



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 14.11.2019	Pronounced on: 19.11.2019
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Coram:

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.23756 of 2019
& W.M.P.Nos.23635 & 23636 of 2019

Miss Miriam Mizpah Orchid,
D/o.B.VasanthaKumar,
Minor Represented by her father and
natural guardian B.Vasanthakumar,
No.6/966, Mission 3rd Street, Thanjavur Taluk,
Manambuchavadi, Thanjavur - 613 001. ... Petitioner

/versus/

1. Union of India,
Represented by its the Secretary to Govt. of India,
Ministry of Youth Affairs and Sports,
(Department of Sports),
Shastri Bhawan, New Delhi - 110 001.
2. The Secretary to Ministry Health and Family Welfare,
Tamil Nadu Race Course Rd,
Little Mount, Guindy, Chennai - 600 032.
3. The Director of Medical Education/Secretary,
Selection Committee, Directorate of Medical Education,
162, Periyar E.V.R. High Road,
Kilpauk, Chennai - 600 010.
4. Medical Council of India,
Rep. by its Secretary General,
Dada Dev Mandir Road Dwarka Phase - 1.
Pocket 14, Sector 8 Dwarka, New Delhi,
Delhi - 110 077.
5. Miss K.Anu,
(1st year MBBS Students,
Government Medical College,
Pudukottai - 641 013.)

6. Miss E.Kaviyaa,
(1st Year MBBS Student, Government Medical College,
Tirunelveli, Maharaja Nagar,
Palayam Kottai,
Tirunelveli - 627 011.)

.... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records pertaining to the order of allotment of First Year MBBS seats under Special category in eminent sports quota for the academic year 2019-2020 to 5th and 6th respondents in the proceedings No.Nil dated 08.07.2019 on the file of 3rd respondent and quash the same and consequently direct the 3rd respondent to select petitioner daughter and allot a seat in any one of the Government Medical College for First Year MBBS seat for the academic year 2019-2020.

For Petitioner : Mr.M.Selvaraj

For R1 : Mr.G.Karthikeyan,
Additional Solicitor General

For R2 : Mr.S.Suresh Kumar,
Government Advocate

For R3 :Mr.Abdul Saleem, Standing Council

For R4 : Mr.V.P.Raman,

For R5 & R6 : No appearance

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents.

2. The petitioner herein is represented by her father, has filed this Writ Petition seeking certiorarified Mandamus, calling for the records pertaining to the order of allotment of 1st year M.B.B.S seat under special category in the eminent sports quota for the academic year 2019-2020 in respect of 5th and 6th respondents and quash the same and direct the 3rd respondent to select the petitioner's daughter and allot in any one of the Government Medical College.

3. The averment in the affidavit is that the petitioner (Miss Miriam Mizpah Orchid) is an eminent sports person, holding following certificates.

a) 17.06.2015 - 21.06.2015 - Tamil Nadu Aquatic Association secured place in 200 m Breast Stroke.

b). 20.04.2019 - 25.04.2017 - Certificate of participation at Budapest, Hungary ISF World School of Championship Swimming.

c). 04.10.2017 to 08.10.2017 - 48th KVS National Sports Meet 2017 and secured First Place in following events:-

i). 50 mts free style.

ii). 100 mts free style.

iii). 200 mts Individual Medal.

iv). 400 x 100 mts free style.

v). 400 x 100 mts medal relay.

vi). 400 x 200 mts free style relay.

d). 17.07.2018 to 21.07.2018 - 49th KVS National Sports Meet 2018 and secured First Place and Gold Medal in following events:-

i). 50 mts free style.

ii). 100 mts free style.

4. The petitioner/Miriam Mizpah Orchid, has secured 270 marks in the N.E.E.T examination. While so, when she attended the counselling conducted by the 3rd respondent/Medical Council of India, on 08.07.2019, she was not selected but one K.Anu (5th respondent) and E.Kaviyaa (6th respondent) were selected and allotted seat in the Government Medical Colleges. Those two candidates are having only throw ball game certificates issued by a Federation which is not recognized by the Sports Authority of India and Ministry of Youth Affairs. Therefore, these two candidates ought not to have been given seat in M.B.B.S. Instead, the petitioner who has participated in the World Level Swimming Competition ought to have been given seat.

5. The 2nd & 3rd respondents has filed counter, wherein, it is stated that the application of candidates under eminent sport person category was assessed and evaluated by these Officials deputed from the Sports Development Authority of India. After verification of the application and the sports certificates provided by the petitioner, her performance was evaluated by the Committee and marks were awarded accordingly. Similarly, the application of the other candidates were evaluated and rank list was drawn. For eight seats (7 M.B.B.S & 1 B.D.S) the counselling held on 08.07.2019. 52 candidates were invited and seat were allotted to the candidates as per their merits. The 5th respondent (K.Anu) who has secured 451 marks under the BC category was allotted Government Medical College,

Pudukottai. The 6th respondent (E.Kaviyaa) though allotted seat under the eminent sports quota, she did not joined the college. As a result, for the vacancy the next topper in the list Ms.Nevetha was allotted M.B.B.S seat at Tirunelveli Medical College, Tirunelveli. It is also stated in the affidavit that, the sports mark are awarded based on the norms fixed by the committee. Marks for various categories of achievement, competent authority to issue Form/certificate under the eminent sports person quota were all prescribed in the guidelines issued along with the prospectus and the merit list prepared based on the points awarded by the committee. The 5th respondent had secured more marks than the petitioner. 7 seats in M.B.B.S and 1 one seat in B.D.S earmarked for the eminent sports person, the 5th respondent stood 1st in the rank and 6th respondent stood 7th in the rank. Since, the 6th respondent did not join the college, her seat was given to the candidates who has secured 8th rank. As far as the petitioner is concerned, she was ranked 13th in the merit list. Hence, she was not considered under the eminent sport person category.

