



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE K. RAVICHANDRABAABU

and

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A. (MD) No. 739 of 2019

and

CMP (MD) No. 6379 of 2019

1. The Chairperson,
National Testing Agency,
9C-20 1A/B Sector 62
IITK Outreach Centre,
Noida - 201 309.

2. The Senior Director, (NEET (UG))
9C-20 1A/B Sector 62
IITK Outreach Centre,
Noida - 201 309.

: Appellants / Respondents 2 & 3

Vs.

1. Minor M. Vikram Balaji
Rep. by his Father and natural guardian,
V. Maran

: 1st respondent / Petitioner

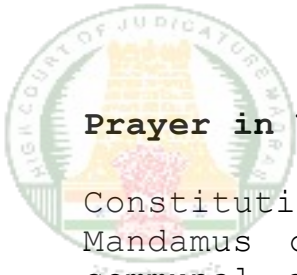
2. Central Board of Secondary Education,
Shiksha Kendra, 2-community Centre,
Preet Vihar, Delhi - 110 092.

3. The Director of Medical Education,
(NEET Counselling 2019)
162, EVR Periyar Salai,
Kilpauk, Chennai,
Chennai - 600 010.

4. The Principal,
Sri Renuga Vidyalayam Matric
Higher Secondary School,
Theni District.

: Respondents 2 to 4 /
Respondents 1, 4 and 5

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, against the order dated 19.06.2019 made in W.P. (MD) No. 13228 of 2019.



Prayer in WP(MD) . 13228/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the respondents 1 to 4 to correct my sons communal category as SC instead of OBC and modify the category rank within a time frame that may be fixed by this Honble Court well before the counselling commences by considering my email representation dated 05.06.2019.

For Appellant : Mr.V.Kathirvelu
Assistant Solicitor General of India
For Mr.V.Karthick

For R-1 : Mr.A.Kannan

For R-3 : Mr.V.R.Shanmuganathan
Special Government Pleader

J U D G M E N T

[Order of the Court was made by **K.RAVICHANDRABAABU, J.**]

This writ appeal is directed against the order made in W.P. (MD)No.13228 of 2019, dated 19.06.2019.

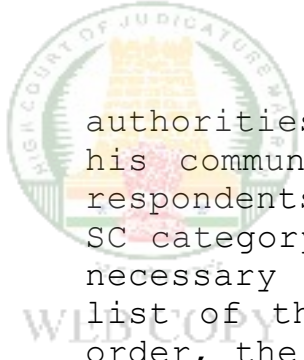
2.The appellants are the respondents 2 and 3 before the Writ Court. The writ petition was filed for Mandamus directing the respondents 1 to 4 therein to correct the writ petitioner's communal category as 'Scheduled Caste (SC)' instead of 'Other Backward Community (OBC)' and modify the category rank within a time frame that may be fixed by this Court well before the counselling commences by considering his E-mail representation, dated 05.06.2019.

3.The case of the writ petitioner before the Writ Court in short is as follows:-

He studied Higher Secondary Course at the fifth respondent school and his Date of Birth is 15.09.2001. He prepared for National Eligibility and Entrance Test (NEET) and appeared in the said examination on 05.05.2019. His application for appearing in the said examination was submitted and uploaded in the official Web-site of the second respondent by the fifth respondent school, however, with inadvertence, by referring the petitioner's caste as Other Backward Class (OBC) category. Had the petitioner been treated as a candidate belonging to Scheduled Caste (SC) category, he would have been in a position to get the medical seat. Therefore, the petitioner approached this Court and filed the above writ petition with the relief as stated supra.

<https://hcservices.ecourts.gov.in/hcservices/>

4.The Writ Court, after hearing both sides, directed the



authorities to consider the request of the petitioner to change his communal status from OBC to SC and if the second and third respondents have ultimately found that the petitioner belongs to SC category and that it has been wrongly uploaded as OBC category, necessary corrections have to be made and accordingly, ranking list of the petitioner has to be released. Challenging the said order, the present writ appeal is filed before this Court.

5.The learned Assistant Solicitor General of India, appearing for the appellants submitted that the petitioner, having submitted his application form by claiming himself as a person belonging to OBC, is not entitled to change the category of his community, after the declaration of the results, especially, when he failed to utilise the opportunities provided to all the applicants to make necessary corrections, if any, in their applications. Thus he submitted that public notice dated 14.01.2019 and again another notice were issued to make necessary corrections before and after the examination and however before the declaration of the results, which the petitioner failed to utilize. Therefore, the learned Assistant Solicitor General contended that when two such opportunities were provided to the petitioner like persons to correct the details in the application, if any, the petitioner should have utilized such opportunities and corrected the details. Instead, the petitioner has chosen to seek for correction of his application, after the declaration of results, which cannot be permitted, since such correction would materially affect the very selection list itself, as the All India Ranking list has already been published.

6.The learned counsel for the first respondent/writ petitioner, though supported the order passed by the writ Court, however, submitted that even though, the writ petitioner, in pursuant to the order passed by the Writ Court, was allowed to take part in the counselling under the SC category, he was not successful in getting the seat in MBBS, as his mark was below the cut off mark provided for such category. Therefore, he contended that the petitioner is not interested in pursuing the matter.

7.Heard Both sides.

8.The writ petitioner sought for changing his communal category in the application submitted for the NEET examination. Admittedly, such request is made by the petitioner after the declaration of the results. It is seen that the authorities have provided two opportunities for the candidates, to make necessary corrections in the on-line application, if any, one before the examination and another, after the examination, however, before declaration of the results. It is an admitted fact that the writ petitioner has not chosen to utilise both the opportunities and however, has made the request for challenging the communal category, after the declaration of the results. We find that the



petitioner is not entitled to make such request, as such request, if considered and permitted, would certainly affect the All India merit ranking list, as rightly contended by the learned Assistant Solicitor General. Therefore, we find that the writ Court is not justified in issuing a direction as granted in this case. Even otherwise, the fact remains that the petitioner, in pursuant to the order passed by the writ Court, seems to have not become successful before the counselling, even under the SC category.

9. Accordingly, the writ Appeal is allowed and the impugned order of the Writ Court is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Central Board of Secondary Education,
Shiksha Kendra, 2-community Centre,
Preet Vihar, Delhi - 110 092.

2. The Director of Medical Education,
(NEET Counselling 2019)
162, EVR Periyar Salai,
Kilpauk, Chennai,
Chennai - 600 010.

+1 CC to SPL GP SR-76889.

+1 CC to Mr. P. KARTHICK, Advocate SR-77358.

W.A. (MD) No. 739 of 2019
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CS (02.08.2019) 4P 5C