



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.08.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.24861 of 2019
& W.M.P.Nos.24481 to 24483 of 2019

A.Prabhakara Reddy,
(F/o.Kranthi Varshitha Reddy),
Residing at No.7-6-028,
Sub-Jail Street,
Yanam - 533 464.

... Petitioner

/verus/

1. The Government of Puducherry,
Rep.by Secretary to Government,
Higher and Technical Education,
Chief Secretariat,
Puducherry - 605 004.
 2. The Co-ordinator (Admission),
Centralized Admission Committee (CENTAC),
Pondicherry Engineering College Campus,
Government of Puducherry,
Puducherry.
 3. The Convenor,
Centralized Admission Committee (CENTAC),
Pondicherry Engineering College Campus,
Government of Puducherry,
Puducherry.
 4. The Director of Health and Family Welfare Services,
Puducherry.
 5. Medical Council of India,
Rep. by Secretary,
Section - VIII, Dwaraga Phase - II,
New Delhi - 110 077.
 6. Indira Gandhi Medical College and Research Centre,
Puducherry.
- ... 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 impugned notification issued by the 2nd respondent on 20.08.2019 from converting 4 Economically Weaker Section Quota seats into General Category and from conducting MOP-UP counselling for the EWS seats and quash the same and further direct the 2nd respondent to grant admission in M.B.B.S course at Indira Gandhi Medical College and Research Institute, Puducherry, under Economically Weaker Section (EWS) quota to the petitioner's daughter namely Kranthi Varshitha Reddy and pass order.

For Petitioner : Mr.B.Kumar, Senior Counsel
for Mr.R.Venkatesulu

For R1 to R6 : Mr.J.Kumaran,
Additional Government Pleader (Pondy)

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Additional Government Pleader for the respondents.

2. The peculiar issue has been raised in this Writ Petition is that, the petitioner who belongs to Economically Weaker Section (EWS) had secured 178 marks in N.E.E.T examination and applied for admission in Medical Colleges in Puducherry (UT). As far as the Puducherry (UT) is concerned, the seats reservation for Karaikal, Yanam and Mahe in the ratio of 18%, 3% & 4% respectively.

3. Pursuant to the decision of the Government of India, to allot 10% of seats for Economically Weaker Section. The sanction strength of M.B.B.S seats in the Indira Gandhi Medical College and Research Hospital, Puducherry was enhanced from 152 to 180 in view of the enhancement of intake the seat matrix for the colleges was redrawn by the CENTAC, wherein, after allotting 27 seats for All India Quota and 22 seats for NRI, from out of 180 seats. 131 seats were divided as per the Vertical and Horizontal Reservation region wise. While doing so, for Economically Weaker Section (EWS), 10 seats were earmarked for Puducherry (UT), 2 seats for Karaikal region, 1 seat for Mahe region. There was no seat reserved for Yanam region. The petitioner who hail from Yanam region has some grievance for not reserving seat under EWS quota under Yanam region. Besides challenging the region wise reservation in to to.

4. The contention of the petitioner herein is that,

having secured 178 marks in the N.E.E.T examination and being an Economically Weaker Section (EWS) candidate, he should have been provided seat in the Indira Gandhi Medical College and Research Hospital, Puducherry, but the respondents have filled up only 10 seats during the two rounds of counselling and the remaining seats earmarked for Economically Weaker Section (EWS) has been reverted back to General Category. When there is eligible Economically Weaker Section (EWS) candidates available, the respondents ought not to have reverted un-filled seats to be filled by the General Category.

5. The sum and substance of the submissions made by the Learned Counsel for the petitioner can be categorized under three heads:-

(i). There cannot be region wise reservation from among the candidates hailing within the Puducherry Union Territory. This is against the spirit of the Hon'ble Supreme Court Judgment rendered in Rajendran Vs. State of Madras and other judgments following Rajendran case which includes the judgment of the Hon'ble Supreme Court in Nidamarti Maheshkumar Vs. State of Maharashtra & Ors reported in AIR 1986 SC 1362.

