

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.16231 of 2020

and

WMP Nos.20278 and 20280 of 2020

S.Surendhar (Minor)Petitioner
aged about 17 years
Rep. by his Father and Natural Guardian
T.Sankar

Vs.

- 1 The Selection CommitteeRespondents
Rep. by its Secretary
Directorate of Medical Education
No.162 , Periyar EVR High Road
Kilpauk, Chennai- 10.
- 2 The Tamil Nadu Dr.M.G.R. Medical University
Rep by its Registrar
No. 69, Anna Salai Road
Guindy, Chennai- 32.
- 3 The Chief Educational Officer
Namakkal District.
- 4 The Head Master
Government Boys Higher Secondary School
Tiruchengode, Namakkal District.
- 5 The National Medical Commission
Rep. by Chairman
Pocket 14, Sector -8
Dwarka Phase- 1-1. New Delhi- 110 077
- 6.The Principal Secretary to Government
Health and Family Welfare Department
Secretariat, Fort St. George
Chennai.

(Sixth respondent is suo-motu added
as per the order of this Court made in
this Writ Petition today - 11.11.2020)

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st and 2nd respondents to consider the Petitioner namely S.Surendhar for Admission to the MBBS / BDS course in any one of the Medical colleges in Tamil Nadu for the year 2020 -2021 or any subsequent years in terms of 7.5 percentage quota reserved for students studied in Government School.

For Petitioner : M/s.P.I.Thirumoorthy

For Respondent-1: Mr.Abdul Saleem
Standing counsel

For Respondent-6: Mr.C.Munusamy
Special Government Pleader

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the first and second respondents to consider the petitioner for admission to the MBBS/BDS Course during the academic year 2020-21 under the 7.5% quota reservation for students, who completed their Higher Secondary in Government Schools.

2. The Principal Secretary to Government, Health and Family Welfare Department, Secretariat, Fort St. George, Chennai, is suo-motu added as the sixth respondent in this Writ Petition.

3. The Government of Tamil Nadu through G.O.Ms.No.438 dated 29.10.2020 brought in a special reservation, whereby the Government took a decision to set apart 7.5% of seats in the admission to MBBS/BDS Courses on preferential basis to the students, who have studied from 6th to 12th standard in the State Government Schools. Immediately after this Government order was passed, the prospectus issued by the first respondent was amended by incorporating the special reservation that was brought into force through the above said Government Order.

4. The admitted case of the petitioner is that he was studying in an Aided School till the 8th standard and he joined Government School only in the 9th standard and he continued upto the 12th standard in Government School. As per the rank list prepared by the appropriate authority, the petitioner is placed in the 54th rank out of 740 candidates. The petitioner also claims that he is placed at rank No.2 in the Namakkal District. The petitioner wanted to claim the benefits of the above said G.O., and he approached the third respondent in this regard to get the necessary certificate. Since he was

not able to get the Bonafide Certificate as required under the prospectus, the petitioner has approached this Court seeking for appropriate directions.

5. The learned counsel for the petitioner brought to the notice of this Court clause-13 of the prospectus and he placed specific reliance upon clause-(c) and clause-(d), which defines '**Government Schools**' and '**Students studied in Government Schools**'. For proper appreciation, both these definitions are extracted hereunder, along with the explanation.

"13. COUNSELLING PROCEDURE :

(a) ...

(b) ...

(c) "**Government schools**" mean and includes Government schools, Corporation schools, Municipal schools, Adi Dravidar and Tribal Welfare schools, Kallar Reclamation schools, Forest Department schools and other schools managed by Government departments;

(d) "**Students studied in Government schools**" mean children who have studied from Sixth Standard to Higher Secondary Course in a Government school and qualified in the National Eligibility-cum-Entrance Test.

Explanation.— For the purpose of this definition, children belonging to weaker section and disadvantaged group who have studied upto eighth standard in a specified category school or an unaided school, as per clause (c) of sub-section (1) of section 12 of the Right of Children to Free and Compulsory Education Act, 2009 and studied all remaining standards up to Higher Secondary Course in a Government school and qualified in the National Eligibility-cum-Entrance Test, shall be deemed to be '**Students studied in Government schools**'

6. The learned counsel for the petitioner submitted that the petitioner is claiming his right under the exception to the definition '**Students studied in Government Schools**'. The learned counsel submitted that the explanation, which is more in the nature of an exception to clause-(d) takes within its fold '**children who belong to weaker section and disadvantaged group**, who have studied upto 8th standard in a specified category school or an unaided school as per Section 12(1)(c) of the Right of Children to Free and Compulsory Education Act, 2009 (herein after called as '**Act**'). The

learned counsel submitted that this explanation permits those candidates, who have studied upto 8th standard as per the requirements of the explanation, also to be considered as students studied in Government Schools provided that the candidate studies in a Government School thereafter from 9th to 12th standard.

