

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.6886 of 2019

in

WMP.NO.7633/19

Dr.M.Chengotaiyeen

.. 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. 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.

.. Respondents

* * *

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the impugned email communication dated 27.02.2019 issued by the first respondent authority to the petitioner and quash the same and consequently direct the first respondent authority to change the community status/category of the petitioner as "OBC" in consonance with his valid community certificate and make suitable changes in the NEET-PG 2019 examination results pertaining to the petitioner and permit him to participate in the Post Graduate Medical Admission Counselling 2019 under the OBC category.

* * *

For Petitioner : Mr.Thankasivan
for M/s.K.Sathyabal

For Respondent : Mr.M.T.Arunan
No.1

O R D E R

When this writ petition is taken up for admission in the morning, Mr.M.T.Arunan, learned Standing Counsel appearing on behalf of the first respondent accepted notice on behalf of the first respondent and sought for a pass over till the afternoon to get instructions.

2. With the consent of the learned counsel for the petitioner and the learned Standing Counsel for the first respondent, this writ petition is taken up for final hearing in the afternoon.

3. The petitioner, who is a Doctor, has challenged the order of rejection dated 27.02.2019 passed by the first respondent refusing to change his community status/category as "OBC". The further prayer is to direct the first respondent to change his community status/category as "OBC" in consonance with his valid community certificate and make suitable changes in his NEET-PG 2019 examination results and permit him to participate in the Post Graduate Medical Admission Counselling 2019 under the OBC category.

4. The petitioner registered himself to appear for PG NEET Examination 2019 through on-line on 02.11.2018, pursuant to the notification issued by the first respondent. In the said examination, he secured 297 marks out of 1200 under the General category, which comes to 40.1%. 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 a representation dated 18.02.2019 to the respondents through post and e-mail. He was given reply mail by the third respondent on the same day to approach the first respondent. The first respondent sent a reply on 27.02.2019 asking the petitioner to approach the second and third respondents. In the meanwhile, the second respondent sent the impugned letter dated 28.02.2019, which the petitioner received only on 04.03.2019, informing him to approach the first respondent. In such circumstances, the petitioner is before this Court with the aforesaid prayer.

5. Learned Standing Counsel for the first respondent in the afternoon, upon instructions, submitted that the first

respondent has got no objection, if the counseling authorities admit the candidate/petitioner under the category of OBC at their own level.

6. Heard the learned counsel for the petitioner and the learned Standing Counsel for the first respondent and perused the materials placed before this Court.

7. Earlier, this Court also had an occasion to pass a similar 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. However, in this case, with the effective efforts taken by the learned Standing Counsel for the first respondent, a communication dated 08.03.2019 was given by the first respondent giving discretionary power to the counselling authority to consider the admission of the 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. Connected MP is Closed.

Sd/-

Assistant Registrar(CS)

//True Copy//सत्यमेव जयते

Sub Assistant Registrar

To

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.

+1cc to Mr.T.Arunan , Advocate SR.No.22168

+1cc to M/s.K.Sathyabal , Advocate SR.No. 22136

W.P.No.6886 of 2019

A.SK(11/03/2019)



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