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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.27687 of 2014

and

M.P.No.1 of 2014

A.Jayaranjani.

... Petitioner

Vs.

1. The Medical Council of India
Rep by its Secretary,
Pocket -14, Sector-8, Dwarka Phase-I,
New Delhi-77.
2. The State of Tamilnadu, rep by its
Secretary to the Government
Department of Health and Family Welfare,
Fort St. George,
Chennai-600009.
3. The Selection committee for admission
of MBBS/BDS - 2014-15 Session
rep by its Secretary,
Directorate of Medical Education
Chennai-600010.
4. K.S.R.Dental College
Rep by its Dean
K.S.R Kalvi Nagar
Thokkavadi Post
Tiruchengode
Namakkal District
5. The Dental Council of India,
Rep. by its Secretary,
Aiwan-E-Galib Marg,
Kolta Road, Temple Lane,
New Delhi - 110002.

...Respondents

(R5 impleaded as per order dated 20.10.2014 in M.P.No.2 of 2014 in W.P.No.27687 of 2014)

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus



directing the respondents to admit her in BDS Course, pursuant to the Order of Allotment of Admission Card issued by the 3rd respondent in AR.No.7923 dated 30.09.2014 at the 4th respondent's College, within a time frame as may be fixed by this Honourable Court. .

For Petitioner : Mr. R.Veeramani
For Respondent 1 : Mrs.Shubharanjani Ananth
For Respondents 2 & 3 : No appearance
For Respondent 4 : Abhishek Jenasenan
For Respondent 5 : S.Haja Mohideen Gisthi

O R D E R

The relief sought for in the present Writ Petition is to direct the respondents to admit the petitioner in BDS Course, pursuant to the Order of allotment of Admission Card issued by the 3rd respondent in AR.No.7923 dated 30.09.2014 at the 4th respondent College, within a time frame.

2. The petitioner belongs to the Scheduled Caste community. Her father passed away in the year 2011 and her mother, a widow is supporting the family and inspite of that the petitioner had secured 1063 marks in the Higher Secondary Public examination conducted during March 2014. The petitioner applied for MBBS / BDS course and she was selected and offered admission in BDS course at the 4th respondent institution i.e., K.S.R.Dental College Thiruchengodu. The order of allotment was issued by the Selection Committee on 30.09.2014, at around 4 p.m. On account of late issue of admission card, the petitioner was unable to reach the College on the same date i.e., on 30.09.2014.

3. However, on the next day i.e., on 01.10.2014 around 9 a.m., the petitioner along with her grandfather, Mr.Periyasamy reported to the office of the 4th respondent, K.S.R. Dental College at Thrichengodu. Instead of verifying the certificates and admitting the petitioner into the course, the Administrative Officer refused to grant admission. The petitioner showed the allotment order issued by the Selection Committee and in spite of that, they refused to admit the petitioner. Thus, the petitioner is constrained to move the present Writ Petition.

4. The learned counsel for the petitioner made a



submission that the petitioner is from poor family and provided with an order of allotment to study BDS course in the 4th respondent college. She has not committed any fault or delay in reporting to the college. He would further contend that as per the Hon'ble Supreme Court order, the last date for completing the admission was 30.09.2014 and the 3rd respondent Selection Committee issued the allotment order to the petitioner only at 4 p.m., on 30.09.2014 and the petitioner immediately rushed to the college on the very next day i.e., 01.10.2014 and reported at 9 a.m. In spite of that, the admission was denied to the petitioner and she was deprived of her opportunity to study BDS Course.

5. The respondents 2 and 3 filed a counter affidavit stating that admittedly, the last date for admitting the students during the relevant academic year ie., 2014-2015 was 30.09.2014, as the cut off date being fixed by the Hon'ble Apex Court of India. It is contended that due to some difficulty, the Selection Committee was unable to conduct counselling in advance and issued the allotment order on 30.09.2014 as the counselling itself was conducted on the very last date i.e. 30.09.2014.

6. Admittedly, the petitioner was issued with an order of allotment by the Selection Committee to undergo BDS Course in the 4th respondent Dental College. The respondents 2 and 3 raised an allegation against the 4th respondent by stating that once an order of allotment was issued by the 3rd respondent Selection Committee, the 4th respondent ought to have admitted the petitioner.

7. Per contra, the learned counsel appearing on behalf of the 4th respondent made a submission that when the Hon'ble Supreme Court of India fixed the last date of admission as 30.09.2014, clear direction was issued that no admission shall be granted beyond the said date. Therefore, the 4th respondent cannot be faulted and it is due to the mistake of the 3rd respondent Selection Committee, the petitioner could not able to join the institution.

8. Ultimately, the petitioner lost her right to get admission and undergo the BDS course. Undoubtedly, the situation would have caused greater mental agony, as the petitioner belongs to Scheduled Caste Community and her father died in the year 2011. Definitely, she lost her life time opportunity of studying the BDS Course.

9. A perusal of the records reveals that the Selection Committee itself has conducted the counselling on the very last day i.e., on 30.09.2014 and issued an allotment order at 4 p.m.



Thus, the petitioner reported on 01.10.2014 at 9 a.m. Therefore, the petitioner has not committed any fault or delay in reporting before the 4th respondent college. It was the mistake committed by the Selection Committee in not conducting the counselling in advance or providing information to the college on 30.09.2014, directing them to admit the petitioner. The Selection Committee ought to have informed the 4th respondent not to admit any other students on 30.09.2014, in view of the fact that an allotment order was issued in favour of the petitioner on 30.09.2014, itself.

