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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MRS.JUSTICE S.KANNAMMAL

W.A.No.811 of 2021
and C.M.P.No.4494 of 2021

B.Natarajah

..Appellant/Petitioner

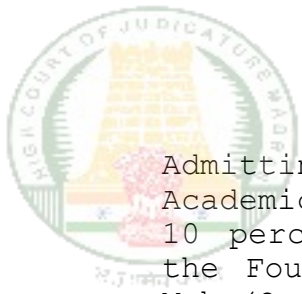
Vs.

1. Government of Puducherry
Rep. By its Health Secretary,
Goubert Salai,
Puducherry.
2. Government of Puducherry,
Centralised Admission Committee(CENTAC)
Pondicherry Engineering College Campus,
Puducherry.
3. The Director,
Indira Gandhi Medical College
and Research Institute,
Vazhudavur Main Road,
Kathirkamam,
Puducherry.
4. National Medical Commission
Pocket - 14, Sector - 8,
Dwarka Phase I
New Delhi - 110 077.

..Respondents

Appeal filed under Clause 15 of Letters Patent against the order dated 10.02.2021 made in W.P.No.920 of 2021

Prayer in W.P.No.920 of 2021 : Writ petition filed under Article 226 of the constitution of India seeking issuance of writ of declaration Declaring the action of the 2nd respondent in



Admitting three candidate from Yanam for MBBS Course for the Academic Year 2020-2021 in Economically Weaker seciton quota of 10 percentage and not admitting candidated from Puducherry in the Four unfilled Seats reserved for Karaial (Three Seats) and Mahe(One seat) For M.B.B.S.Course in Economically Weaker section quota in the 3rd Respondent Indira Gandhi Medical college and Research Institute Puducherry and thereby not admitting the Petitioner to the M.B.B.S Course for the academic year 2020-2021 as illegal arbitrary and contrary to the Notification of the 1st Respondent bearing no 1056/ Health/ H5/ 2020-21 DATED 17.12.2020 and consequently direct the respondents to admit the petitioner in the M.B.B.S. Course for the academic year 2020-2021 in the 3rd respondent Indira Gandhi Medical college and Research Institute Puducherry on the basis of his merit in Economically weaker section quota in the four unfilled seats of Karaikal and mahe and also by taking into account of the three seats allotted to Yanam candidates in an illegal manner when the same is for candidates belonging to puducherry and when no seats reserved under Economically weaker section quota.

For Appellant : Mr.Balan Haridas

For Respondents : Ms.N.Mala
Government Pleader (Puducherry)
for R1 and R2

No appearance for R3

M/s.Shubharanjani Anandh for R4

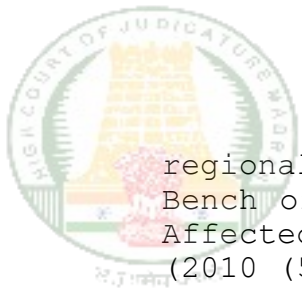
JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This writ appeal has been filed by a candidate who could not get a seat for the MBBS Course pursuant to the seat matrix adopted for the purpose of filling 180 seats for the academic year 2020-2021.

2. In the appeal, we are primarily concerned with the seats to be filled up under the Economically Weaker Sections (EWS) by way of regional reservation to the Union Territory of Puducherry. 10% has been earmarked for the Economically Weaker Sections, of which, 11 seats are to be filled up for Puducherry and three for Karaikkal. For Yanam, there is no seat reserved and for Mahe, one seat is allotted.

3. A challenge was made before the Division Bench to the



regional reservation of the Puducherry region. The Division Bench of this Court in Federation of Puducherry Parents-Students Affected by Regionwise Reservation Vs. Government of Puducherry (2010 (5) CTC 385), was pleased to hold as follows:-

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"31. In the counter affidavit, no reason has been assigned as to the object behind reserving 75% seats exclusively to the Puducherry Region. In fact, the counter affidavit only seeks to justify the regional reservation for Karaikkal, Mahe and Yanam Regions and has absolutely not adverted to the object behind reservation for Puducherry Region, which has been introduced for the first time this year (2010-2011). All that is stated is that by allocation of 75% seats exclusively for Puducherry Region would in no way affect the interest of candidates hailing from Karaikkal, Mahe and Yanam Regions. This could hardly be a justification to support the decision taken. The Government while constituting a Consultative Committee to review the Regional reservation of seat by G.O.Ms.No.58 dated 28.04.2010, was considering the regional reservation for Karaikal, Mahe and Yanam regions alone and the reservation for Puducherry region was never thought of or contemplated. Thus, in our view, the reservation for the Puducherry Region has not been justified by the Government in any manner.

