

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

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THE HONOURABLE THIRU JUSTICE B.PUGALENDHI

W.P.No.2746 of 2021

and

W.M.P.Nos.3084 & 3085 of 2021

S.Preethi

...Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
Department of Health and Family Welfare,
Fort St.George, Chennai - 600 009.
2. The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
Department of School Education,
Fort St.George, Chennai - 600 009.
3. The Director of Medical Education,
O/o.The Directorate of Medical Education,
162, Periyar E.V.R. High Road,
Kilpauk, Chennai - 600 010.
4. The Selection Committee,
Rep by the Secretary/Additional Director,
Directorate of Medical Education,
162, Periyar EVR High Road,
Kilpauk, Chennai - 600 010.
5. The Director of School Education,
DPI Campus, College Road, Chennai - 600 006.
6. The Chief Educational Officer,
Thiruvannamalai,
Thiruvannamalai District.
7. The Headmistress,
St.Annes Girls Higher Secondary School,
Chetpet, Thiruvannamalai District.

8. The National Medical Commission of India,
Pocket 14, Sector - 8,
Dwaraka Phase - 1,
New Delhi - 110 077.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the entire records in pursuant to the call letter issued to the petitioner calling her to attend MBBS/BDS admission 2020-2021 session counselling in Management Quota and quash the same and with a consequential direction to the respondents 1 to 5 to admit the petitioner in MBBS Course based on her NEET marks in any of the Government Medical Colleges in accordance with the Tamil Nadu admission to undergraduate courses in Medicine on preferential basis to students of Government Schools Act, 2020 (Tamil Nadu Act No.34 of 2020) and in the light of the judgment of the Hon'ble Supreme Court in S.Krishna Saradha Vs. State of Andhra Pradesh in Civil Appeal No.1081 of 2017 which is reported in (2019) SCC Online SC 1609 within the time period stipulated by this Court.

For Petitioner: Ms.M.R.Sakunthala

For Respondents: Mr.E.Manohar, Spl.G.P(R.1 & R.3)

Mr.Abdul Saleem, SC (for R.4)

Mrs.P.Kavitha, GA (R.2,R.5 & R.6)

Mr.V.P.Raman, SC (for R.8)

ORDER

The petitioner who studied in an aided school has filed this Writ Petition for availing reservation of 7.5% quota which has been announced by the Government vide Government Schools Act, 2020 (Tamil Nadu Act No.34 of 2020).

2.Considering a similar request, Madurai Bench of this Court in W.P.(MD).No.16375 of 2020 dated 18.11.2020 has passed an order dismissing the Writ Petition as follows;

"8. After careful consideration of the recommendations of the Commission, the State Legislature, in order to bring about real equality between the Students who studied in Government Schools and in Private Schools, by unanimous resolution, passed the Act, namely, Tamil Nadu Admission to Under Graduate Courses in Medicine, Dentistry, Indian Medicine and Homeopathy on preferential basis to students of Government Schools Act, 2020 (Tamil Nadu Act No.34 of 2020) and subsequently, assent has also been given, setting apart 7.5% on preferential basis to the

Students, who have studied from Standard VI to Standard XII in State Government Schools and qualified in NEET Exam. To this effect, the Government has also passed the Government Order in G.O.(Ms)No.438, Health and Family Welfare (MCA.1) Department, dated 29.10.2020.

9. The term "Government Schools" is defined in Paragraph No.8(ii) of the said Government Order and the same is extracted as under:

"The 'Government Schools' mean and includes Panchayat Union Primary and Middle Schools, Adi-Dravidar Welfare Schools, Municipal / Corporation / Tribal Welfare Schools, Kallar reclamation BC / MBC / Differently-Abled Welfare / Forest / Social Defence (Borstal Schools) Department Schools and Residential - Access Schools. Further, 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 upto Higher Secondary Course in the Government School shall be deemed to be 'Students studied in Government Schools'."

10. Any Student, who seeks admission under the Act, has to satisfy paragraph no.8 of the aforesaid Government Order. It is an admitted case that the petitioner's daughter, except in Standard VI, has studied all other classes in Government Schools. The study undertaken by the Child in a Aided Private School in Standard VI would definitely be a bar for the petitioner's daughter to claim admission under the preferential quota for Government School Students, as she cannot be termed as a Student studied in Government Schools.

11. The learned Counsel appearing for the petitioner further contended that when the Students, who have studied upto Standard VIII in a specified category school or an unaided school under the Right of Children to Free and Compulsory Education Act, 2009, and studied the remaining standards upto Higher Secondary in Government Schools are accepted to be Students studied in the Government Schools in general, satisfying paragraph no.8(ii) of the Government Order, it is clearly a discrimination to bar the Students, who have studied upto Standard VIII in an aided school under the Right of Children to Free and Compulsory

Education Act, 2009. But, this issue cannot be taken into consideration.

12. This Court sympathizes with the petitioner's daughter. However, if any relaxation is given in this petition, it will open up a pandora's box and there will not be any limit. Therefore, the argument put forth by the learned Counsel appearing for the petitioner stands rejected.

13. In fine, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

3. In view of the orders passed in W.P.(MD) No.16375 of 2020, this writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mrm
To

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Rep by its Principal Secretary to Government,
Department of Health and Family Welfare,
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8. The National Medical Commission of India,
Pocket 14, Sector - 8,
Dwaraka Phase - 1,
New Delhi - 110 077.

+1 CC to The Government Pleader sr 9217.

+1 CC to Mr.T.P. Prabakaran, Advocate sr 9344.

W.P.No.2746 of 2021

PPA(CO)
SP(15/03/2021)