6. Regarding the inclusion of throw ball game, the 1st respondent/Union of India, in their counter, has stated that the grant of recognition to National Sports Federations (NSFs) is given by the 1st respondent consequent to which they were eligible to financial and other forms of support from the Government. For getting financial assistance and sponsorship, National Sports Federation must maintain their recognized status with the Department and should obtain the annual recognition on year-to-year basis. The National Sports Federations (NSFs), who had been granted annual recognition for the year 2015-2018 has been annexed to the affidavit. From the annexe no federation for throw ball is mentioned.

7. Further, the Learned Counsel for the 1st respondent, besides the list of National Sports Federations which has been granted annual recognized, also submitted the order of the Ministry of Youth affairs and Sports, dated 05.05.2017 with regard to throw ball federation of India. From the list of National Sports Federation furnished by the 1st respondent and from the order of the Ministry of Youth Affairs and Sports, dated 05.05.2017 which was issued pursuant to the order passed by the High Court of Karnataka - Bangalore in W.P.Nos.33255 to 33257 of 2019 and W.P.No.19643 of 2013 and other connected litigations, this Court finds that, the Union of India has reiterated that there is no recognized federation for the sports Discipline of "Throw ball" in the country, as such the championship organized by the two factions do not qualify for any Government assistance including Railway concession as per the scheme of assistance to National Sports Federation. This order has been issued in connection with demand of Railway concession for the person participating in the tournament

conducted by the throw ball federation of India, which has caught in faction rivalry.

8. As far as the sports "throw ball" is concerned, the contention of the petitioner is that, it is not at all a recognized sports by the Sports Authority of India and Ministry of Youth and Sports Affairs. This contention is not based on record. No doubt, in the list of recognized federations, All India Throw Ball Federation does not find place and more specifically, the order of the Ministry of Youth & Affairs and Sports circulated by the Assistant Solicitor General of India representing 1st respondent also indicates that, the throw ball federation of India is not a recognized federation for the sports "discipline of throw ball". From these materials, this Court finds that, it is not the game, sports/discipline is unrecognised, it is only the federation which has indulged in the factional fight has been unrecognised. It is for the Sport Authority of India and Tamil Nadu which is the competent person to say whether the sports throw ball is a discipline, eligible to get quota under the eminent sport person. From the affidavit of the 2nd and 3rd respondents, this Court finds that the eligibility of the candidates were verified at the Office of the Selection Committee by the Officials deputed from the Sport Development Authority of Tamil Nadu.

9. On the point wise, merit list, for eminent sports mark awarded based on the level of participation and achievements is drawn. In the merit list the petitioner stands at 13th rank. The prospectus for admission to M.B.B.S/B.D.S, for the academic year 2019-2020 in Annexure -VI(a) (4)(a) allotment of seat for candidates under quota for Eminent Sports Persons for 2019-2020 session Annexure VI (a) it has been mentioned that, "only tournaments officially recognised by the Indian Olympic Association/respective official National Federations will be considered for the award of marks (for each year) from 01.06.2015 to last date of submission of application (01.06.2015 to 31.05.2016, 01.06.2015 to 31.05.2017, 01.06.2017 to 31.05.2018 and 01.06.2018 to last date of submission of application".

10. Several events mentioned by the petitioner in the affidavit to her credits were scrutinized by the Selection Committee and marks were awarded for the same. The total seats reserved for eminent sports person for the academic year 2019-2020 is only 7 for M.B.B.S seats and One (1) B.D.S seat. While the petitioner has stood 13th rank in the merit list, she is no way near the zone of consideration and therefore, this Court is not convinced in the submission made by the petitioner herein seeking seat in M.B.B.S course under the eminent sports person in the place of 5th and 6th respondents who has secured more points.

11. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Govt. of India,
Union of India, Ministry of Youth Affairs and Sports,
(Department of Sports),
Shastri Bhawan, New Delhi - 110 001.
2. The Secretary to Ministry Health and Family Welfare,
Tamil Nadu Race Course Rd,
Little Mount, Guindy, Chennai - 600 032.
3. The Director of Medical Education/Secretary,
Selection Committee, Directorate of Medical Education,
162, Periyar E.V.R. High Road,
Kilpauk, Chennai - 600 010.
4. The Secretary General,
Medical Council of India,
Dada Dev Mandir Road Dwarka Phase - 1.
Pocket 14, Sector 8 Dwarka, New Delhi,
Delhi - 110 077.

+2CCs to Mr.Abdul Saleem, Advocate, SR.Nos.97188, 97191.
+1CC to Mr.Karthikeyan, Advocate, SR.No.96152.
+1cc to Mr.M.Selvaraj, Advocate, SR.No.96819.
+1cc to Mr.VP.Raman, Advocate, SR.No.96002.

Writ Petition No.23756 of 2019

SSD (CO)
CSR(19/12/2019)