

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 34419 of 2019

and

W.M.P. Nos. 35121 and 35123 of 2019

DR.N.R. Anandu

... Petitioner

-vs-

1. The Secretary (CCIM/CCH),
61-65, Institutional Area,
Opp D-Block, Janakpuri,
New Delhi.
2. The Director,
All India Institute of Ayurveda,
Gautampuri, Sarita Vihar,
Mathura Road, New Delhi.
3. The Director,
Indian Medicine and Homeopathy,
Arignar Anna Government Hospital of Indian Medicine Campus,
Arumbakkam, Chennai - 600 106.
4. The Secretary,
Selection Committee,
Directorate of Indian Medicine and Homeopathy,
Arignar Anna Government Hospital of Indian Medicine Campus,
Arumbakkam, Chennai - 600 106.
5. Ministry of Ayurveda, Yoga and Naturopathy,
Unani, Siddha and Homeopathy,
AyushBhavan, 'B' Block,
GPO Complex, INA,
New Delhi - 110 023.
6. White memorial Homeopathic Medical College,
Attoor, Veeyannoor P.O.,
Kanyakumari District,
Tamil Nadu - 629 177.

7. Sarada Krishna Homeopathic Medical College,
Kulasekaram, Kanyakumar District,
Tamil Nadu - 629 161.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to provide admission to the Petitioner for the course 'MD (HOMEOPATHY)' for the academic year 2019-2020 under the OBC category as per merit in either of the two colleges, i.e., the Sixth and Seventh Respondents.

For Petitioner : Mr. S. Elambharathi

For Respondents: Mrs. P.J. Anitha,
Central Government Standing Counsel
(for R1, R2 and R5)

Mr. V. Kadhirvelu,
Special Government Pleader
(for R3 and R4)

Mr. P. Godson Swaminathan
(for R6 and R7)

ORDER

Heard Mr. S. Elambharathi, Learned Counsel for the Petitioner, Mrs. P.J. Anitha, Learned Central Government Standing Counsel appearing for the First, Second and Fifth Respondents and Mr. V. Kadhirvelu, Special Government Pleader appearing for the Third and Fourth Respondents and Mr. P. Godson Swaminathan, Learned Counsel for the Sixth and Seventh Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who had secured 36.6458785 percentile in National Eligibility cum Entrance Test, had applied for admission under management quota for Post Graduate course in Homeopathy for the academic year 2019-2020 in A.R. No. 07 dated 27.11.2019 conducted by the Fourth Respondent. The Fifth Respondent lowered the minimum eligibility marks for the said course from 50th percentile to 40th percentile for General Category and from 40th percentile to 30th percentile for reserved categories, viz., SC, SC-A, ST, BC, BC(M), MBC/DC categories and had extended the last date for admission till 30.11.2019 for left over vacancies.

3. According to the Petitioner, he ought to be treated as a candidate belonging to Backward Class as he holds a Community Certificate dated 23.11.2019 issued by the Tahsildar, Kollam in the State of Kerala stating that he belongs to Hindu Ezhava community, which is recognized as OBC in that State. However, the Fourth Respondent refused to accept the said contention on the ground that the admission to educational institutions in the State of Tamil Nadu under the reserved categories is confined only to the candidates hailing from the State of Tamil Nadu and cannot be extended to those belonging to other States. Aggrieved thereby, the Petitioner has filed this Writ Petition for a direction to the Respondents to provide admission to him under OBC category in the Colleges of the Sixth Respondent or the Seventh Respondent.

4. Learned Counsel for the Petitioner contends that in the absence of any specific mention in the prospectus that reservation are applicable only in respect of candidates belonging to the State of Tamil Nadu, the Petitioner cannot be deprived of the benefit of reservation as a candidate belonging to the Backward Class, when he possesses necessary Community Certificate in that regard. He further points out that another candidate, viz., Miss. Nimisha Krishna, who also hails from the State of Kerala, has been granted admission to the same course in Vinayaka Missions Homeopathic Medical College, Salem, but discrimination has been meted out to the Petitioner by not extending that benefit.

5. Learned Special Government Pleader appearing for the Third and Fourth Respondents referring to the Counter Affidavit dated 06.02.2020 filed by the Third Respondents submits that the reservation of seats is governed by the relevant Governmental Orders, which restrict the reserved seats for candidates belonging to SC, SC-A, ST, BC, BC(M), MBC/DC categories only to those belonging to the State of Tamil Nadu and hold a Community Certificate issued by the concerned authority to the effect that they are belong to the communities recognized under those categories in Tamil Nadu, and that the candidates belonging to castes, which have been recognized under the reserved categories in other States, are not entitled to the benefit of reservation of seats in educational institutions in Tamil Nadu. It is further pointed out that persons, who belong to States, other than Tamil Nadu, even if they belong to any reserved category recognized in their respective States, are treated as belonging to general category and are entitled to compete amongst those candidates. It has been clarified that the candidate, viz., Miss. Nimisha Krishna, who had been granted admission in Vinayaka Missions Homeopathic Medical College, Salem, had secured 45.83 percentile marks in AIAPGET-2019 (Homeopathy), which is more than the minimum required 40th percentile for

general category, while the Petitioner had secured lesser marks of 36.6458785 percentile and could not be selected.

6. Having regard to the rival submissions, reference may be made to the decision of the Hon'ble Supreme Court of India in Municipal Corporation of Delhi -vs- Veena [(2001) 6 SCC 571] where it has been held that the matters that are to be taken into consideration for specifying a particular caste in a group belonging to OBCs would depend on the nature and extent of disadvantages and social hardships suffered by that caste or group in that State, which may not be so in another State to which a person belonging thereto goes by migration and these aspects have to be borne in mind in interpreting the provisions of the Constitution with reference to application of reservation to OBCs. In the light of this legal position, the Petitioner who belongs to Hindu - Ezhava Caste, which is notified as Backward Class in the State of Kerala, cannot be claim admission in the seats reserved for candidates belongs to Backward Classes in the State of Tamil Nadu. Viewed from that perspective, the submissions made on behalf of the Respondents deserve acceptance and this Court does not find any justification to entertain the claim made by the Petitioner.

7. Accordingly, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

vjt/das

To

1. The Secretary (CCIM/CCH),
61-65, Institutional Area,
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New Delhi.
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5. The Secretary to the Government of India,
Ministry of Ayurveda, Yoga and Naturopathy,
Unani, Siddha and Homeopathy,
AyushBhavan, 'B' Block,
GPO Complex, INA,
New Delhi - 110 023.

+1cc to Mr.S. Elambharathi, Advocate SR.No.10829

+1cc to Mrs. P.J. Anitha, Advocate SR.No.11051

+1cc to Mr.Isaac Chambers, Advocate SR.No.11045

W.P. No. 34419 of 2019

RSI(CO)
GMY(15/06/2020)

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