

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.No. 7515 of 2021
and
W.M.P.No. 8035 of 2021

S.Tamilarasi

...Petitioner

Vs.

- 1.The Secretary,
Government of India,
Ministry of Health & Family Welfare,
Department of Ayush,
Ayush Bhavan, 'B' Block,
GPO Complex, INA,
New Delhi - 110 023.
- 2.The Government of Tamil Nadu,
Rep. By Secretary to Government,
Health & Family Welfare Department,
Fort St.George, Chennai - 600 009.
- 3.The Registrar,
Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai,
Guindy, Chennai - 600 032.
- 4.The Selection Committee,
Directorate of Indian Medical & Homeopathy,
AAGHIM Complex, Chennai - 600 106.

..Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, directing the 4th respondent to allot one seat to the petitioner for Bachelor of Sidhha Medicine and Surgery (B.S.M.S) Course under Government Quota based on the petitioner's representation dated 10.03.2021.

For Petitioner : Mr.Rajasekaran Kanagasabapathy
for Mr.K.T.S.Sivakumar

For Respondents : Mr.T.V.Krishnamachari for R1
Mr.V.Kathirvelu, Spcl.G.P for R2 & R4
Mr.D.Ravichandran, AGP for R3

O R D E R

This writ petition is filed for a mandamus directing the 4th respondent to allot one seat to the petitioner for Bachelor of Siddha Medicine and Surgery (BSMS) Course under Government Quota based on the petitioner's representation dated 10.03.2021.

2. The petitioner who secured 266 marks out of 720 has applied for BSMS Course. The petitioner received a call letter to appear for the counselling scheduled on 18.02.2021 at 1.30 pm. The petitioner claims that when she has appeared for the first round of counselling held on 18.02.2021 but her name was not called based on the cut off marks. It is the case of the petitioner that on 05.03.2021 and on 06.03.2021, two messages were received by her father from the Office of the 4th respondent and the same is extracted as under:-

"Counselling for waitlisted / movement for admission to BSMS / BAMS / BHMS course for Government colleges and Government surrendered seats in self financing colleges will be held on 09.03.2021 at 10.30 am at Selection Committee Office Anna Government Hospital Campus, Arumbakkam, Chennai - 106. Kindly participate with all original certificates / bonafide certificate also waitlisted candidates if allotted should remit a part tuition fee of Rs.500/- or Rs.10,000/- by means of cash. Candidates cannot claim seats which were available during their turn in first phase counselling. For further details refer prospectus and website www.tnhealth.tn.gov.in for UG courses 2020-2021, Secretary Selection Committee, IM & H Department."

3. The petitioner was not considered for selection however, she claims that she is having required cut off marks and therefore, the petitioner filed this writ petition for a mandamus directing the 4th respondent to allot one seat for BSMS Course under Government quota based on her representation dated 10.03.2021.

4. Mr.V.Kathirvelu, learned Special Government Pleader appearing for the respondents 2 & 4, by relying the counter affidavit filed by the 4th respondent would submit that as per the clause 13(vi) of the prospectus for Ayush UG courses for the academic year 2020-2021, the candidates who have attended the first round of counselling and opted either for admission to any of the ASU & H Course or opted for wait-listing are only eligible to participate during the second phase of counselling.

5. The learned Special Government Pleader would further submit that as per the counselling scheduled for UG courses 2020-2021 session, the candidates whose Rank from 1643 to 1784 including the petitioner were intimated through SMS, to attend for counselling for Government Quota seats in the III session on 18.02.2021 at Selection Committee, Arignar Anna Government Hospital Campus, Arumbakkam, Chennai with all original certificates, Bonafide certificates and with required fee like Counselling processing fee, part tuition fee as applicable. The petitioner did not attend the counselling on 18.02.2021 at 12.30 pm, when the candidates were called for attending the counselling. The other candidates whose ranks as 1726; 1731 & 1739, belonging to the petitioner community have attended the counselling on 18.02.2021 at 12.30 pm session and given their option either got admission in the UG course in Siddha / Ayurveda / Unani / Homeopathy and some of them opted for wait list due to non-availability of seats. Since the petitioner did not attend the counselling on 18.02.2021, the petitioner cannot be accommodated for the subsequent counselling.

6. He would further submit that the petitioner was also intimated through SMS, to attend for counselling for Management quota seats in the III session on 23.02.2021 at Selection Committee but the petitioner has not turned up / attended the counselling even for that session conducted on 23.02.2021 at 12.30 pm."

