

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.06.2019

PRONOUNCED ON : 02.07.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.17108 of 2019 and
W.M.P.No.16669 of 2019

Mrs.S.Uma

...

Petitioner

Vs

1.The Regional Director,
Employees State Insurance Corporation,
Sub Regional Office,
Panchdeep Bhavan,
1897, Trichy Road,
Ramanathapuram,
Coimbatore – 641 045.

2.Director General of Health Services,
Ministry of Health and Family Welfare,
Nirman Bhavan, New Delhi,

3.Medical Council of India,
Pocket 14, Sector 8,
Dwarka Phase 1,
New Delhi – 77.

सत्यमेव जयते

WEB COPY

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Mandamus directing the respondents to issue the “Ward of Insured Person Certificate” to the petitioner's daughter Ms.S.Roshini for

admission in ESI Medical College for UG Courses (MBBS/BDS) under the Insured Persons Quota for the Academic Session 2019-2020 based on application No.ESIC004704 submitted by the petitioner's daughter S.Roshini and consequently direct the second respondent and third respondent to include the petitioner's daughter S.Roshini, NEET Registration No.41020424 in the merit list for the said quota considering the fact that the petitioner's daughter S.Roshini is a Ward of Insured Person and has passed the NEET – 2019 with a score of 424 out of 720 marks.

For petitioner	:	Mr.T.D.Selvam Babu
For 1 st Respondent	:	Mr.S.P.Srinivasan
For 2 nd Respondent	:	Mr.B.Sudhirkumar, Central Government Standing Counsel
For 3 rd Respondent	:	No Appearance

ORDER

Ms. S.Roshini, who is the daughter of the writ petitioner is one of the several thousand aspirants to join MBBS course. Her score in the qualifying examination is 1109/1200. She has secured 424/720 marks in the National Eligibility cum Entrance Test (hereinafter referred to as "the NEET") examination held in 2019. The petitioner being an employee in M/s.Hitwinhealth Care Limited at Coimbatore and ESIC benefit Insurance

member, her daughter S.Roshini is eligible for admission in MBBS/BDS under ESI insured persons (IPs) quota.

2.The second respondent is the authority for allotment of seats based on merit cum preference of institution, through a centralised on-line counselling for the "Insured persons quota". When the petitioner's daughter applied online through the ESI Portal under application No. ESIC004704, she was not able to generate Ward of Insured Certificate. When she approached the second respondent, in person, she came to know that, the student link for applying online for the Ward of Insured Person Certificate was closed by 28/05/2019, which is much before the NEET result published on 05/06/2019.

3.The admission policy for UG (MBBS/BDS) admission for Academic session 2019-2020 envisages that candidate seeking admission under 'Insured persons (IPs) Quota' will have to fulfil minimum eligibility criteria for admission and should submit 'Ward of Insured Person' Certificate issued by competent/designated authority for the purpose by ESIC.

4.The petitioner's daughter Roshini had fulfilled the eligibility criteria for admission of MBBS course by securing 1109 marks out of 1200 in XII

Examination. To claim quota under ESI Insured person, she should submit Ward of Insured Person Certificate. For applying 'Ward of Insured Person' Certificate, clause 4.5 of the Policy – for admission to MBBS/BDS course mandates after qualifying in centralised entrance test (NEET) candidates can respond to the advertisement by the ESIC and apply for admission under the Insured Persons (IPs) Quota.

5.The result of NEET examination was published on 05/06/2019. The petitioner daughter came to know that she is qualified in the centralised entrance test (NEET). So, she applied for admission through online on 10/06/2019. To be considered under the Ward of Insured persons quota, she applied for Ward of Insured Person Certificate, through online. She was not able to generate the certificate since, the last date for applying of Ward of Insured person closed on 28/05/2019 itself, even before the publication of NEET result .

6.Therefore, the petitioner contends that, when the Policy of the respondent under clause 4.5 mandates qualification in the centralised entrance test (NEET) is essential to get Insured Persons Certificate, even before the declaration of NEET result, the respondents have stopped on-line issuance of 'Ward of Insured Person' certificate. This is unreasonable and

against the principle of natural justice.

7.The learned counsel appearing for the first respondent, on the instruction of the first respondent, submitted that, the averments made in the affidavit by the petitioner are misleading and contrary to the terms of the notification. The petitioner's contention that to get the Ward of Insured Person Certificate, qualification in NEET is mandatory, is not correct. As per the instruction in the admission notice, it is only stated that the applicant has to mention their NEET roll number. The format to get the ward of Insured Persons certificate requires the NEET roll number only and not the mark. So, the candidates who apply for Wards of Insured Person Certificate is expected to refer the NEET roll number only and not the marks scored.

8.For issuance of Ward of Insured Person Certificate, it is sufficient for the candidate to show he/she has applied for the qualifying examination (NEET). Admittedly, the petitioner has on her own, waited till the release of the NEET result and thereafter, applied on line for Insured Persons certificate belatedly after the date for online application closed. The applicant ought to have read the policy note and admission notice properly.

