

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.08.2019

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Writ Petition No.24201 of 2019

and

W.M.P.No.23977 of 2019

S.Dheeran

.. Petitioner

/versus/

1.The Government of Tamil Nadu,
Represented by Secretary,
Selection Committee Direction of Medical Education,
No.162, Periyar EVR 1 Road,
Kilpauk, Chennai 10.

2.Medical Council of India
Represented by Secretary,
Pocket 4, Sector No.8,
Dhuvaraga Pael, New Delhi 110 077.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to undertake the necessary and proper counselling and mop-up procedure to fill up the 207 Management quota seats, that have become available owing to non-filling of NRI quota seats, as per merit and prescribed procedure in the admission for medical colleges in the State of Tamil Nadu for the year 2019-2020.

For Petitioner :Mr.M.Velmurugan

For Respondents :Mr.Abdul Saleem,

Standing Counsel for R1

No appearance for R2

सत्यमेव जयते
O R D E R

The prayer in the writ petition is to issue a Writ of Mandamus directing the 1st respondent to undertake the necessary and proper counselling and mop-up procedure to fill up the 207 Management quota seats, that have become available owing to non-filling of NRI quota seats, as per merit and prescribed procedure in the admission for medical colleges in the State of Tamil Nadu for the year 2019-2020.

2. Heard the learned counsel appearing for the petitioner and learned standing counsel appearing for the first respondent. Affidavit and counter perused.

3. According to the petitioner, he has passed Higher Secondary course in the year 2017 under ISCE syllabus. In the NEET examination conducted for the year 2019-2020, he has scored 303 marks out of 720. He applied for MBBS admission conducted by the Selection Committee/first respondent under sports person quota as well as NRI quota. According to the petitioner, 260 seats are earmarked under NRI quota and counselling was conducted on 09.08.2019. Out of 260 seats, only 53 persons were selected for admission under NRI quota and 207 seats were declared as vacant. The respondents herein have reverted those unfilled NRI seats to the Management quota and those unfilled NRI seats are to be filled up on merit.

4. According to the petitioner, as per Clause 11 of the Prospectus issued by the Selection Committee, the unfilled NRI quota in the first round of counselling should be filled up only from the NRI candidates through manual counselling and ought not to have reverted back to the Management under the management quota (Non-NRI). Hence, the petitioner contends that the non-filling of available vacancies under NRI quota from the NRI candidates is violative of Article 14 of The Constitution of India.

5. In the counter, the first respondent has stated that the unfilled NRI seats have been reverted back to the management quota under non-NRI category as per the dictum of the Hon'ble Supreme Court dated 13.09.2017 in Dar-Us-Slam Educational Trust and Others vs. Medical Council of India and Others. As far as Tamil Nadu is concerned, the counselling is conducted manually at all phases and as far as counselling for NRI seats is concerned, it was conducted by the Selection Committee on 09.08.2019. From among eligible candidates, 53 candidates were allotted seats under NRI quota. In reverence to the dictum of the Hon'ble Supreme Court in Dar-Us-Slam Educational Trust and Others case, the unfilled NRI seats have been reverted back to the management. As per the provisions of the prospectus, those unfilled seats are to be filled up by the management under management quota from among the list forwarded by the Selection Committee drawn at the ratio of 1:10 on merits.

6. The learned standing counsel appearing for the first respondent would submit that above all the petitioner herein has not even applied under NRI quota.

7. The learned counsel appearing for the petitioner would submit that even as per the dictum of the Hon'ble Supreme Court in Dar-Us-Slam Educational Trust and Others case, for the unfilled seats, the State Government or the authority designated by the State shall conduct manual counselling for allotment of students. After completion of counselling, the State Government

shall determine the number of seats, that are still vacant and thereafter, shall forward a list of students in order of merit, equalling to ten times the number of vacant seats to the medical college so that in case of any stray vacancy arising in any college, the said seat shall be filled up by the management from the said list.

8. In this case, according to the petitioner, the State Government has not conducted manual counselling for allotment of students in the unfilled NRI seats. In Clause 11 of the Prospectus, relevant portion reads as under:

11. Method of Selection and Admission:

"(vii) Among seats under Management quota, 15% total sanctioned seats will be allotted for NRI quota.

(viii) Unfilled seats of NRI Quota will be reverted to Management Quota."

9. The judgment of the Hon'ble Supreme Court in Dar-Us-Slam Educational Trust and others v. Medical Council of India and others dated 13.09.2017 in W.P.(C)No.267/2017 wherein paras 4 and 7 read as under:

"4. After the second round of counselling for All India Quota seats, the students who take admission in All India Quota seats should not be allowed/permitted to vacate the seats. This would ensure that very few seats are reverted to the State Quota and also All India Quota seats are filled by students from the all India merit list only. The students, who take admission and secure admission in Deemed Universities pursuant to the second round of counselling conducted by the DGHS shall not be eligible to participate in any other counselling.

