

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE DR.G.JAYACHANDRAN

Writ Petition No.14084 of 2019
& W.M.P.Nos.14139 & 14141 of 2019

Dr.E.Vengadasalabadhy

...Petitioner

Vs

1. Principal Secretary,
Ministry of Health & Family Welfare,
Government of India,
Nirman Bhavan,
New Delhi-110 108.
2. Assistant Director General (Medical Education),
Directorate General of Health Services,
Ministry of Health & Family Welfare,
Government of India, Nirman Bhavan,
New Delhi-110 108.
3. Medical Counselling Committee,
Directorate General of Health Services,
Ministry of Health & Family Welfare,
Government of India, Nirman Bhavan,
New Delhi-110 108.
4. Medical Council of India,
Pocket 14, Sector 8,
Dwaraka Phase-I,
New Delhi-110 077.
5. Jawaharlal Nehru Institute of Medical Sciences,
Porompat,
Imphal-East-795 005.

... Respondents

Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to provide admission to the petitioner for the course 'Orthopaedic Surgery' as allotted in the provisional allotment letter dated 11.04.2019.

For petitioner : Ms.Abitha Banu
For R1 to R3 : Mr.K.B.Arul, ACGSC
For R4 : Mr.V.P.Raman, Standng Counsel
For R5 : Mr.Stalin Abimanyu, Standing Counsel

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. The petitioner herein has come out with the writ petition on the ground that the petitioner participated in the NEET examination and 6617th rank in the examination. In the admission counselling, he was allotted M.S.(Orthopaedic surgery) in the fifth respondent college under All India quota. When he approached to the fifth respondent college, they informed him that the seats already been filled up and they cannot accommodate in the M.S.(Orthopaedic surgery). When this was brought to the notice of the second respondent through e-mail, they had discussed with the fifth respondent institute and found that the petitioner cannot be accommodate in M.S.(Orthopaedic surgery), since the All India quota sanctioned in that institute is only two and the two candidates have already been allotted in the counselling. The option was given to the petitioner to join M.S. General surgery and to exercise the option by 5 p.m., on 27.04.2019. The petitioner has not willing to join the alternate course M.S. General surgery and he has approached this Court to allot M.S.(Orthopaedic surgery) in the fifth respondent college.

3. When the matter came up for admission, this Court ordered notice to the respondent and adjourned the matter to 12.06.2019, on that day this Court passed the following order:-

"2. As per the Affidavit, the petitioner herein was allotted M.S. 'Orthopaedic Surgery' course in the counselling conducted by the NEET, at Jawaharlal Nehru Institute of Medical Science, Imphal. As per the provisional allotment order dated 11.04.2019, when the petitioner approached the 5th respondent / Institute, it appears that they have declined to admit him in the M.S. 'Orthopaedic Surgery' course but they have offered alternate course in M.S. "General Surgery". Though, this was brought to the notice of the 4th respondent / Medical Council of India that they have not properly responded. It has failed to direct the 5th respondent / JNIMC, Imphal, to honour their allotment order, which has prompted him to approach this Court for seeking Mandamus. Since, there is patent violation and disobedience of the allotment order by the 5th respondent / Institute, there shall be an order of interim direction to keep one seat vacant for the petitioner for the course of M.S. 'Orthopaedic Surgery' as ordered. If the seat is filled illegally by the 5th respondent / Institute, it is always open to the 4th respondent / Medical Council of India, to take

necessary action against the Institute. The 5th respondent Institute shall keep one seat vacant, till disposal of the main writ petition. If the petitioner succeeds can be accommodated in that seat. Call the matter after two weeks."

4. The learned counsel for the fourth respondent for the Medical Council of India brought to the notice of this Court that the petitioner gave a representation only to the second respondent and not to the fourth respondent. However, when the matter came to the notice of Medical Council of India, the grievance of the petitioner was examined. It was ascertained from the 5th respondent Institute that their sanctioned strength for M.S.(Orthopaedic Surgery) is only four seats out of which, two seats are for All India quota. During the counselling two seats for the All India quota was already allotted to more meritorious candidate with NEET rank 65427 and 60567. Whereas, the petitioner has secured 6617th rank, which is lesser than the persons who were allotted seats.

5. The error of allotting seat to the petitioners in the 5th respondent college when came to the knowledge of Medical Council of India, on its own offered M.S. (General Surgery), which the petitioner declined. For this error neither MCI nor the college is responsible. Hence, petition to be dismissed.

6. On perusal of the records, this Court finds that error has caused during counselling. For the said error neither MCI nor the 5th respondent college can be held responsible. Therefore, the interim order passed by this Court on 12.06.2019 is revoked. The petitioner is always at liberty to proceed against the persons wrongly allotted M.S.(Orthopaedic surgery) in the fifth respondent institute without ascertaining the intake capacity.

7. In the result, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

rpl

To

1. Principal Secretary,
Ministry of Health & Family Welfare,
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Nirman Bhavan,
New Delhi-110 108.
 2. Assistant Director General (Medical Education),
Directorate General of Health Services,
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Pocket 14, Sector 8,
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 5. Jawaharlal Nehru Institute of Medical Sciences,
Porompat,
Imphal-East-795 005.
- +1 cc to Mr.V.P.Raman, Advocate, S.R.No.53222
- +1 cc to Mr.A.Damodaran, Advocate, S.R.No.53585

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VP(CO)
SSM(19/07/2019)

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