

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 28-08-2019
CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.No.2834 of 2019

P.Rajendran

..Appellant

-vs-

1.Government of Puducherry,
rep.by its Secretary,
Department of Health & Family Welfare,
Puducherry - 605 001.

2.Centralised Admission Committee (CENTAC),
Puducherry Engineering College Campus,
Puducherry-605 104.

..Respondents

Appeal under Clause 15 of the Letters Patent against
the Order, dated 20.08.2019, passed in W.P.No.23261 of 2019 on
the file of this Court

Prayer in W.P.No.23261 of 2019:- This Writ Petition filed under
Article 226 of the Constitution of India to issue a Writ of
Mandamus directing the respondent authorities to consider the
petitioner's daughter's candidature for allotment of a seat for
MBBS Course in Indira Gandhi Medical College and Research
Institute Pondicherry against Ex- Servicemen Quota.

For Appellant : Mr.R.Arumugam

For Respondent 1 : Mrs.N.Mala,
Spl.Govt.Pleader.

For Respondent 2 : Mrs.V.Usha

JUDGMENT
(By Dr.Vineet Kothari,J.)

This Writ Appeal has been filed against the order,
dated 20.08.2019, passed by the learned Single Judge in
W.P.No.23261 of 2019, whereby, the Writ Petition filed by the
appellant-writ petitioner was dismissed with the following
observations :

'16. In the counter affidavit the 2nd respondent/CENTAC, has stated though the horizontal reservation for ESM was only 3 seats, 5 candidates were given seat under Ex-serviceman (ESM) quota. According to the 2nd respondent/CENTAC, the Names, NEET Score and College allotted are extracted :

Sl.No.	Name	Merit in ESM	NEET Score	Category	College in which admitted
1.	Sruthi S Kurup	1	515	General/ESM	IGMC & RI
2.	Harshini	3	390	MBC/ESM	IGMC & RI
3.	S.Kaviya	5	252	General/EWS /ESM/MSP	IGMC & RI
4.	R.Harishma	4	368	General/ESM	PIMS
5.	Subhadra M.G.	6	300	OBC/ESM	SVMC & H

17. The petitioners had misconstrued the observations made by the Supreme court in cases where the attempt to set off seats given to meritorious students under General Category, even otherwise they were entitled to get seat under their respective communal reservation under Article 16(4). They have failed to note that the said observation is not applicable to Special Reservations provide by virtue of Article 16(1). This distinction has been well explained by the Constitution bench of the Apex Court in Indra Shawayney Vs. Union of India, case as well in the later judgement rendered in Rajesh Kumar Daria Case (cited supra) and A.P.Public Service Commission case (cited supra).'

2. Mr.R.Arumugam, learned counsel for the appellant, has submitted that the appellant's daughter - Ms.R.Harishma - has secured 368 marks in NEET and she belongs to Ex-Servicemen Category, but, she was admitted to the course of M.B.B.S. only in the Private Medical College, namely, PIMS, and she was not allotted the Government College at Puducherry.

3. From the aforesaid Table in Para No.16 of the learned Single Judge, it is seen, that the first two candidates, namely, Ms.Sruthi S Kurup and Ms.Harshini, have secured higher marks than the appellant's daughter - Ms.R.Harishma - with 515 and 390 respectively as against 368, secured by Ms.R.Harishma, in NEET and their admissions in General Category and MBC Category respectively cannot be challenged by the appellant. Coming to the third candidate - Ms.S.Kaviya, though she secured

NEET score of 352 (wrongly mentioned as 252 in the Table quoted above), she was granted admission under Economically Weaker Section (EWS) Category. The fourth candidate is Ms.R.Harishma, for whose benefit, the present Writ Petition has been filed by her father - Mr.P.Rajendaran. She was allotted the Private Medical College at Puducherry, namely, PIMS.

4. It is admitted by Mr.R.Arumugam, learned counsel for the appellant, that the appellant's daughter - Ms.R.Harishma - has already taken admission in PIMS and the course has also started.

5. Mrs.V.Usha, learned counsel for second respondent - CENTAC - has also submitted that the admission process for the course in question is over.

6. In the given situation, we do not find any ground to change the admission of the appellant's ward - Ms.R.Harishma - from Private Medical college to Government Medical College, as the admissions made to the Course have been made in accordance with the Rules.

7. Therefore, we see no merit in this Writ Appeal, which is liable to be dismissed and the same, accordingly, dismissed. No costs. Consequently, the connected C.M.P.No.18235 of 2019 is also dismissed.

dixit

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.Government of Puducherry,
rep.by its Secretary,
Department of Health & Family Welfare,
Puducherry - 605 001.

2.Centralised Admission Committee (CENTAC) ,
Puducherry Engineering College Campus,
Puducherry-605 104.

+lcc to the Govt.Pleader, Vide Sr.No.74927

W.A.No.2834 OF 2019

Kak(16/10/2019)