



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.17074 of 2019

and

W.M.P. (MD) No.13618 of 2019

S.Shalini Subhasri

... Petitioner

vs.

- 1) The State of Tamil Nadu,
Rep. By its Secretary,
Department of Health and Family Welfare,
Fort St.George, Chennai.
- 2) The Secretary,
Selection Committee,
Directorate of Medical Education,
162, Periyar EVR High Road,
Kilpauk, Chennai.
- 3) The Medical Council of India,
Pocket 14, Sector - 8,
Dwaraka Phase-I,
New Delhi 110 077

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the 2nd respondent to allot the petitioner for the vacancy seats available at Private Finance Medical Colleges under the category as per the priority given under the caste wise by publishing the not-joined seats at Phase-I counselling.

For Petitioner	:	Mr.A.Sankaramasubramanian
For RR 1& 2	:	Mr.K.Chellapandian, Additional Advocate General Assisted by Mr.V.Anand, Government Advocate
For R3	:	Mr.V.P.Raman

O R D E R

The prayer sought for is a Writ of Mandamus seeking for a direction to the 2nd respondent to allot the petitioner for the vacancy / seats available at Private Finance Medical Colleges under the category as per the priority given under the caste wise by publishing the not-joined seats at Phase-I counselling.

2. Heard Mr.A.Sankaramasubramanian, learned counsel appearing for the petitioner, Mr.K.Chellapandian, learned Additional Advocate General assisted by Mr.V.Anand, learned Government Advocate appearing for respondents 1 & 2 and Mr.V.P.Raman, learned counsel appearing on behalf of the third respondent.

3. The case of the petitioner is that, the petitioner after completing Plus Two, appeared for the NEET UG Examination and obtained 288 marks out of 720 marks. With the said marks, the petitioner applied to the respondent to get admission in MBBS degree



course under the Scheduled Caste category, as the petitioner belongs to that community.

4. According to the procedure in vogue, for the 85% government quota seats, where all the seats available in Government Medical colleges, ESIC Medical College, Chennai, Raja Muthiah Medical/Dental College of Annamalai University as well as the seats surrendered by the self financing colleges towards Government quota, will all form part of the 85% government quota and the remaining 15% would be the All India Quota.

5. Insofar as the 85% Government quota seats are concerned, counselling was conducted to fill up those seats under general category and also for all other communal categories, including the communal category of Scheduled Caste.

6. In this context, it is the grievance of the petitioner that, after the first round of counselling was over, the unfilled seats or non-joined seats in various self financing colleges, whose seats have been surrendered towards the Government quota of 85%, especially in the communal category of Scheduled Caste community. Whether the seats returned or surrendered as non-joined seats by the self financing institutions to the Government (i.e.) the respondents herein, have been taken into account in order to fill up those seats especially earmarked for Schedules Caste community and whether has been considered only as unfilled or non-joined seats of that communal quota and accordingly, the remaining candidates, who are in the waiting list or in the role, who got lesser mark than the cut-off mark in that communal category had been given a chance by sending a call letter.

7. In this connection, it is submitted by the learned counsel for the petitioner that, the petitioner though got 288 marks and she had been in the waiting list, she has not been called for the second round of counselling by issuing any call letter. Therefore, the petitioner has apprehended that the seats, which are surrendered to the government by the self financing institutions or even the unfilled seats by virtue of non-joining in the communal category of Scheduled Caste, both in the self financing institutions as well as the government institutions, have not been properly earmarked for the purpose of allotting the seats to the remaining Scheduled Caste community candidates, who are in the queue or in the waiting list.

8. However, Mr.K.Chellapandian, learned Additional Advocate General appearing for the respondents, on instructions and based on the counter affidavit filed on behalf of the 1st and 2nd respondents made submissions that, the petitioner's communal ranking for Scheduled Caste community, based on the NEET marks (i.e.) 288 out of 720 marks is at the rank of 1243. Insofar as the first round of counselling is concerned, the last cut-off mark for Scheduled Caste communal category in Government Medical College was 364, likewise



for ESIC Medical College and Raja Muthiah Medical/ Dental College of Annamalai University was 357 and for self financing colleges, it was 330.