(ii). They should have been allocation of seat under Economically Weaker Session (EWS) category for Yanam region. While the Mahe region has been given one seat and Karaikal region has given three seats, the student of Yanam region hailing from EWS category are deprived of reservation of their region.

(iii). The unfilled seat under EWS quota ought to have been filled by Economically Weaker Section (EWS) candidate and not otherwise. When adequate candidate in Karaikal and Mahe region were not available, EWS candidates from Yanam region should have been given preference and it should not have reverted back to the General Pool.

6. The Learned Counsel representing the Respondents/Puducherry Government would submit that, the issue of regional reservation is no more res-integra. The Hon'ble Division Bench of this High Court in W.P.No.13130 of 2010 etc., reported in 2010 (5) CTS 385, had settled the issue in the following terms:-

31. In the counter affidavit, no reason has been assigned as to the object behind reserving 75% seats exclusively to the Puducherry Region. In fact the counter affidavit only seeks to justify the regional reservation for Karaikkal, Mahe and Yanam Regions and has absolutely not adverted to the

object behind reservation for Puducherry Region, which has been introduced for the first time this year (2010-2011). All that is stated is that by allocation of 75% seats exclusively for Puducherry Region would in no way affect the interest of candidates hailing from Karaikkal, Mahe and Yanam Regions. This could hardly be a justification to support the decision taken. The Government while constituting a Consultative Committee to review the Regional reservation of seat by G.O.Ms.No.58 dated 28.4.2010, was considering the regional reservation for Karaikal, Mahe and Yanam regions alone and the reservation for Puducherry region was never thought of or contemplated. Thus, in our view, the reservation for the Puducherry Region has not been justified by the Government in any manner.

34. Thus, in the absence of any material placed before this Court, to justify the reservation of 75% of the seats for the Puducherry Region, we are inclined to hold that such reservation is bad in law. Accordingly, the reservation in respect of 75% of seats for the Pondicherry Region requires to be set aside.

7. Therefore, after the pronouncement of the above said judgment, the percentage of seats earmarked for Karaikal, Yanam and Mahe regions as per available seats is in consonance with the Government Order passed by the Union Territory of Puducherry as confirmed by the Division Bench of this Court.

8. It is contended by the Learned Counsel for the Respondents that, after reserving seats region wise the remaining 75% seats under Puducherry (UT) are filled up by the residents of Pondicherry Union Territory irrespective of region. The residents of other region namely Karaikal, Mahe & Yanam are eligible to compete and it is common pool for all residents of Puducherry (UT).

9. As far as the seat allotted for Economically Weaker Section EWS is concerned, the Learned Counsel would submit that, out of 180 seats being the enhanced sanction strength, after deducting the seat allotted for All India Quota and NRI quota, 131 seats were left to be filled up as per the reservation policy of the state i.e., Horizontal, Vertical and Region Wise. After completion of the All India Quota counselling, 12 seats

out of 22 seats were left un-filled and those got reverted back to the State pool. Taking into consideration of available 143 seats, 10% of the seats were earmarked to EWS candidates. From among the 14 seats, as per the regional reservation, 10 seats were earmarked for Puducherry (UT), 3 seats earmarked for Karaikal region and 1 seat for Mahe region. The regional reservation for Yanam is 3% therefore, 3% in 14 being less than 0.5%, there was no seat specifically allotted for EWS candidates for Yanam region.

10. The learned counsel for the respondent would contend that, separate merit list were drawn for EWS category candidates and counselling was held for them, in which, 10 candidates were filled under the Puducherry (UT) quota. There was no suitable candidate for Karaikal and Mahe region. The four seats [Karaikal-3 and Mahe-1] left unfilled. The respondents relying upon the Government of Puducherry communication dated 14.08.2019 reverted those unfilled 4 EWS seats to General quota of the concerned region. Accordingly, the CENTAC uploaded the vacancy position in the website on 20.08.2019 for information of the students and conducted the mop-up counselling on 21.08.2019. During the mop-up counselling, the CENTAC has allotted unfilled four seats to candidates of the respective regions falling under General Category, as per the merit and all the students have joined the College.

