



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2021

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD)No.19822 of 2020 and

W.M.P. (MD)No.16525 of 2020

1. P.Rathakrishnan
2. N.Syed Abuthahir
3. S.Sumaitarani Samsudheen
4. V.Sangeetha
5. Baby Sakila
6. Karuppiah
7. Veera Suresh
8. Kaleeswari
9. Rajakumari
10. J.Karpagam

... Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Department of Health and Family Welfare(MCA1),
Fort St. George,
Chennai - 600 009.
2. The Director of Medical Education,
Selection Committee,
Directorate of Medical Education,
162, Periyar E.V.R. High Road,
Kilpauk,
Chennai - 600 010.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing respondents 1 and 2 to extend the reservation benefit of G.O.Ms.No.483 Health and Family Welfare(MCA.1) Department dated 29.10.2020 and Tamil Nadu Admission to Undergraduate Courses in Medicine, Dentistry, Indian Medicine and Homeopathy on Preferential Basis to students of Government Schools Act, 2020 to students who have studied in Government Aided Schools by providing preference in admission to undergraduate courses in Medicine, Dentistry Indian Medicine and Homeopathy within the time frame stipulated by this Court.

For Petitioners
For Respondents

: Mr.T.Lajapathi Roy
: Mr.Sri Charan Rangarajan,
Additional Advocate General,
assisted by,
Ms.J.Lakshmi Prasanna,
Government Advocate.

**ORDER**

Heard the learned counsel appearing for the writ petitioners and the learned Additional Advocate General appearing for the respondents.

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2. The Government of Tamil Nadu took a policy decision to set apart 7.5% on preferential basis to the students who have studied from sixth to twelfth standard in the State Government schools in the admission to M.B.B.S. related courses and who have qualified in National Eligibility Cum Entrance Test. In this regard, G.O.(Ms) No.438 Health and Family Welfare (MCA.1) Department dated 29.10.2020 and Tamil Nadu Admission to Undergraduate Courses in Medicine, Dentistry, Indian Medicine and Homeopathy on Preferential Basis to Students of Government Schools Act, 2020 were passed. The prayer made by the petitioners is that the aforesaid benefit should be extended to the students who have studied in Government Aided schools also. In this regard, a representation dated 04.11.2020 was submitted by them. Since it was not considered, this writ petition came to be filed.

3. I am afraid that the writ petition itself is not maintainable. The provisions that authorise the Government to provide the benefit of reservation have always been construed as enabling provisions. The petitioners cannot claim the aforesaid benefit as a matter of right. Only if the petitioners can demonstrate the existence of a legal right, they can maintain the writ of mandamus. Since no such legal right has been shown to be in existence, this writ petition has to be dismissed.

4. The learned Additional Advocate General informs me that the Hon'ble Division Bench as well as another learned Single Judge of this Court had declined to entertain the writ petitions containing similar prayer.

5. There is no merit in this writ petition. This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

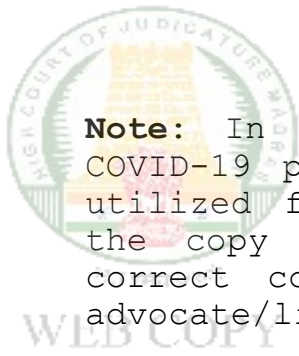
Assistant Registrar (CSII)

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Principal Secretary to Government,
Department of Health and Family Welfare (MCA1),
Fort St. George,
Chennai - 600 009.

2. The Director of Medical Education,
Selection Committee,
Directorate of Medical Education,
162, Periyar E.V.R. High Road,
Kilpauk,
Chennai - 600 010.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-39[F] dated 05/01/2021)

+1 CC to M/s.SPL GP (SR-66[F] dated 05/01/2021)

W.P. (MD) No.19822 of 2020
04.01.2021

SSS (CO)
KB(19.01.2021) 3P 5C