7. In order to ascertain the number of seats that still remain vacant after the counselling the State Government or the authority designated by the State Government shall conduct manual counselling for allotment of students. After the completion counselling, the State Government shall determine the number of seats that are still vacant and thereafter shall forward a list of students in order of merit, equalling to ten times the number of vacant seats to the medical college so that in case of any stray

vacancy arising in any college the said seat may be filled up from the said list."

10. On reading of the judgment cited supra, this Court finds that, the facts of the case cited relates to filling up All India Quota seats in the Government and Private Medical Colleges through counselling. In the said context, the Hon'ble Supreme Court has held that two rounds of counselling should be conducted for filling up All India Quota seats. The students, who take admission in All India Quota seats should not be allowed/permitted to vacate the seats and this would ensure that the seats are not reverted back to the State quota. For the remaining vacant seats, if any, manual counselling should be conducted by the respective State Government. Even thereafter, if there is any vacancy, that vacancy can be filled up from the list of students forwarded by the State in order of merit in the ratio of 1:10.

11. Thus, the reading of the above said judgment indicates that the guidelines is for All India Quota seats. Whereas the fact of the case in hand is on a different context. In Tamil Nadu Counselling is held manually and after two rounds of counselling for State Quota and All India Quota, the Selection committee has conducted counselling for NRI quota exclusively on 09.08.2019. The unfilled seats during counselling are reverted back to the Management as per Clause 11(viii) of the prospectus and as per the guidelines of the Hon'ble Supreme Court in Dar-Us-Slam Educational Trust and Others case the action of the State Government after conducting manual counselling for allotment of seats under NRI and reverted back the unfilled seats to the Management which is likely to be filled up based on the merit list forwarded by the State in the ratio of 1:10 is in consonance to the prospectus and the dictum of the Hon'ble Supreme Court.

12. In this case, as far as the petitioner is concerned, having not applied under NRI quota, he cannot seek for the relief that the unfilled NRI quota should be filled up from among the NRI candidates, even after completion of manual counselling. Hence, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

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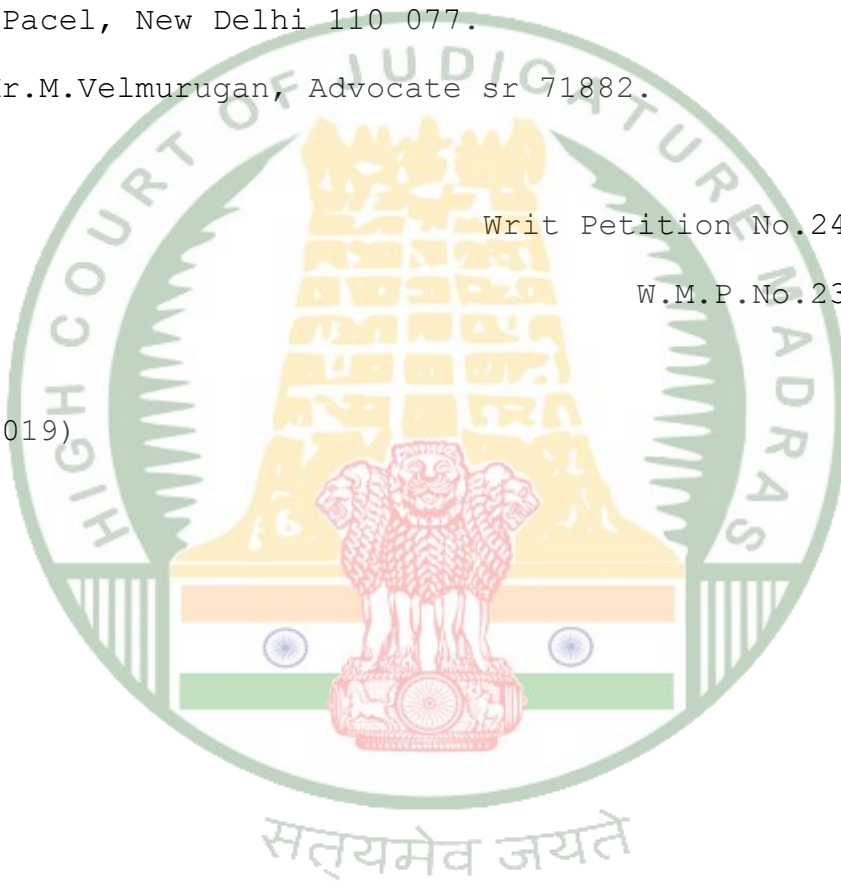
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+1 CC to Mr.M.Velmurugan, Advocate sr 71882.

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RSK (CO)
SP (27/08/2019)



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