

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.18123 of 2020

Manimaran

...Petitioner

Vs.

- 1 The Medical Council of India
Rep. by its Secretary
Dwarakha, New Delhi.
 - 2 The Principal Secretary
Health and Family Welfare
DMS, Chennai 600 035.
 - 3 The Principal Secretary
School Education Department
Kamarajar Salai
Fort St.George. Chennai 600 009.
 - 4 Directorate of Higher Secondary
and School Education, DPI Campus,
College Road, Chennai - 6.
 - 5 Tamil Nadu Medical Council
Nungambakkam, Chennai 600 034.
 - 6 Director of Medical Education
Guindy, Chennai 600 032.
- ...Respondents

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This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondents to consider the petitioner's representation dated 11.11.2020 and permit the petitioner's daughter M.Puvisha to attend the counselling in UG Medical Course in the year 2020 as per the State Government 7.5 percent allotted to Government School Student.

For Petitioner : Mr.K.Muruganantham

For Respondent-1 : Mr.V.P.Raman
standing counsel

For Respondents 2 & 6 : Mr.E.Manoharan
Special Government Pleader

For Respondents 3 & 4 : Mr.C.Munusamy
Special Government Pleader

For Respondent-5 : Mr.G.Sankaran

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the respondents to permit the daughter of the petitioner to participate in the counselling for the UG Medical Course under the 7.5% quota allotted to State Government School students.

2. Heard Mr.K.Muruganantham, learned counsel for petitioner, Mr.V.P.Raman, learned standing counsel for first respondent, Mr.E.Manoharan, learned Special Government Pleader for respondents 2 and 6; Mr.C.Munusamy, learned Special Government Pleader for respondents 3 and 4 and Mr.G.Sankaran, learned counsel for fifth respondent.

3. It is the admitted case of the petitioner that his daughter underwent schooling till X standard in an aided school, named as St. Joseph Girls' Higher Secondary School, Mannargudi. The petitioner's daughter has undergone her studies in the Government School only in XI and XII Standard at Government Girls' Higher Secondary School, Koothanallur. This Court has already considered the scope of the relevant G.O. in W.P.No.16231 of 2020 dated 11.11.2020. For proper appreciation, the relevant portions are extracted hereunder:-

"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) talks 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 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 seeks to fall under the category, must satisfy the entire 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 gone 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."

4. In view of the above, this Court finds that the petitioner has not satisfied the requirements of the G.O. and accordingly, the petitioner is not entitled to claim any privilege under 7.5% quota and as a result, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mra

To

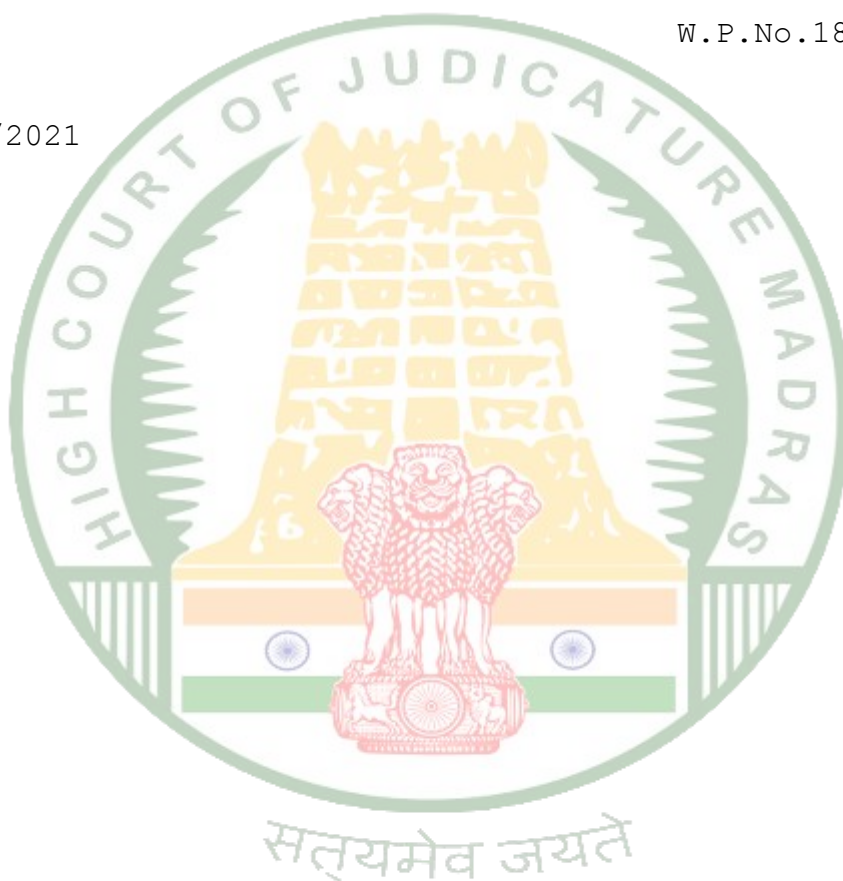
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+lcc to the Government pleader Sr.41084
+lcc to Mr.V.P.Raman, Advocate Sr.41181

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