7. The stand of the respondents is that the petitioner has not attended the counselling on 18.02.2021 and on 23.02.2021 and therefore, she is not eligible to participate in the subsequent counselling. However, it is stated in the counter affidavit that during the second round of counselling on 09.03.2021, the petitioner has attended and she has also remitted a sum of Rs.500/- towards counselling processing fee and signed in the attendance register.

8. The case of the petitioner is that the petitioner has not attended the first round of counselling on 18.02.2021 and therefore, the petitioner was not considered on 09.03.2021 during the second round of counselling. However, from the counter affidavit, it appears that four seats of BSMS course under the Government quota in self-financing Siddha Medical Colleges under BC category and 31 seats of BSMS course under management quota in self-financing Siddha Medical Colleges are fallen vacant due to non-availability of eligible candidates.

9. It appears that the petitioner has been called for the first round of counselling held on 18.02.2021 and the petitioner was again called for the second round of counselling

on 09.03.2021 and has also remitted a sum of Rs.500/- towards the counselling process fee and signed the attendance register. If it is a stand of the respondents that the persons, who have not attended the first round of counselling is not entitled for participating during the second phase of counselling, the petitioner ought not have been called for the second round of counselling held on 09.03.2021 whereas, the petitioner was called for the second round of counselling on 09.03.2021 and also directed to pay a sum of Rs.500/- towards counselling processing fee and she was also permitted to sign the attendance register.

10. In view of the above discussions, this writ petition is allowed, the respondents are directed to consider the case of the petitioner for the remaining vacancies on merits, if the petitioner is otherwise qualified on merits. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Kkn

To:-

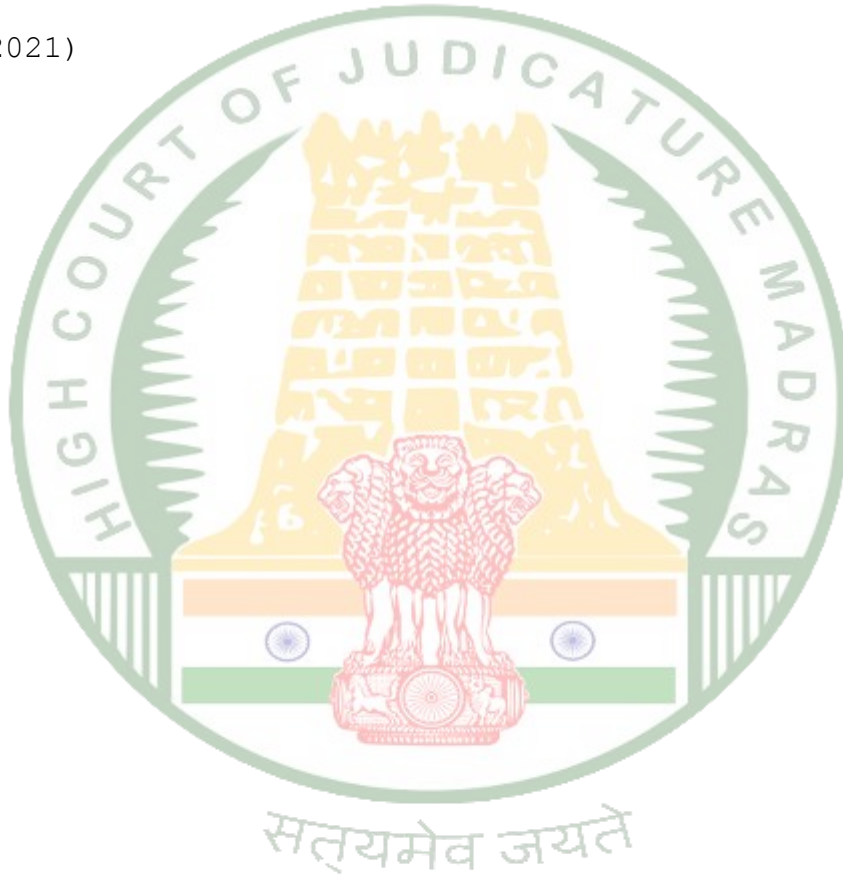
- 1.The Secretary,
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Directorate of Indian Medical & Homeopathy,
AAGHIM Complex, Chennai - 600 106.

+1cc to Mr.K.T.S.Sivakumar, Advocate, S.R.No. 20372
+2cc to Mr.T.V.Krishnamachari, Advocate, S.R.No. 20439
+1cc to the Government Pleader, S.R.No. 20826

W.P.No. 7515 of 2021
and
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NR (CO)
GN (30/03/2021)



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