

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.22718 of 2019
and W.M.P.No.22231 of 2019

Raja Sri Priya
rep.by her father and natural guardian
G.Guruvaraju.

...Petitioner

Vs

- 1.The Director,
Directorate of Medical Education,
No.162, E.V.R.Periyar High Road,
Kilpauk,
Chennai-600 010.
- 2.The Additional Director/Secretary,
Selection Committee,
MBBS/BDS Admission 2019-2020,
Session Directorate of Medical Education,
Kilpauk, Chennai-600 010.
- 3.The Chairman Medical Council of Tamilnadu,
No.162, E.V.R.Periyar High Road,
Arumbakkam,
Chennai-600 106.
- 4.Medical Council of India,
Pucket, 14, Sector-8,
Dwaraka Phase-1,
New Delhi-110 077.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider the claim of the petitioner for admission to MBBS/BDS 2019-2020 session in any one of the Medical Colleges in Tamil Nadu.

For petitioner : Mr.R.Balachanderan

For Respondents : Mr.S.Suresh Kumar, GA for R1
: Mr.Abdul Saleem, St.c for R2 to R4

O R D E R

Heard the learned counsel for the petitioner and the learned Government Advocate for the 1st respondent and the learned Standing counsel appearing for the respondents 2 to 4.

2. The grievance of the petitioner is that she was allotted a seat during the counselling for the MBBS course. But later, denied admission on the ground that she has also applied in Andhra Pradesh showing her nativity is Andhra Pradesh.

3. The contention of the petitioner is that no doubt the petitioner has applied both in Tamil Nadu as well as Andhra Pradesh, but the petitioner has not participated in the counselling conducted by the Andhra Pradesh. Being the nativity of Tamil Nadu, she is fully eligible to participate in the selection process under the nativity of Tamil Nadu. The contention of the petitioner is countered by the respondent herein as below:-

"5. It is submitted that the petitioner, Ms. Raja Sri Priya, has prayed that the Hon'ble Court may be pleased to pass an interim direction directing the respondent to permit the petitioner, Ms. Raja Sri Priya to participate in the counselling session of 2019-2020 on 01.08.2019 and directing the respondent to consider the claim of the petitioner for admission to MBBS/BDS 2019-2020 session in any one of the Medical Colleges in Tamil Nadu.

6. It is further submitted that the Selection Committee has mentioned the following points in the tentative schedule for counselling for admission to MBBS/BDS Courses 2019-2020 session as detailed below:

"The candidates who seek admission to MBBS/BDS Courses for the academic year 2019-2020 should produce the following original documents of their parents.

Parent Certificates:

(i) Transfer Certificate/SSLC/10th/12th Mark Sheet/First Graduate certificate/No Graduate Certificate.

(ii) Community Certificate.

(iii) Income Certificate (If applicable)."

7. It is submitted that Clause 5(a) of the Prospectus states as below:

"(a) Candidates should be a Native of Tamil Nadu.

(b) Candidates belonging to Native of Tamil Nadu and having studied from Standard VI to Standard XII in schools of Tamil Nadu need not submit their "Nativity Certificate." However, such candidates should produce the true copies of their parent's certificates such as Birth Certificate, Ration Card SSLC/10th/12th/Degree/Diploma/Professional course. In

case, parents are not literate, then No Graduation Certificate for parents, from the Revenue Authority of competent jurisdiction, to substantiate their parent's place of birth in Tamil Nadu and also "Parent's Community Certificate to claim the communal reservation." If the candidates do not submit the above mentioned certificates, then the candidates will be considered under Open Category only.

(c) Candidates belonging to other States who are residing at Tamil Nadu cannot claim nativity of Tamil Nadu and they will be considered under Open Category.

(d) The other State candidates who are not native of Tamil Nadu and have studied from standard VI to XII in Tamil Nadu will be considered under Open Category.

(e) Permanent Residence Certificate in lieu of Nativity Certificate will not be accepted.

(f) Candidates who are Native of Tamil Nadu, but studied from VI standard to XII standard outside Tamil Nadu either partly or completely in one or more States should produce the true copies of their parent's certificates such as Birth Certificate, Ration Card, SSLC/10th /12th /Degree/ Diploma/ Professional course.

In case, parents are not literate, then No Graduation Certificate for parents from the Revenue Authority of competent jurisdiction, to substantiate their parent's place of birth in Tamil Nadu and also "Parent's Community Certificate to claim the communal reservation." If the candidates do not submit the above mentioned certificates, then the candidate's application will be summarily rejected.

(g) Nativity Certificate obtained prior to the last date of receipt of filled in application alone will be accepted and sending the Nativity Certificate separately will not be entertained.

(h) If false Nativity Certificate is submitted and at a later date, if it is found out, then the candidate will be expelled from the course and also criminal proceedings will be initiated against the candidate as well as his/her parents as per provision of the law."