10. The 4th respondent college has also committed an error / mistake to that extent by admitting the students of their choice obviously, for monetary gains by filling up the college quota. Hence, the college may collect more fees from the other students. Therefore, the 4th respondent also without verifying these factors filled up the college quota and thereby denied admission to the Writ Petitioner. Thus, the Court is of the considered opinion that it is not only the respondents 2 and 3, but also the 4th respondent contributed for the denial of admission to the petitioner in BDS Course.

11. It is brought to the notice of this Court that the counselling and allotment order issued by the Selection Committee were uploaded in the official website on 30.09.2014 itself. Thus, the 4th respondent would have verified the same on 30.09.2014 and thereafter initiated further action. This apart, the learned counsel for the petitioner made a submission that the respondents 2 and 3 issued a fax message to the 4th respondent regarding the selection and allotment order issued in favour of the petitioner. In spite of that, the 4th respondent intentionally filled the vacancies in advance and denied admission to the petitioner without any other valid reason. Thus, the 4th respondent also contributed for the denial of right of admission to the petitioner. Thus, the respondents 2, 3 and 4 are responsible for not permitting the petitioner to join the BDS course in the academic year 2014-15.

12. This Court had passed an order in a similar case, reported in 2014 SCC Online Mad 10695- Ms.A.E.Durga Vs. The Directorate of Medical Education and others, wherein, a very same issue has been dealt with and the relevant portion of the said order reads as follows:

"18. Moreover, unfortunately for the writ petitioner, the fourth respondent claims that all vacancies are already filled up. Today, it is not within the competence of this Court to create one additional seat in the fourth Respondent College, so as to give admission to the petitioner. I cannot also



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cancel the admission given by the 4 respondent to a wrong candidate, for the purpose of accommodating the writ petitioner. That candidate is not before me. Therefore, though the petitioner has suffered on account of the blunder committed by the Selection Committee, I cannot grant her the relief of admission to the B.D.S. Course.

19. Though the petitioner is not entitled to the relief of admission to the Course, in view of non availability of vacancies, she cannot be left without a remedy, especially after I have found that she was not at fault and that the Selection Committee was at fault. The petitioner is a candidate belonging to the Scheduled Caste. Her dreams of a great future, was lit up for a short while, by the order of allotment issued on 30.09.2014, but it was blown off within a few hours. The conduct of a counselling on 30.09.2014 and the issue of an allotment order on the same day at 3.30 p.m., at Chennai directing the petitioner to report at Madurai on the same day, are clearly in violation of the orders of the Supreme Court. Therefore, the Selection Committee is obliged to compensate the petitioner in monetary terms.

20. The quantum of compensation is something that cannot be arrived at in such cases with any mathematical precision. Considering the background of the petitioner and considering the course to which she would have legitimately gained admission, I am of the view that a compensation of Rs. 5,00,000/- would be just and proper.

21. Therefore, the writ petition is disposed of, rejecting the prayer of the petitioner for a direction to the fourth Respondent College, to admit her to the B.D.S. Course for the Academic year 2014-15. But a direction is issued to the Respondents 1 and 2 to pay monetary compensation of Rs. 5,00,000/- to the petitioner within a period of four weeks from the date of receipt of a copy of this order. There will be no order as to costs. Consequently, M.P.Nos.1, 3 and 4 of 2014 are closed."

13. This Court is of the considered opinion that the relief granted in the above case is of moulded one. However, considering the peculiar facts and circumstances of the case, the Court awarded a compensation of Rs.5,00,000/- to be paid to the petitioner.



14. In the present case, it is seen that the result of the Selection Committee was communicated to the 4th respondent through fax message. However, the college denied the admission to the petitioner on the very next day i.e., 01.10.2014 at 9 a.m. In such circumstances, when the college failed to act upon the allotment order issued by the Selection Committee, the 2nd respondent ought to have initiated action against the 4th respondent college by making an complaint to the competent authority. However, no such action was taken against the 4th respondent knowingly and therefore, this Court would be able to form an opinion that the respondents 2, 3 and 4 have jointly contributed for the denial of right of admission to the petitioner to undergo BDS Course.

15. In view of the facts and circumstance, this Court is of the considered opinion that the Writ on hand is a fit case to mould the relief for the purpose of grant of compensation. Accordingly, the respondents 2 and 3 are directed to pay a compensation of Rs.3,00,000/-, jointly and the 4th respondent is directed to pay a sum of Rs.2,00,000/- to the petitioner. The respondents 2, 3 and 4 are directed to settle a sum of Rs.5,00,000/- in total to the petitioner, within a period of 4 weeks from the date of receipt of a copy of this order.

16. With these directions the Writ Petition stands allowed. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

shr/kan

To

1. The Secretary,
The Medical Council of India
Pocket -14, Sector-8, Dwarka Phase-I,
New Delhi-77.
2. The Secretary to the Government,
Department of Health and Family Welfare,
Fort St. George,
Chennai-600009.



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3. The Secretary,
The Selection committee for admission
of MBBS/BDS - 214-15 Session
Directorate of Medical Education
Chennai-600010.

4. The Dean
K.S.R.Dental College
K.S.R Kalvi Nagar
Thokkavadi Post
Tiruchengode
Namakkal District

5. The Secretary,
The Dental Council of India,
Aiwan-E-Galib Marg,
Kolta Road, Temple Lane,
New Delhi - 110002.

+1cc to Mr.Veeramani, Advocate, S.R.No.63401

+1cc to M/s.Shubharanjani, Advocate, S.R.No.63603

+2ccs to Mr.Jenasenan, Advocate, S.R.No.63928

W.P.No.27687 of 2014
and
M.P.No.1 of 2014

MG (CO)
SU (28/12/2021)