9.The learned counsel for the first respondent referring Annexure 3 (A) which the the format of ward of Insured Persons certificate submitted that

nowhere in the format, the marks for NEET is mentioned. Besides in the application prospectus, on 23/05/2019, the respondents made paper publication informing the general public that the last date for submission of the online application for the admission to MBBS/BDS under ESI 'ward of insured persons quota' was fixed as 28/05/2019. For 372 seats reserved for wards of insured person, several hundreds of candidates have applied in time and obtained the insured person certificate.

10. Heard the learned counsel for the petitioner; learned counsel for the first respondent; learned Central Government Standing Counsel for the second respondent and there is no representation for the third respondent.

11. The revised admission policy and procedure issued by the Head Quarter's office of ESIC on 09/05/2019 provides information regarding methodology for filling up of Insured Persons (IPs) quota. Same is also reiterated in the admission notice dated 13/05/2019 issued by the Head quarter's office of ESIC. Beside it also explains the the candidate the procedure how to apply for 'wards of insured persons -quota.'

12. The learned counsel for the petitioner relying upon clauses 4.4. and 4.5 of the Admission policy issued by the respondents contend that as per

the policy issued by ESIC, only after getting qualified in NEET exam the candidate have to respond to the advertisement by the ESIC and apply for admission under the insured persons (IPs) quota.

13.For easy reference those two clauses are extracted below:-

"4.4 Prospective/desirous and eligible candidates will be required to appear in an All India Competitive examinations in force or any other similar equivalent approved Central entrance test as may be specified from time to time by ESIC.

4.5 After qualifying in such Centralized test, candidates have to respond to the advertisement by the ESIC and, apply for admission under the Insured Persons (Ips) Quota."

14.In this connection, it is pertinent to point out that, in addition to the notice for admission dated 13/05/2019, the first respondent Corporation has issued a public notice on 23/05/2019 informing the public that 317 MBBS seats and 22 BDS seats are available for the wards of insured persons and the applicants may apply for ward of IP certificate through on-line. The last date for submission of the online application fixed as 28/05/2019.

15.Clause (6) of the Admission notice published by the respondent say about how to apply for issuance of ward of Insured person certificate. Same is extracted below:

"6.How to apply

6.1Issue of ward of IP Certificate – All candidates must have valid 'Ward of IP Certificate' for 2019-20 from the concerned Regional Office (RO) / Sub-Regional Office (SRO) of the ESI Corporation (ESIC). The procedure for obtaining the same is as under:

6.1.1Candidates **are to apply on-line** and click in on the 'link' (URL:<https://www.esichospitals.gov.in/admissionportal>) provided on the ESIC website www.esic.nic.in, when a page would be displayed for registration.

6.1.2Following the registration, applicant is required to complete the form (page) filling up the details asked for.

6.1.3After the form is complete, the applicant is to take a printout, sign it (both IP and candidate) and submit it to the concerned **Branch Office** of ESIC along with all required documents, for issue of 'Ward of IP certificate'.

6.1.4Candidate should enclose self attested copies with the application and carry originals for verification at the time of submitting the application, as under:

Relevant under ESI

- Two (2) Passport size photographs of the IP

- Copy of – ESI Card
- Copy of documents in r/o employee/IP
 - Wage slip for October 2018
 - Certificate of Attendance r/o the IP for 01 year from cut-off date (31.10.18), i.e., from 01/11/2017 or from date of entering employment, whichever is later, to 31.10.2018.
 - Detail of EPFO payment in r/o the employee, if available.

Note: Not required in cases of (i) IPs in receipt of Permanent Disablement Benefit (PDB); (ii) candidates in receipt of Dependents' Benefit.

- Copy of proof of
 - Candidate in receipt of Dependents' Benefit.
 - IP in receipt of PDB of 40% or more
- Copy of Affidavits for female candidates as Annexure – 4 & 5
- ***Relevant to Candidate (Ward of IP)**
 - Two (2) Passport size photographs of the 'Ward of IP' (candidate)
 - Copy of NEET Admit Card containing NEET Roll No. Of 2019 Exam
 - Copy of Proof of Residence
 - Copy of – School Certificate for proof of Date of Birth/Birth Certificate
 - Copy of – Senior Secondary School Certificate (+2)
 - Final / Provisional / Not Available (in case 'ward of IP' certificate is applied for, before declaration of result of (+2))
 - Copy of SC/ST/OBC/PH Certificate from the 'Appropriate Authority' as specified in the NEET Brouchure

- Copy of EWS Certificate from the 'Appropriate Authority'

6.1.5 A system generated 'Acknowledgement Slip', duly signed and stamped by the Branch Office manager would be given to the candidate.

6.1.6 The candidate can track the progress of the certificate by logging in with the username and password, i.e as (i) Issued; or (ii) Rejected. In event of issue, the certificate in PDF format would be visible to the candidate who can take a printout after downloading the certificate. In event of rejection, the reason would be displayed as well.

6.1.7 The **Original certificate**, 'as issued by the relevant RO/SRO, would be collected from the Branch Office by the candidate.

6.2 The Student link for applying on-line for issue 'Ward of IP Certificate' would be deactivated (closed) at 23.59 hrs on 28/05/2019.