8. It is submitted that the first phase of counselling was conducted from 08.07.2019 to 13.07.2019. The Selection Committee has allotted MBBS/BDS seats to the candidates based on the documents produced by them in support of their nativity in Tamil Nadu.

9. It is submitted that candidates were allotted seats only after verification of the merit list of other States. In case, if a candidate has applied for MBBS Course in Tamil Nadu in addition to other States, they were made ineligible and they were not permitted to take up the seats.

10.It is further submitted that the candidates who were allotted seats under Government Quota are native of Tamil Nadu as per the documents produced by them. The documents produced by the candidates were scrutinized before the issue of rank list and also at the time of counselling.

11.It is submitted that the Selection Committee has prepared the Rank list based on the marks obtained in NEET UG-2019 for MBBS/BDS Degree Courses for the academic year 2019-2020 for the Government quota seats as well as Management Quota seats.

The Rank list has been prepared after proper scrutiny of the application received from the candidates separately for Government as well as for Management Quota seats.

The applications not in accordance with the nativity clause has been further scrutinized. The candidates who have submitted the documents in a complete shape with all the required certificates have been allotted seats following the rule of reservation.

The seats in Government Colleges and Government Quota seats in Self-Financing Medical / Dental Colleges are filled based on the Rank list by Single Window System following the rule of reservation.

12.It is submitted that the Rank list has been prepared in accordance with the documents / certificates produced by the candidate. The dual nativity has been ruled out and those candidates were made ineligible. Moreover, a sworn affidavit to the effect that the candidate has not claimed the dual nativity has also been obtained from the candidates duly signed by the signed by the parent & the candidate in the presence of a Notary Public.

Therefore the counselling conducted by the Selection Committee for Government Medical / Dental Colleges and Government Quota seats in Self-Financing Medical/ Dental Colleges is in order.

13.It is also submitted that as the petitioner, Ms.Raja Sri Priya has applied for MBBS in Andhra Pradesh as well as Tamil Nadu, she could not be considered eligible to claim communal reservation. Many candidate who have applied in two States or more have not been allotted MBBS/BDS seats. It is proved from the documents she produced that she had applied for Andhra Pradesh UG Medical admission 2019-2020 on 25.06.2019. In addition, she has applied for Tamil Nadu Medical admissions also. As the candidate has claimed dual nativity and the goal of the State Government is to curtail the MBBS admission of the candidate who seeks nativity in two States the seat

for which she has been allotted is cancelled, thereby making her ineligible."

4. From the documents produced by the petitioner as well as the records furnished by the respondent, it appears that the petitioner's parent are natives of Tamil Nadu and had settled in Visakapattinam. The petitioner herein had pursued her education at Visakapattinam, Andhra Pradesh. Accordingly, she has applied for MBBS seat at Andhra Pradesh and also applied in Tamil Nadu by furnishing the birth certificate of her parents and community certificate.

5. Referring Clause 5(a) of the prospectus, the learned counsel for the petitioner would submit that the petitioner being a native of Tamil Nadu, but studied 6th standard to 12th standard outside the Tamil Nadu. On production of true copy of parent's birth certificate she is fully eligible to compete under Tamil Nadu State Quota. The Scrutiny Committee accepted her application and allotted seat, but only at the time of admission they have declined seat to her. She has admitted that she had also applied in Andhra Pradesh. When there is no bar to apply in two States and when the petitioner has not participated the counselling conducted by the Andhra Pradesh, she cannot be disqualified under Tamil Nadu.

6. However, the learned Standing counsel for the respondents 2 to 4 would submit that the petitioner has claimed nativity both in Tamil Nadu and Andhra Pradesh. Clause 5(h) states that if false nativity certificate is submitted and at a later date if it is found out then the candidate will be from the course and also criminal proceedings will be initiated against the candidate as well as his/her parents as per provision of the law. In this case even before the admission dual nativity claim of the petitioner has come to light and the petitioner was refused admission.

7. The learned Standing counsel also furnished the extract of the application made by the petitioner to the Andhra Pradesh Under Graduate Medical Admission Council, wherein the petitioner has applied under the Andhra Pradesh State quota and declared her community is BC-D.

8. In the light of the above facts, it is found that the petitioner has claimed dual nativity both in Tamil Nadu and Andhra Pradesh. She has pursued her entire studies in Andhra Pradesh so, the respondent has rightly refused to admit her. This Court is not inclined to interfere in the position of the respondent is in accordance with clause 5 (f) of the prospectus.

9. In the result, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Director,
Directorate of Medical Education,
No.162, E.V.R.Periyar High Road,
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- 2.The Additional Director/Secretary,
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- 4.Medical Council of India,
Pucket, 14, Sector-8,
Dwaraka Phase-1,
New Delhi-110 077.

+1cc to Mr.Abdul Saleem Advocate, S.R.No.69061

+1cc to the Government Pleader, S.R.No.69350

PVS(CO)
CB(26/09/2019)

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