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34. Thus, in the absence of any material placed before this Court, to justify the reservation of 75% of the seats for the Puducherry Region, we are inclined to hold that such reservation is bad in law. Accordingly, the reservation in respect of 75% of seats for the Pondicherry Region requires to be set aside."

4. Yet another order has been passed by a learned Single Judge in W.P.No.24861 of 2019 dated 27.08.2019, holding that there is no violation of the order passed by the Division Bench in W.P.No.13130 of 2010. The following paragraphs would be apposite:-

"11. The Learned Counsel for the respondents have also furnished the details of students who have been allotted seats under the EWS quota



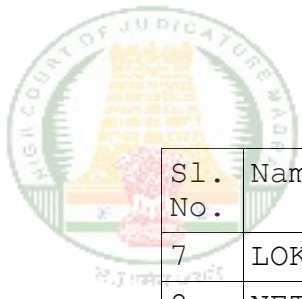
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and their NEET score. From the information furnished, this Court finds that none of the candidates allotted seats under EWS quota have secured marks less than the petitioner. It is also brought to the notice of this Court that, 10 seats which was earlier filled under the Puducherry (UT) quota, nearly six candidates from Yanam region has been given seat which indicates that the seat matrix the 75% of the seat for Puducherry (UT), 18% of the seats for Karaikal, 3% of the seats for Yanam and 4% of the seats for Mahe region not altered by reservation of EWS lapsed seats. The 75% of the seat is not exclusively for the residence of Puducherry but for all the residence of the Union Territory of Puducherry and there is no regional reservation as far as 75% is concerned. Therefore, the contention of the petitioner that, 75% seat has been allotted exclusively for the residence of Puducherry found to be incorrect.

12. Therefore, there is no violation of the Division Bench observation made in the batch of W.P.No.13130 of 2010 nor, there is any violation of Article 14 as alleged by the petitioner."

5. Instructions have been given by the Government of Puducherry on Centralized Admission Committee through the proceedings dated 12.01.2021 giving the revised mop-up counselling scheduled to be held on 13.01.2021. The revised mop-up counselling also took place in which the appellant took part. After completing the process, the following marks have been arrived at for the candidates applied under the Economically Weaker Sections. In toto, there were 23 applications. The details are hereunder:-

Sl. No.	Name	NEET Score	NEET Rank	Region
1	SABARISREE,M	447	135299	PY
2	INDRA PRIYADHARSHINI G	300	322855	PY
3	SRIMATHI T	290	340161	PY
4	YALLA SWAMI SAINADH	285	348590	YANAM
5	SURYADEVARA SRI SWAPNA LALITHYA	273	369451	YANAM
6	ANANDAKRISHNAN M	272	372195	PY



Sl. No.	Name	NEET Score	NEET Rank	Region
7	LOKESH VARMA R	268	379674	PY
8	NETHAJI C	267	381555	PY
9	THEERKATHARSHINI B	249	415225	PY
10	GUNTURI ANUSREE	246	421175	YANAM
11	SAMNAVI	234	447793	PY
12	NIRRAJANNA V	232	450447	PY
13	ANNAMNEEDI NANDINI LAKSHMI	227	461289	YANAM
14	ROSHAN J	222	473594	PY
15	KRANTHI VARSHITHA REDDY ANISETTY	217	485528	YANAM
16	SUDA DARANI PRIYANKA	202	521199	YANAM
17	NITISH T	195	538611	PY
18	MIHIR ARYAN	176	590278	PY
19	PYDIKONDALA VASAVI	170	605906	YANAM
20	ROHIT J	160	637675	PY
21	KAMICHETTY JAYA GANESH MURTHY	159	642557	YANAM
22	NATARAJAH B	151	666838	PY
23	BASA LAKSHMI SOWMYA DEEPIKA	150	668637	YANAM

