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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.2249 of 2018
and C.M.P.No.17920 of 2018

Dental Council of India,
Rep. by its President,
Aiwan-e-Galib Marg,
Kotla Road, Temple Lane,
New Delhi - 110 002

.. Appellant/3rd Respondent

Vs

1.Tamil Nadu Dental College Consortium
Rep. by its Secretary,
Mr.Isiri Ganesh

.. 1st Respondent/Petitioner

2.Union of India
Rep. by its Secretary,
Ministry of External Affairs,
New Delhi.

3.Union of India,
Rep. by its Secretary,
Ministry of Health & Family Welfare,
A-Wing, Nirman Bhawan,
Maulana Azad Road, '
New Delhi - 110 001.

4.The Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R.High Road,
Kilpauk, Chennai - 600010.

5.State of Tamil Nadu,
Rep. by its Secretary,
Ministry of Health & Family Welfare,
Namakkal Kavingar Maaligai,
Fort St.George,
Chennai - 600 009

.. 2 to 5 Respondents/Respondents



Appeal filed under Clause 15 of Letters Patent against the order dated 27.09.2018 made in W.P.No.25387 of 2018 as against Writ petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents to conduct counseling till 30th September 2018 for admission to BDS Degree courses under the Management Quota in Self Financing Dental Colleges in Tamil Nadu for the year 2018-2019 so as to enable the Petitioner Colleges to fill up the vacant seats under the management Quota.

For Appellant : Mr.V.P.Raman

For Respondents : Ms.Kavitha Deenadayalan for R1
Mr.S.John J.Raja Singh
Government Counsel
for R4 & R5

JUDGMENT

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

This appeal has been preferred by the Dental Council of India aggrieved over the order passed by the learned Single Judge at the instance of the first respondent being the writ petitioner, permitting the filling up of seats in the Dental Course in the State of Tamil Nadu. For the sake of convenience, we would like to record the operative portion of the order passed by the learned Single Judge:-

"9. It is not in dispute that the Hon'ble Supreme Court in Priya Gupta V. State of Chhattisgarh & Ors. [(2012) 7 SCC 433], has prescribed the last date up to which the students can be admitted against vacancies arise due to any reason as 30 th September. It is true that the Hon'ble Supreme Court was conscious that the ultimate date cannot be resorted in every possible case and only in exceptional cases the last date can be resorted to.

10. This Court is of the view that in the State of Tamil Nadu the present vacancy position is unprecedented. There is no immediate material before this court to form an opinion that the members of the petitioner Consortium are responsible for this position prevailing in the state of Tamil Nadu.

11. It is likely that many of the seats will go waste if the time is not extended upto 30 th September. The Rules are intended only to maintain the standard of education and other objectives as indicated by the Hon'ble Supreme Court, time and



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again in several cases on different occasions. This Court is also conscious that the extension of time cannot be granted without strong reasons and on mere asking due to some difficulty either by the candidate or by the institution.

12. In this case it is a fact on record that more than 500 seats remain vacant. The learned Counsel for the petitioner states that a considerable number of students are likely to join the Course as the managements have reduced the fees. If the seats are not filled up, the individual institutions may suffer as they have to provide infra structure and faculty, even if few students are only available in the institution for this academic year. There is no other strong reason for denying relief to the petitioner. Hence this Court is inclined to allow the writ petition as prayed for and the 4th and 5th respondents are directed to conduct Counselling till 30th September 2018, for admission to BDS Degree Courses under the Management Quota in Self Financing Dental Colleges in Tamil Nadu for the year 2018 - 2019, so as to enable the petitioner Colleges to fill up the vacant seats under the Management Quota.

13. The learned Counsel for the 3rd respondent submitted that this may not be a precedent for the next year and strict adherence to the time schedule should be directed. The learned Counsel appearing for the 3rd respondent is right in her submission. This Order cannot be a precedent for future. No individual College shall seek extension of time on the ground stated in this writ petition.

14. In the result, the writ petition is allowed with the above directions. No Costs. Consequently, the connected Miscellaneous Petition is closed."

2. Learned counsel appearing for the appellant submitted that cut-off date as fixed is not 30.09.2018 but 15.09.2018. The Apex Court has held that the date fixed shall never be breached except on exceptional situation. The availability of seats unfilled would never be a factor as held in *Supreet Batra v Union of India* (2003) 3 SCC 370. The State Government has acted in collusion with the writ petitioner. The action taken to fill up the seats is belated prior to the filing of the writ petition and even thereafter. It appears that only 37 seats have been filled up under the State quota pursuant to the order of the



learned Single Judge under appeal. Therefore, the order requires interference.

3. Learned counsel appearing for the first respondent submitted that the learned Single Judge took into consideration the unprecedented situation where large number of seats have been left unfilled. Therefore, taking into consideration the larger public interest, the case was brought under the exceptional situation. Students have been admitted and they have completed nearly two years. Hence, no interference is required.

4. Though we find considerable force in the submission made by the learned counsel appearing for the appellant, we do not wish to interfere with the order of the learned Single Judge as much water has flown under the bridge. The students who are admitted are not before us. They have been admitted both under the State quota and thereafter by the private management. Primarily, for this reason alone, we do not wish to interfere though we are inclined to observe that the State Government will have to make all endeavours to avoid such a situation in future. It is also not known as to how the seats would be filled up for the next academic year, namely 2019-2020. We are now in the year 2021-2022. Now, two academic years have gone and we are in the third academic year which means the students would have completed two years of studies. Any interference at this stage without hearing them would substantially affect their interest.

5. In such view of the matter, though we find the reasoning of the learned Single Judge may not be a correct position of law, in view of the subsequent developments, we do not wish to interfere with the ultimate relief granted. We would only wish that the State Government would make all endeavours in future to avoid such a situation.

6. With the above observation, the writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi/ssm



To

- 1.The Secretary,
Tamil Nadu Dental College Consortium
- 2.The Secretary,
Union of India, Ministry of External Affairs,
New Delhi.
- 3.The Secretary, Union of India,
Ministry of Health & Family Welfare,
A-Wing, Nirman Bhawan,
Maulana Azad Road,
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- 4.The Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R.High Road,
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- 5.The Secretary,
Ministry of Health & Family Welfare,
Namakkal Kavingar Maaligai,
Fort St.George,
Chennai - 600 009.

+1cc to M/s V.P.Raman, Advocate (SR No.31647)

+1cc to M/s.Government Pleader (SR No.31983)

W.A.No.2249 of 2018

CNR (CO)
PR (09/08/2021)