBC candidates. The petitioner claims that he belongs to BC category, and by mistake, he filled his application under the General Category, instead of OBC category. Seeking to correct the said mistake, he sent representation dated 02.02.2019 to the first respondent through registered post with acknowledgment due. Since his representation did not yield any fruit, the petitioner is before this Court with the aforesaid prayer.

5. Heard the learned counsel for the petitioner and the learned Standing Counsel for the first respondent and the learned Special Government Pleader (Higher Education) on behalf of the second and third respondents and perused the materials placed before this Court.

7. Earlier, this Court also had an occasion to pass a similar order in a similar case, wherein, a similar mistake had crept in at the time of applying, i.e., there was a mistake in respect of community while applying online, which, could not be changed subsequently. By virtue of the order dated 21.04.2017 passed in that writ petition in W.P.No.4838 of 2017, the petitioner therein was directed to approach the respondents 2 and 3 to consider the status of the petitioner therein based on her marks and community.

8. Further, this Court passed an order on 08.03.2019, in W.P.No.6886 of 2019, wherein, another learned Standing Counsel for the first respondent produced a communication dated 08.03.2019, which was given by the first respondent, giving discretionary power to the counselling authority to consider the admission of the similarly placed candidate under the OBC Category.

9. In such backdrop, the respondents 2 and 3 are directed to draw the merit rank of the petitioner, based on the community, after verification, and the marks obtained by him, without reference to the fact that he applied under the General Category.

10. This writ petition is disposed of, with the aforesaid directions. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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To

Sub Assistant Registrar

1. The Secretary,
National Board of Examinations,
Medical Enclave, Ansari Nagar,
Mahathma Gandhi Marg (Ring Road),
New Delhi-110 029.
2. Directorate General of Health Services,
Medical Counselling Committee,
Nirman Bhavan, New Delhi-110 108.
3. Selection-cum-Counseling Authority,
NEET PG 2019,
The Directorate of Medical Education,
Kilpauk, Chennai-600 010.
4. THE Director of Public Health and Preventive Medicines,
No.359, DMS Complex, Teynampet, Chennai - 18.

+1 cc to M/s.Anand, Samy & Dhruva, Advocate, S.R.No.23925
+1 cc to the Government Pleader, S.R.No.24194
+1 cc to Mr.M.Venkadeshnan, Advocate, S.R.No.23681 (15.03.2019)

W.P.No.3547 of 2019

SSM(14/03/2019) .