7. The learned counsel further elaborated his submissions by stating that the petitioner belongs to Scheduled Caste Community and therefore, he comes from a disadvantaged group. In order to substantiate this submission, the learned counsel brought to the notice of this Court Section 2(d) of the Act. The learned counsel submitted that the petitioner squarely falls under this definition. For proper appreciation, Section 2(d) of the Act is extracted hereunder:-

"2(d) Child belonging to disadvantaged group" means a child belonging to the Scheduled Caste, the Scheduled Tribe, Socially and Educationally backward class or such other group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor, as may be specified by the appropriate Government, by notification."

8. The learned counsel for the petitioner submitted that the petitioner has satisfied the requirements of the explanation to Section 2(d) of the Act and therefore, he is entitled for the Bonafide Certificate as per clause-3 of the prospectus from the third respondent.

9. Per contra, Mr.C.Munusamy, learned Special Government Pleader appearing on behalf of the impleaded sixth respondent submitted that the explanation to Section 2(d) has two parts to it. The first limb of the explanation talks about candidates belonging to weaker section and disadvantaged group and the second limb talks about such a candidate, who have studied till 8th standard in a specified category school or an unaided school. The learned Special Government Pleader submitted that the petitioner has not satisfied the second limb of the explanation, since the petitioner did not study in a specified category school and admittedly, the petitioner had studied in an aided school. The learned Special Government Pleader further elaborated his argument to explain the term 'specified category schools'. The learned counsel submitted that the term 'specified category schools' has to be understood in terms of Section 2(p) of the Act. For proper appreciation, the definition under Section 2(p) of the Act is extracted hereunder:-

" 2(p) "Specified Category" in relation to a school, means a school known as Kendriya

Vidyalaya, Navodaya Vidyalaya, Sainik School or any other school having a distinct character which may be specified, by notification, by the appropriate Government."

10. The learned Special Government Pleader submitted that a candidate will satisfy the requirement of studying in a specified category school only if the candidate has studied in any one of the school as specified under Section 2(p) of the Act. The learned Special Government Pleader, therefore, submitted that the petitioner, admittedly, did not fall under any of the categories of the schools mentioned in Section 2(p) of the Act.

11. Mr. Abdul Saleem, learned standing counsel appearing on behalf of the first respondent submitted that the best person to explain the purport of 7.5% reservation for the specified category schools would be the sixth respondent and the interpretation given by the sixth respondent will also bind the first respondent. Therefore, the first respondent will have to proceed further with the selection only if a candidate strictly falls within the parameters as required in G.O.Ms.No.438, dated 29.10.2020.

12. This Court finds a lot of force in the submissions made by the learned Special Government Pleader appearing on behalf of the sixth respondent. When the Government confers a special reservation for a particular class of persons, the candidate, who claims to fall under the category, must satisfy all the requirements as provided under the Government Order. In the present case, even if the petitioner is taken to fulfil the first limb of the explanation by falling under the category of disadvantaged group owing to the fact that he belongs to Scheduled Caste Community, the petitioner does not fulfil the next limb under the explanation. The petitioner admittedly had done schooling till 8th standard in an aided school. The school, in which the petitioner had studied till 8th standard, also does not fall within the category of 'specified category schools'.

13. In view of the above discussion, the relief claimed by the petitioner cannot be granted by this Court and accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

-Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar

mra

To

- 1 The Secretary
Selection Committee
Directorate of Medical Education
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Kilpauk, Chennai- 10.
 - 2 The Registrar
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 - 6.The Principal Secretary to Government
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Secretariat, Fort St. George
Chennai.
- +1 C.C. to MR.P.I.THIRUMOORTHY Advocate SR.NO.36842
- +1 C.C. to Government Pleader SR.NO.36957

W.P.No.16231 of 2020

and

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PVS (CO)
UM (14.12.2020)

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