

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.08.2019

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Writ Petition No.23127 of 2019
and

W.M.P.Nos.22832 and 22834 of 2019

E.Roshini, F/17 years,
D/o A.Elango,
Rep.by her father and natural guardian
Mr.A.Elango ... Petitioner

/versus/

1.The Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, Peiryar E.V.R. High Road,
Kilpauk, Chennai-10.

2.Christian Medical College, Vellore,
Represented by its Director,
Ido Scudder Road, Bagayam,
Vellore 632 004.

3.The Tamilnadu Dr.MGR Medical University,
Rep.by its Registrar,
No. 93, Anna Salai, Guindy, Chennai 32.

4.Medical Council of India,
Rep.by its Secretary,
Pocket-14, Sector-8, Dwarka Phase-1,
New Delhi 110 077.

5.Ms.Gabriella Sharon David(minor),
Rep.by her father and natural guardian,
Mr.Samuel N J David,
Plot No.610/A2, Brooke Road,
C.M.C Campus, Bhagayam,
Vellore 632 004.

6.Mr.Samuel N.J.David

7.The Dean,
K.A.Viswanatham Govt. Medical College,
Trichy 620 001.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st and 2nd respondents to conduct a disability assessment on the 5th respondent through a duly nominated Medical Board as constituted by the Dean, Government Medical College, Trichy (K.A.P.Viswanatham Govt.Medical College),the 7th respondent herein, within a time frame limit and further on such assessment of disability is more than 80% as per Rule 4, Appendix-H, Guidelines for Admission of Students with specified Disabilities under Rights of Persons with Disabilities Act, 2016, the admission recorded in favour of the 5th respondent may be declared as vacant for consideration of the next immediate candidate on waiting list of Institutional Quota, for consideration of the petitioner herein.

For Petitioner :Ms.S.Meenakshi

For Respondents :Mr.Abdul Saleem for R1
Mr.D.Ravichander for R3
Mr.V.P.Raman for R4
Mr.V.Kadhirvelu, Spl.GP for R7

O R D E R

By consent, the main writ petition itself is taken up for final disposal at the admission stage itself.

2.Heard Ms.S.Meenakshi, learned counsel appearing for the petitioner and Mr.Abdul Saleem, learned counsel who takes notice for the first respondent; Mr.D.Ravichander, learned counsel, who takes notice for the third respondent; Mr.V.P.Raman, learned counsel, who takes notice for the fourth respondent and Mr.V.Kadhirvelu, learned Special Government Pleader, who takes notice for the seventh respondent.

3.The prayer in the writ petition is to issue a Writ of Mandamus directing the 1st and 2nd respondents to conduct a disability assessment on the 5th respondent through a duly nominated Medical Board as constituted by the Dean, Government Medical College, Trichy (K.A.P.Viswanatham Govt.Medical College),the 7th respondent herein, within a time frame limit and further on such assessment of disability if is more than 80%, as per Rule 4, Appendix-H, Guidelines for Admission of Students with specified Disabilities under Rights of Persons with Disabilities Act, 2016, the admission recorded in favour of the

5th respondent may be declared as vacant for consideration of the next immediate candidate on waiting list of Institutional Quota, for consideration of the petitioner herein.

4.The petitioner herein is one of the applicant for selection to M.B.B.S course for the academic year 2019-2020 conducted by the first respondent-Selection Committee. The fifth respondent herein is a candidate, who has already been selected and got admission in the second respondent College.

5.According to the writ petition, the fifth respondent, the day before joining the second respondent-College met with an accident and presently admitted in the hospital getting treatment. She was given admission in the second respondent-College, pursuant to the direction of this Court passed in W.P.No.21511 of 2019, dated 19.07.2019 wherein this Court had directed the 2nd respondent to admit the 5th respondent, without her physical presence, since she was admitted in the hospital.

6. According to the petitioner, if the fifth respondent is disabled, due to the accident, she will not be eligible to pursue her M.B.B.S course. Further, if she failed to attend the class for about six months, then also, the seat will become vacant as abandon. In such eventuality, to avoid the seat getting lapsed the petitioner may be considered since she is the next immediate candidate. According to the petitioner, the fifth respondent is bedridden and lost her mobility absolutely. So, she has to be subjected to medical assessment by the Medical Board constituted by the seventh respondent whether she will be eligible to continue her study in M.B.B.S.

7. The prayer sought in the writ petition is not only preposterous but also inhuman. It is unfortunate that the petitioner has been advised to file writ petition with a prayer to subject the patient under treatment for medical assessment to achieve her object. If such request is acceded, there is every possibility of endangering the life of the fifth respondent. Hence, this Writ Petition is dismissed with costs of Rs.5,000/- payable to the Animal Welfare Board of India at Chennai. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

To:

1.The Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, Peiryar E.V.R. High Road,
Kilpauk, Chennai-10.

2.The Director,
Christian Medical College, Vellore,
Ido Scudder Road, Bagayam,
Vellore 632 004.

3.The Registrar,
Tamilnadu Dr.MGR Medical University,
No.93, Anna Salai, Guindy, Chennai 32.

4.The Secretary,
Medical Council of India,
Pocket-14, Sector-8, Dwarka Phase-1,
New Delhi 110 077.

5.The Dean,
K.A.Viswanatham Govt. Medical College,
Trichy 620 001.

6.The Secretary
Animal Welfare Board of India
3rd Seaward Road
Valmiki Nagar
Thiruvananthapuram, Chennai 41.

+1 CC to M/s.S. Meenakshi, Advocate sr 67292.
+1 CC to Mr. Abdul Saleem, Advocate sr 67976

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NRJK (CO)
SP (05/09/2019)