

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P. No.8275 of 2019
and W.M.P.No.8819 of 2019

S.K.Agalaya Kamalakannan

.. Petitioner

Versus

1. The Secretary,
National Board of Examination,
Medical Enclave, Ansari Nagar,
Mahatma Gandhi Marg,
Ring Road, New Delhi.

2. The Director of Medical Education,
Secretary - Selection Committee,
No.156, Poonamallee High Road,
Kilpauk, Chennai 600 010

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to consider and select the petitioner for undergoing the Post Graduate Degree Course commencing for the year 2019-2020 and to complete the same on the basis of her claim under the OBC Category and to extend all benefits thereto.

For Petitioner : Ms.N.R.Jasmine Padma

For Respondent-1 : Mr.M.T.Arunan, CGSC

For Respondent-2 : Mrs.Narmadha Sampath, AAG
Assisted by Mr.Abdul Saleem

O R D E R

This Writ Petition is filed for a mandamus, directing the respondents to consider and select the petitioner for undergoing the Post Graduate Degree Course commencing for the year 2019-2020 on the basis of her claim under the OBC category and permit her to participate in the Post Graduate Counselling 2019 under the OBC category.

2. The petitioner had completed her MBBS course in Sri Ramachandra Medical College and Research Institute and she had applied for NEET-PG 2019 through on-line within the prescribed time limit. In the said examination, she secured 304 percentile. 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 she belongs to MBC/OBC category and by mistake, she filled the application under the General Category, instead of OBC category. Seeking to rectify the said mistake, she sent a representation dated 02.02.2019 to the respondents through registered post and the same was forwarded by the second respondent to the first respondent on 13.02.2019. Despite the same, the petitioner was not given revised score card for the counselling under the OBC category. In such circumstances, the petitioner is before this Court with the aforesaid prayer.

3. Learned standing counsel for the first respondent, 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.

4. Heard Ms.N.R.Jasmine Padma, learned counsel for the petitioner, Mr.M.T.Arunan, learned Central Government Standing Counsel for the first respondent and Mrs.Narmadhasampath, learned Additional Advocate General, assisted by Mr.Abdul Saleem, learned counsel for the second respondent and perused the materials placed before this Court.

5. Earlier, this Court also had an occasion to pass an 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 on-line, 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 therein to consider the status of the petitioner therein or her marks and community.

6. However, in this case, with the effective efforts taken by the learned standing counsel for the first respondent, a communication of the National Board of Examination, New Delhi dated 26.03.2019 was given by the first respondent, which is said to have signed by Mr.Dinesh Chand, Deputy Director, giving discretionary power to the counselling authority to consider the admission of the candidate under the OBC category.

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

8. This Writ Petition is disposed of, with the aforesaid directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srn

To

1. The Secretary to Government,
Government of Tamil Nadu,
Commercial Taxes and Registration Department,
Chief Secretariat,
George St.Fort,
Chennai 600 009.
2. The Inspector General of Registration,
Santhome High Road,
Santhome, Chennai 600 028.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.29559

+1cc to Mr.M.T.Arunan, Advocate, S.R.No.28967

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SSM(28/03/2019)

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