

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2019

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THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P. 21944 of 2019
and
W.M.P. 21166 of 2019

R.Amitesh Vel
(NEET Roll No.411302456)
Rep. by his father V T Rajesh ... Petitioner

Vs

1. The Secretary,
Selection Committee,
Directorate of Medical Education,
EVR Road, Kilpauk,
Chennai-600 010.
2. The Secretary,
Medical Council of India,
Pocket 14, Sector 8,
Dwaraka, New Delhi-110 077. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to permit the petitioner to participate in the second phase counseling for MBBS course conducted by the 1st respondent and permit him to select a seat from a college of his choice.

For Petitioner : Mr.P.Puhazh Gandhi

For Respondents : Mr.Abdul Saleem,
for R1 Selection Committee

O R D E R

This Writ Petition has been filed seeking a direction directing the respondents to permit the petitioner to participate in second phase counseling for MBBS course conducted by the 1st respondent and permit him to select a seat from a college of his choice.

2. The case of the petitioner is that he is an aspirant of studying MBBS course in Tamil Nadu. He has secured total mark of 433 in the NEET exam (Roll No.411302456), thereby securing 3646 rank for management seat in Tamil Nadu. The petitioner has received a call letter for attending the first phase of counseling for the management quota held on 16.07.2019 and the petitioner has attended the counseling. When the petitioner's turn was called, there were no seats available in the self-financing category. Therefore, the petitioner has decided to be in the wait list, so that the petitioner can participate in the second phase of counseling. However, the official attached to the 1st respondent informed to the petitioner that there is no waitlist available and if the petitioner wanted to participate in the second counseling, he should opt out from the first counseling. Further, on the first day of the first counseling, only 100 seats were filled up and remaining candidates were placed on the waitlist. Whereas, on the second day of counseling, not even one candidate was allowed to be waitlisted rather more than 500 candidates were forced to opt out by the officials for the reasons best known to the respondents. In the meanwhile, the petitioner contacted the 1st respondent and sought for permission to participate in the second phase of counseling, which may happen any time like from 28.07.2019 onwards. However, the 1st respondent has informed the petitioner that he will be allowed to participate in the second phase of counseling. Therefore, he has made a representation dated 22.07.2019 requesting to permit him to participate in the second phase of counseling. But, till date, there is no response from the respondents. Hence, the petitioner has filed the present Writ Petition.

3. The learned counsel appearing for the petitioner would submit that as per the prospectus, the first phase of counseling, particularly clause (iv), the candidates, who have been allotted seats and failed to join the course within the stipulated time are not eligible to attend the subsequent phases of counseling for the academic year 2019-2020. In the present case, no allotment order was passed in favour of the petitioner, however, orally informed to the petitioner that if he is not inclined to choose a particular college, his name will be included in the wait list candidates and his candidature will be considered for the second phase of counseling. But, contrary to the above clause, now the petitioner was declined to participate in the second phase of counseling, which is unsustainable one. Hence, he prayed to allow this Writ Petition.

4. The learned counsel appearing for the 1st respondent would submit that the 1st respondent has allotted seats during the first phase of counseling under Management quota till the general rank 4902. As the general rank of the petitioner is

3646, he would have been allotted a seat on 16.07.2019. But, as the petitioner has written opted out in the counseling form, it seems that though seats were available for MBBS in self-financing medical colleges under Management quota, he was not willing to take up any of the seats. The learned counsel further submitted that once candidate has opted out from the first phase of counseling, he is not entitled to participate in the second phase of counseling. Accordingly, he prayed to pass appropriate orders.

5. In order to resolve the dispute, the prospectus, in particular, clause (iv) and (v) are extracted hereunder :-

"(iv) The candidates, who have been allotted seats and failed to join the course within the stipulated time are not eligible to attend the subsequent phases of counseling for the academic year 2019-2020. This is applicable for all phases of counseling.

(v) The candidates, who have failed to appear in person for the first phase of counseling are deemed to have been opted out from the processes of counseling and that he / she will not be allowed to take part in the subsequent phases of counseling for the academic year 2019-2020."

6. On perusal of the above clauses in the prospectus, the candidates, who have been allotted seats and failed to join the course within the stipulated time are not eligible to attend the subsequent phases of counseling. In the present case, the 1st respondent has not produced any allotment order issued in favour of the petitioner. In the absence of any allotment order, this Court cannot presume that the petitioner has opted out the counseling. So, in view of the above, I am inclined to issue a direction to the respondents to permit the petitioner to participate in the second phase of counseling as per clause (iv) and (v) of the prospectus and to issue allotment order in favour of the petitioner, if he otherwise eligible.

7. With the above terms, the present Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

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Sub Assistant Registrar

To

1. The Secretary,
Selection Committee,
Directorate of Medical Education,
EVR Road, Kilpauk,
Chennai-600 010.

2. The Secretary,
Medical Council of India,
Pocket 14, Sector 8,
Dwaraka, New Delhi-110 077.

+1 cc to Mr.Puhazh Gandhi, Advocate, S.R.No.64109

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and

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NRJK (CO)
SSM(29/07/2019)



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