6. From the above, we could say that the appellant stood at Sl.No.22. Two contentions have been raised by the appellant before the learned Single Judge. The primary contention was that 75% reservation made for the Puducherry region as a whole under the Economically Weaker Sections which constitute 10% of the total seats available corresponding to 11 seats has to be reserved for the residents of the Puducherry alone, to the exclusion of Karaikal, Yanam and Mahe. If that is done, being the resident of Puducherry, the appellant would have got the seat. During the pendency of the writ petition, an additional affidavit has been filed inter alia stating that mop-up counselling has not been done as per the Schedule and, therefore, the students who are otherwise admitted under the BDS Course got into the MBBS Course. Resultantly, though they have got higher marks, the non-following of the procedure made the appellant not getting the MBBS seat.

7. Learned Single Judge, dismissed the writ petition rejecting both the contentions. Challenging the same, the present writ appeal has been filed.



8. Mr.Balan Haridas, learned counsel appearing for the appellant submitted that the order of the Division Bench has been mis-construed and, therefore, the reservation meant for the Economically Weaker Sections has to be restricted insofar as 11 seats coming under the Puducherry region is concerned. The Division Bench did not deal with the vertical reservation and the prospectus being clear over the statutory prescription, the order of the learned Single Judge required to be interfered with in view of the allegations made on the mop-up counselling, it is for the respondents to hear the same and place relevant materials before the Court.

9. Ms.Mala, learned Government Pleader (Puducherry) appearing for the contesting respondents submitted that the order of the Division Bench has been complied with. Reservation of 11 seats meant for Puducherry is actually to be extended to the residents of Karaikal, Yanam and Mahe. There were 23 applications and the applications of the local residents have been taken into consideration and seats have been allotted. There is no basis for the allegation with respect to the non-adherence to the time schedule given in the mop-up counselling. Admittedly, the candidates selected have secured higher marks than the appellant. Even assuming, three candidates who are given seats hailing from Yanam are to be excluded, the appellant will not get the seat as there were other Puducherry residents who applied and got higher marks than the appellant. Even they did not get it. Therefore, looking from any perspective, the appellant is not entitled for the relief.

10. We are concerned with the admission of the students for the MBBS Course for the academic year 2020-2021. On the legal issue raised qua the prospectus, though we are of the prima facie view that the appellant does not have a case, consciously we do not propose to delve much into it. This is for the reason that even otherwise he will not be entitled for the admission. We have already recorded the list of 23 candidates, who have applied under the Economically Weaker Sections quota, in which the appellant comes at Sl.No.22 having secured lesser marks than 21 candidates who are above him. If the three candidates who form part of 11 candidates selected under the Puducherry are excluded, even then, the appellant will not be entitled for admission. The allegation made by the appellant that the Schedule has not been adhered to which adversely affected the prospectus of the appellant has been denied. This is in the realm of speculation and we do not know as to whether the appellant would be entitled to otherwise or not as against any other person. Suffice it to say that even those three candidates hailing from Yanam have been given admission under the Puducherry quota, the appellant will not be entitled for admission.



11. Therefore, we are constrained to hold that the appeal deserves to be dismissed. Accordingly, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1. The Health Secretary,
Government of Puducherry
Goubert Salai, Puducherry.
2. Government of Puducherry,
Centralised Admission Committee(CENTAC)
Pondicherry Engineering College Campus,
Puducherry.
3. The Director,
Indira Gandhi Medical College
and Research Institute,
Vazhudavur Main Road,
Kathirkamam, Puducherry.
4. National Medical Commission
Pocket - 14, Sector - 8,
Dwarka Phase I, New Delhi - 110 077.

+1cc to Mr.Balanharidas, Appellant Advocate, S.R.No.42437/21

+1cc to the Government Pleader (Puducherry),
1st&2nd Respondent Advocate, S.R.No.42412

+1cc to M/s.Shubha Ranjani Ananth, Standing Counsel, S.R.No.42981

W.A.No.811 of 2021

NR(CO)
RGA(21/09/2021)