

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.07.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.No.2088 of 2019 and C.M.P.No.14185 of 2019

S.Uma

...Appellant/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, Dwaraka Phase 1
New Delhi-77.

...Respondents

For Appellant : Mr.Selvan Babu T.D.

For Respondents : Mr.S.P.Srinivasan - for ESI - R1
Mr.C.Munusamy,
Special Government Pleader - for R2

Prayer : Writ Appeal under Clause 15 of the Letters Patent,
against the order passed by this Honourable Court in
W.P.No.17108 of 2019 dated 02.07.2019.

Prayer in WP.No.17108 of 2019:

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 daughter Ms.S.Roshini for admission in ESI
Medical College for UG Courses (MBBS / BDS) under the Insured
Persons Quota for the Academic Session 2019-20 based on

Application No.ESIC004704 submitted by the petitioner daughter S.Roshini and consequently direct the 2nd and 3rd respondents to include the petitioner daughter S.Roshini NEET Registratiion No. 410204024 in the Merit List for the said quota considering the fact that the petitioner daughter S.Roshini is a Ward of Insured Person and has passed the NEET-2019 with a score of 424 out of 720 marks.

J U D G M E N T

(Judgment of the Court was delivered by DR.VINEET KOTHARI, J.)

The appellant S.Uma, pleading the case of her daughter S.Roshini, has filed this intra Court appeal, aggrieved by the order of the learned Single Judge dated 02.07.2019, whereby the learned Single Judge dismissed the writ petition filed by the appellant on the ground that the appellant, claiming admission into M.B.B.S. / B.D.S. Course on the basis of her score in the NEET examination for the academic year 2019-20, did not obtain the "Ward of Insured Person Certificate" from the respondent Employees State Insurance Corporation (hereinafter referred to as "ESIC"), before the cut-off date 28.05.2019. The relevant portion of the order passed by the learned Single Judge is quoted below for ready reference.

"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 IP Certificate and application for MBBS are two distinct process. They commence and end at different stage. Clause 4.5 policy relied by the petitioner is at that 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 roll 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 IP 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 result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed."

2. Learned counsel for the appellant / petitioner urged that before getting the result in the NEET examination, the appellant did not obtain "Ward of Insured Person Certificate" from the respondent ESIC, which was an online application required to be filed before 23:59 Hrs on 28.05.2019 and since the result of the NEET examination was out on 05.06.2019, she applied immediately thereafter ie., on 06.06.2019, which was not issued by the respondent ESIC, entitling her for a preference in seeking admission into MBBS / BDS Courses on the basis of NEET ranking in the ESIC Medical / Dental Colleges. He therefore submitted that the respondent ESIC, should have entertained such application even offline on 10.06.2019 and should have issued "Ward of Insured Person Certificate" to the appellant in order to participate in the on-going counselling program for seeking admission in MBBS / BDS Courses in the ESIC Colleges.

3. On the other hand, the learned counsel for the ESIC has drawn the attention of this Court to paragraphs 6.2 and 6.3 of the relevant admission notice issued by the ESIC, New Delhi on 13.05.2019. The same is quoted below for ready reference.

"6.2. The Student link for applying on-line for issue "Ward of Insured Person 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 29/05/2019, by close of office hours."

4. Having heard the learned counsel and on a perusal of the afore quoted rules, it is clear that, for securing the Ward of Insured Person Certificate", the student has to apply in the link provided in the said notice dated 13.05.2019 issued by the

ESIC before 23:59 Hrs on 28.05.2019 and the last date for submitting physical copy of the application to the concerned branch office was 29.05.2019 by close of office hours. Admittedly, the appellant / student did not apply for the "Ward of Insured Person Certificate" before these cut-off dates of 28.05.2019 (online) and 29.05.2019 (offline). She applied, for the reasons best known to her, on 10.06.2019 only, assuming that such certificate viz., "Ward of Insured Person Certificate" from the ESIC deserves to be obtained only after clearing her NEET entrance test. We cannot accept the said submission of the learned counsel for the appellant because, the two procedures - one conducted by ESIC for issuance of "Ward of Insured Person Certificate" and clearance of NEET examination, are two independent things and controlled by two independent bodies. The appellant / student was very well in know of the fact that she belonged to the category "Ward of Insured Person" and therefore, could claim for such admission in the reserved category in ESIC Medical Colleges on the basis of "Ward of Insured Person Certificate", to be issued by ESIC. This procedure has nothing to do with the declaration of the results of NEET examination, which came out later ie., on 05.06.2019.

5. We have also perused the application form submitted by the appellant's daughter for NEET examination, where she has declared her category as "UR (UNRESERVED)". Therefore, it is apparent that she has not indicated any preference or claim of reservation in "Ward of Insured Person" category in the said application, even submitted to the NEET authority. Had she obtained such certificate from ESIC before the cut off date and claimed such reservation before the NEET also, she could, in normal circumstances, have been allowed to claim her reservation in "Ward of Insured Person" category. Having not obtained the requisite certificate before the cut off date and having even not indicated her preference to the NEET authorities for claiming any such reservation, the appellant obviously cannot claim the same through the Court process.

6. Therefore, in our opinion, the learned Single Judge is justified in rejecting the prayer of the appellant. The writ appeal is devoid of any merit and is liable to be dismissed. Accordingly, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

KST

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,
Dwaraka Phase 1
New Delhi-77.

+1cc to Mr.S.P.Srinivasan, Advocate, S.R.No.57255

+1cc to Mr.T.D.Selvanbabu, Advocate, S.R.No.57528

W.A.No.2088 of 2019
& CMP No.14185 of 2019

RSI (CO)

RRS (14/08/2019)



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