

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.07.2020

CORAM :

THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.8950 of 2020

and

W.M.P.Nos.10909, 10881 & 10882 of 2020

Sri Venkateshwara Medical College Hospital
and Research Centre,

Rep. by its Chairman B.Ramachandran,
No.13-A, Pondy-Villupuram Main Road,
Ariyur, Puducherry - 605102.

.... Petitioner

Vs.

1. The Government of Puducherry,
Rep. by the Under Secretary to Government (Health),
Chief Secretariat, Puducherry.

2. Central Admissions Committee (CENTAC),
Rep. by Chairman/Convenor,
Pondicherry Engineering College Campus,
Puducherry - 605014.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records of the first respondent in the communication dated 06.03.2020 in Ref No.2774/Health/H5/2019-20/PF, quash the same and consequently direct 1st respondent to allot 15% of the seats available in the Post Graduate Medical Courses offered by the petitioner Institution to the Non-Resident Indian candidates during the Academic Year 2020-21, call for applications from interested NRI candidates and conduct counseling for allotment of NRI candidates to these seats.

For Petitioner : Mr.Abishek Jenasenan

For Respondents: Mrs.N.Mala
Government Pleader (Puducherry)

O R D E R

(The case has been heard through video conference)

The present writ petition has been filed calling for the records of the impugned communication of the first respondent

dated 06.03.2020 and for a consequential direction to the first respondent to allot 15% of seats available in the Post Graduate Medical Courses to the Non-Resident Indian quota for the Academic Year 2020-21.

2. The case of the petitioner is that the first respondent has issued a seat matrix for conducting counseling to fill up Post Graduate Medical seats in the petitioner Institution. According to the said communication, the petitioner had not been allotted NRI quota and therefore, the petitioner Institution is not in a position to fill up candidates under this quota. The further case of the petitioner Institution is that inspite of their best efforts, there is a vacancy of 6 seats in the clinical courses and 10 seats in a non-clinical courses and that this vacancy cannot be filled up from among the minority candidates and therefore, instead of wasting the seat, the petitioner can be allowed to fill up seats under NRI quota.

3. The learned counsel appearing for the petitioner Institution submitted that the judgments of the Hon'ble Supreme Court starting from Unni Krishnan's case upto P.A. Inamdar's case, have consistently held that the limited reservation of seats not exceeding 15% may be made available to NRI quota. The learned counsel submitted that the petitioner Institution have made several representations requesting for allotment of 15% of the PG Medical Course seats to be filled up under NRI quota. The learned counsel submitted that without considering the representations, the impugned seat matrix has been issued. The learned counsel further submitted that the NRI quota itself was a creation of judicial pronouncements which has become a law under Article 141 of the Constitution of India and therefore, even if the permission granted to the petitioner Institution through letter dated 09.06.2015, is put against the petitioner, the said letter must also stand the scrutiny of the judgments of the Hon'ble Supreme Court. Therefore, the learned counsel concluded the arguments by submitting that the first respondent must be directed to permit the petitioner Institution to fill up 15% of the seats under NRI quota.

4. Per contra, Mrs.N.Mala, learned Government Pleader (Puducherry) appearing on behalf of the Government of Puducherry submitted that the claim made by the petitioner is totally unsustainable. The learned counsel further submitted that even though there is no dispute with regard to the legal position as enunciated by the Hon'ble Supreme Court with regard to 15% NRI quota, the petitioner Institution is not entitled for the same. The learned counsel submitted that the petitioner College is a minority Institution and it is bound to fill up 50% management quota seats from the minority community. She further submitted that when permission was granted to the petitioner College vide letter dated 09.06.2015, it was made very clear that the petitioner has to

fill up seats under the management quota with minority candidates. For this purpose, the learned counsel strongly relied upon Clause .3 of the letter dated 09.06.2015.

5. The learned Government Pleader further submitted that the CENTAC namely the second respondent has already conducted counseling for two rounds as per the directions of the Medical Council of India and the second round was over on 21.07.2020. It was further submitted that what remains is only the mop-up round of counseling which was also completed today. Therefore, it was submitted that it is too late in the day to call for fresh application once again from NRI Candidates and conduct one more counseling which will be in violation of the MCI Guidelines. The learned counsel submitted that the vacancies will be filled up in the mop-up round counseling and therefore, the relief as claimed by the petitioner cannot be considered by this Court at this stage.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. There is no dispute with regard to the issue regarding NRI quota since the Hon'ble Supreme Court has already settled the legal position in P.A.Inamdar case providing for 15% NRI quota. The only issue that requires consideration is as to whether the petitioner Institution will be entitled to seek for that quota. It is seen from the letter issued by the Government of Puducherry dated 09.06.2015 that the petitioner Institution had been granted minority status (linguistic minority). Clause (iii) of the letter is extracted hereunder :-

"(iii) 50% of the total intake permitted by the Government of India shall be from the above minority Community. The trust shall also submit a report to the Govt. of Puducherry every year, giving particulars of the institution-wise minority students admitted in various courses within one month of the completion of admission process."

It is clear from the above Clause that the petitioner will have to fill up 50% of the Management quota only with candidates belonging to the Telugu minority and the balance 50% will be filled by the Government. When such is the condition imposed by the Government of Puducherry, it is not possible to permit the petitioner Institution to fill up any seats under NRI quota. Any such permission will run contrary to the conditions imposed by the Government of Puducherry vide letter dated 09.06.2015.

8. It is too late in the day for the petitioner to come before this Court claiming for NRI quota since two rounds of counseling is already over and the applications for the mop-up round of counseling is coming to an end today and therefore, there is no scope for calling for fresh applications at this stage under NRI quota. Any such exercise, will run contrary

to the MCI Guidelines.

9. Looking at the case from any angle, this Court is not in a position to convince itself to grant the relief claimed by the petitioner Institution. If the petitioner Institution is aggrieved by the very permission granted by the Government of Puducherry, while granting the minority status, the same requires to be independently challenged, if the petitioner is so advised.

10. In view of the above instructions, this writ petition is dismissed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//
Sub Assistant Registrar

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To

1. The Under Secretary to Government (Health),
The Government of Puducherry,
Chief Secretariat, Puducherry.
2. Chairman/Convenor,
Central Admissions Committee (CENTAC),
Pondicherry Engineering College Campus,
Puducherry - 605014.

+2cc to Mr.Abishek Jeasenam, Advocate, S.R.No.25359

W.P.No.8950 of 2020

RJI (CO)
CB(20/08/2020)

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