9. After exhausting the entire seats, the first round of counselling was over and thereafter, the unfilled seats due to non-joining of candidates in all categories since have been identified and surrendered by the self financing institutions have been taken into account and accordingly, the second round of counselling was conducted and in that second round of counselling, the Scheduled Caste category for Government Colleges, the last cut-off mark was 360, for ESIC Medical College and Raja Muthiah Medical/ Dental College of Annamalai University institutions are concerned, it was 349 and for self financing institutions it was 325.

10. Therefore, the last person who got seat under Scheduled Caste community category, even after the second round of counselling was with the mark of 325, whereas the petitioner's mark is 288 out of 720. In this context, the learned Additional Advocate General has relied upon the following averments made in the counter affidavit.

"21. It is also submitted that the petitioner, Ms.S.Shalini Subhasri has secured 288 marks out of 720 marks in NEET UG-2019. As the cut-off marks for Government Colleges is 360 and also as there are 780 number of candidates waitlisted in Government Medical Colleges, 690 number of candidates waitlisted in ESIC/IRT/Rajah Muthiah Medical College and 452 number of candidates waitlisted in Self-Financing Medical colleges beyond the petitioner. Therefore, she does not come under the zone of consideration."

11. By relying upon the said averments, the learned Additional Advocate General would submit that, between the petitioner and the first person in the waiting list (i.e.) the next person to the last cut-off mark in the communal category of Scheduled Caste in each of the category (i.e.) ESIC/IRT/Rajah Muthiah Medical College of Annamalai University as well as self financing colleges, there are number of students with higher marks than the petitioner in the waiting list. In this context, for Government colleges, there are 780 nos. of candidates, for ESIC/ IRT as well as Raja Muthiah Medical College of Annamalai University, there are about 690 candidates and for self financing medical colleges, there are 452 candidates, who are already in the waiting list. This was the position even after the second round of counselling was completed.

12. Even thereafter as per the procedure in vogue still if there is any seat that becomes unfilled because of the non-joining of any candidate after the second round of counselling, those sporadic seats would also be identified and accordingly, those seats had been identified and in order to fill up those seats, mop up



round of counselling is conducted and that was also over in respect of the Government colleges as well as ESIC and Raja Muthaih Medical College of Annamalai University. Insofar as the self financing colleges are concerned, the mop up round of counselling is conducted today.

13. Since huge number of candidates are already in the waiting list and in the very same communal category of Scheduled Caste, where the petitioner secured only 288 marks, the question of calling the petitioner for counselling either in the second round or in mop up round of counselling does not arise. Therefore, the petitioner's plea cannot be accepted.

14. I have considered the submissions made by the learned counsel for the petitioner as well as the learned Additional Advocate General appearing for the respondents 1 & 2.

15. As rightly pointed out by the learned Additional Advocate General, since the cut-off mark in each category for the candidates under the communal category of Scheduled Caste, both in the first round of counselling as well as in the second round of counselling disclose the fact that, the petitioner is no way nearer to the last cut-off mark and there are 100s of students in each category are still in the waiting list with higher marks than the petitioner and moreover, two rounds of counselling are over and thereafter, mop up round of counselling is also over for the sporadic vacancy which has been completed by today, therefore, the question of considering the petitioner's candidature for admission in the medical course under Scheduled Caste category with 288 marks out of 720 marks does not arise as the last person who got seat under the said communal category was in the rank of 330 and in the second counselling was 325 and in between there are hundreds of candidates still available in the waiting list.

16. Absolutely, there is no merit in the claim made by the petitioner. In that view of the matter, the plea raised by the petitioner before this Court in this writ petition cannot be accepted. Accordingly, the writ petition is dismissed. However, there shall be no order as to costs. Consequently, connected W.M.P. (MD) No.13618 of 2019 is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar (CS)



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To

1) The Secretary,
Department of Health and Family Welfare,
Fort St.George,
Chennai.

2) The Secretary,
Selection Committee,
Directorate of Medical Education,
162, Periyar EVR High Road,
Kilpauk, Chennai.

3) The Medical Council of India,
Pocket 14, Sector - 8,
Dwaraka Phase-I,
New Delhi 110 077

+1 CC to M/s.V.P.RAMAN, Advocate (SR-80791[F] dated 08/08/2019)

+1 CC to M/s.A.SANKARARAMASUBRAMANIAN, Advocate (SR-80853[F]

+1 CC to M/s.SPL GP (SR-81221[F] dated 09/08/2019)

Order made in

W.P. (MD) No.17074 of 2019

Dated:08.08.2019

SMA/06/01/2020/5P/7C