6.3 The last date for submitting physical copy of application to the concerned Branch Office, for issue of 'Ward of IP Certificate' is 29/05/19, by close of office hours."

16. Thereafter, the candidates have to register themselves for the MBBS/BDS seat under Insured persons (IPs) quota in ESIC Medical/Dental Colleges. Thus, for getting ward of insured person certificate the respondents require only a copy of the NEET admit card containing NEET roll Number and not the result of NEET examination. The result of NEET is relevant and necessary only at the time of registration for participating in the counselling.

17.As per the admission notice, the score card in NEET is required only at the time of admission to the college and not prior to that, more particularly when the candidate apply for ward of insured person certificate. The petitioner's daughter has failed to make her online application for the certificate of ward of insured person in time ie on or before 28/05/2019. The petitioner's daughter has not understand that an application for IPs certificate and application for admission for MBBS are two distinct process.The commence and end at different stage. Clause 4.5 policy relied by the petitioner is at the stage of applying for admission. At this stage, the candidate should satisfy the condition that she is qualified in the centralised entrance test and also possess the ward of Insured person certificate.

18.To get such certificate, as per clause 6 of the Admission notice , proof of qualifying in the NEET is not required, it is sufficient to satisfy that the candidate has taken up the qualifying centralised entrance test . For that purpose the NEET role number is sufficient. While so admittedly the petitioner's daughter has made her application for MBBS only on 10/06/2019. Before applying for admission, she ought to have applied for the Insured persons certificate and got the same to be annexed along with her application for MBBS/BDS to get the privilege of IPs quota. The last date for making application for the insured persons certificate was fixed as

28/05/2019. The petitioner's daughter has failed to apply for the IPs certificate before the cut off date. Now after closure of the last date she cannot seek indulgence of the court to extend the date. Therefore, the petitioner who failed to apply and get the 'Insured Persons Certificate' in time, cannot maintain the prayer in this writ petition.

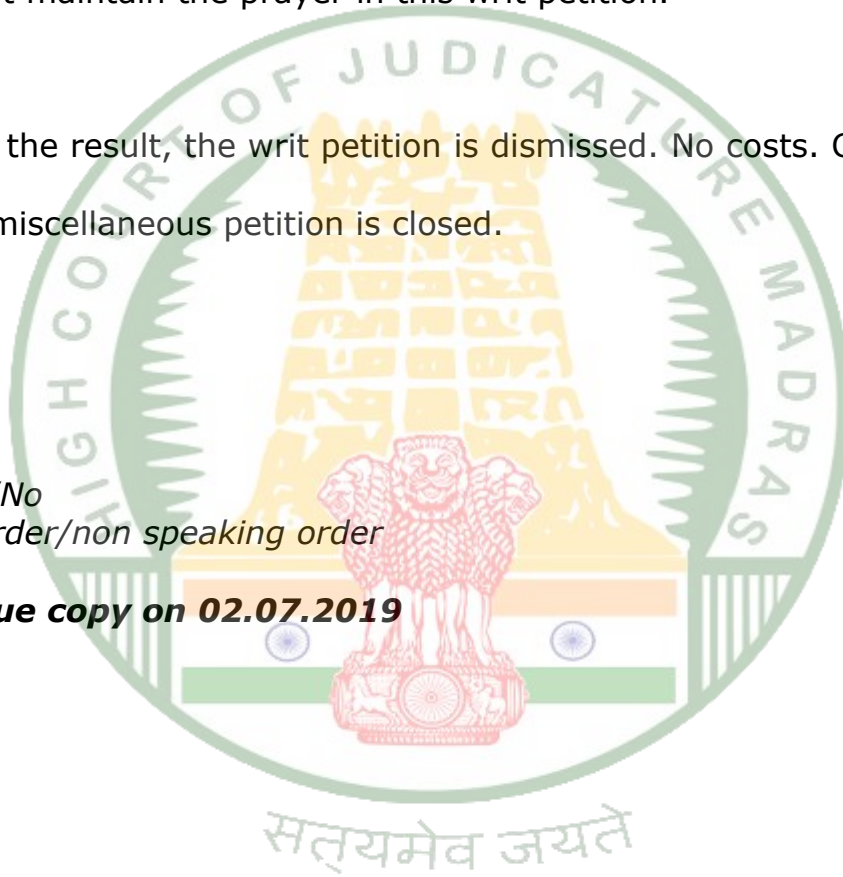
19. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

jbm

*Index: Yes/No
Speaking order/non speaking order*

Note:- Issue copy on 02.07.2019

02.07.2019



WEB COPY

To

1.The Regional Director,
Employees State Insurance Corporation,
Sub Regional Office,
Panchdeep Bhavan,
1897, Trichy Road,
Ramanathapuram,
Coimbatore – 641 045.

2.Director General of Health Services,
Ministry of Health and Family Welfare,
Nirman Bhavan, New Delhi,

3.Medical Council of India,
Pocket 14, Sector 8,
Dwarka Phase 1,
New Delhi – 77.



WEB COPY

G.JAYACHANDRAN.J.,

jbm



Pre delivery Order made in
W.P.No.17108 of 2019

WEB COPY

02.07.2019