11. The Learned Counsel for the respondents have also furnished the details of students who have been allotted seats under the EWS quota and their NEET score. From the information furnished, this Court finds that none of the candidates allotted seat under EWS quota have secured marks less than the petitioner. It is also brought to the notice of this Court that, 10 seats which was earlier filled under the Puducherry (UT) quota, nearly six candidates from Yanam region has been given seat which indicates that the seat matrix the 75% of the seat for Puducherry (UT), 18% of the seats for Karaikal, 3% of the seats for Yanam and 4% of the seats for Mahe region not altered by reversion of EWS lapsed seats. The 75% of the seat is not exclusively for the residence of Puducherry but for all the residence of Union Territory of Puducherry and there is no regional reservation as far as 75% is concerned. Therefore, the contention of the petitioner that, 75% seat has been allotted exclusively for the residence of Puducherry found to be incorrect.

12. Therefore, there is no violation of the Division Bench observation made in the batch of W.P.No.13130 of 2010 nor, there is any violation of Article 14 as alleged by the petitioner.

13. In the light of the above fact, this Court finds no merit in the Writ Petition. Hence, the Writ Petition is dismissed. No costs. Consequently, Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

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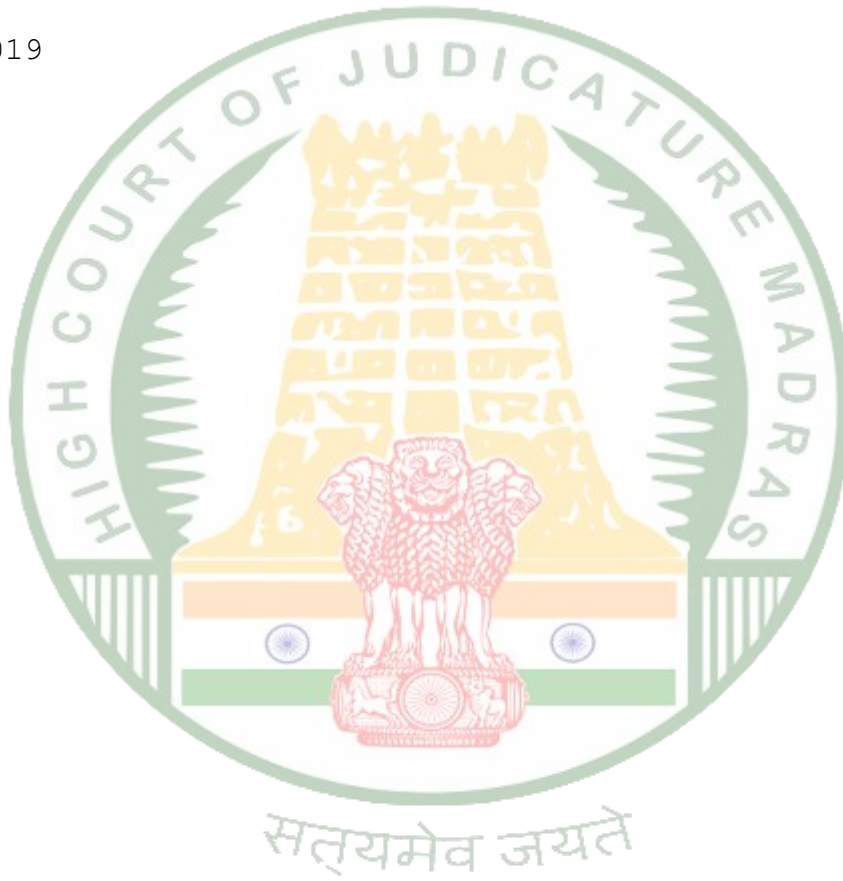
To,

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Government of Puducherry,
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Puducherry.

+1 cc to M/s.Usha Raman Advocate sr73482
+1 cc to the Government pleader sr74163

W.P.No.24861 of 2019

aa10/09/2019



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