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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.12.2021

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.NO.16069 OF 2017

S.Kanimozhi

...Petitioner

Vs.

1. The Medical Council of India,
Sector -8, Pocket -14,
Dwarka Phase-1, New Delhi,
Pin - 110 077.
 2. The Director,
Central Board of Secondary Education (C.B.S.E.)
NEET Branch,
Shiksha Kendra-2, Community Center,
Preet Vihar, Delhi - PIN - 110092.
 3. The Controller of Examination,
Tamilnadu Dr.M.G.R. Medical University,
No.69, Anna Salai, Guindy, Chennai - 600 032.
 4. The Principal,
Ponniyah Ramajayam Institute of Medical Sciences,
Manamai Nallur, East Coast Road,
Mahabalipuram, Kanchipuram District.
- ...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari Certiorarified Mandamus, to call for records of the third respondent, dated 13.02.2017, in Ref.No.EX1(3) 58835/2016, and to quash the same and further, to direct the third respondent to register the petitioner's name for MBBS Degree course under fourth respondent Institution.

For Petitioner : Mr.S.Angamuthu

For Respondent-1 : Mrs.Shubharanjani Ananth
Standing Counsel



For Respondent-2 : Mr.G.Nagarajan

For Respondents 3&4 : Notice Served, No appearance

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O R D E R

This Writ Petition has been filed seeking to quash the order passed by the third respondent, dated 13.02.2017, and further, to direct the third respondent to register the petitioner's name for MBBS Degree course under fourth respondent Institution.

2. The case of the petitioner, as stated in the affidavit, filed in support of this Writ Petition in short, is as follows:-

i) The petitioner, in fact, belongs to Other Backward community, which comes under the 'Reserved Category'. However, when the petitioner applied for National Eligibility cum Entrance Test (NEET) through online, she inadvertently filled in the column meant for 'Unreserved Category', as if, her community falls under 'unreserved category'. According to NEET II(UG) 2016 norms, the cutoff mark for OBC is 678-118. The petitioner has scored '134' marks, hence, she got qualified in the NEET Exam. But due to mistake committed by her, while filling up the application, she was not declared as qualified by the second respondent. Aggrieved over the same, the father of the petitioner filed a Writ Petition No.33390 of 2016, for quashment of the result published by the second respondent, dated 16.08.2016, and to consider her under OBC Category. The said Writ Petition was allowed by this Court, vide order, dated 29.09.2016, whereby, the second respondent-C.B.S.E. was directed to treat the petitioner as per her communal status and to pass appropriate orders.

ii) Pursuant to the said order, dated 29.09.2016, passed in W.P.No.33390 of 2016, the third respondent-Controller of Examination, Tamil Nadu Dr.M.G.R. Medical University issued a communication dated 13.02.2017, (impugned herein) to the fourth respondent, a copy of which, has been marked to the petitioner's father to furnish the revised NEET result of the petitioner as per her communal status. However, no such revised result has been passed so far, by treating the petitioner as per her communal status, viz., under OBC Category. Hence, the petitioner has filed this Writ Petition seeking to quash the order passed by the third respondent, dated 13.02.2017.

3. The learned counsel appearing for the petitioner submitted that in regard to the clarification sought for by the third respondent-University dated 13.02.2017, second



respondent-C.B.S.E. issued a clarification, dated 26.04.2017, stating that the petitioner has secured above the cut-off marks prescribed for OBC Category candidates, and therefore, requested the third respondent-University to take suitable decision on the basis of the marks obtained by the candidates (which includes the petitioner herein). The learned counsel, therefore, submitted that the petitioner can be given accommodation under OBC Category. The learned counsel for the petitioner further submitted that, pursuant to the interim order passed by this Court, on 03.07.2017, her application was considered and the petitioner got admission to undergo MBBS Course in the fourth respondent-Institution and she has already completed four years Course, and hence, prayed for appropriate direction.

4. Heard the learned counsel appearing for the petitioner. Except the third and fourth respondents (contesting respondents) other two respondents, viz., respondents 1 and 2, who are only formal parties are present and represented by their respective learned counsel. Since the issue revolves around the continuation of the MBBS Course by the petitioner, as, at present, the petitioner is pursuing her final year in the MBBS Course, this Court is inclined to proceed with the matter on merits, though the contesting respondents, viz., 3 and 4, have not appeared before this Court.

5. Upon hearing the submission made by the learned counsel for the petitioner, and perusal of the materials available on record, coupled with the clarification issued by the second respondent-C.B.S.E. to the third respondent-University, it is clear that the petitioner has secured above the cut-off marks prescribed for the OBC Category candidates. Further, it is seen that, by virtue of the interim order passed by this Court, she has been given accommodation to join the MBBS Course in the fourth respondent-Institution and is now pursuing 5th year. At this juncture, it would not be fair on the part of the third respondent to interfere with the career of the petitioner, citing the reason that, that the petitioner does not fall under reserved category, and hence, by virtue of the impugned order, she is not entitled to continue her course in the fourth respondent-Institution, when the fact remains that she belongs to OBC Category, and secured above the cut-off marks prescribed for OBC Category candidates and in the light of the clarification issued by the second respondent-C.B.S.E. in this regard.

6. Thus, taking into consideration of the aforesaid facts and circumstances of the case, this Court deems it fit to issue appropriate direction to the third respondent to permit the petitioner to complete her MBBS Course, as the student's life (petitioner) should not be put at stake, for, the trivial error



committed by her at the time of filling the application.

7. Accordingly, this Writ Petition stands disposed of by directing the third respondent to permit the petitioner to pursue MBBS Course in the fourth respondent-Institution, without causing any hindrance or obstacles. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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Manamai Nallur, East Coast Road,
Mahabalipuram, Kanchipuram District.

+1cc to Mrs.Shubharanjani Ananth, Advocate, S.R.No.63602
+1cc to Mr.S.Angamuthu, Advocate, S.R.No.64513

W.P.No.16069 of 2017

VGII(CO)
PM/07/01/2022