



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD) .No.17263 of 2020

and

W.M.P. (MD) .No.14455 of 2020

K.R.Vasudevaa,
S/o.K.Rajyakodi,
19, Sakthi Nagar,
Near Madakulam Church,
Madurai 625 003.

... Petitioner

Vs

1.The State of Tamil Nadu,
Rep. through its Principal Secretary to the Government,
Health and Family Welfare Department,
St. George Fort,
Chennai 600 009.

2.The Secretary,
Medical Council of India,
MCI Buildings,
Pocket 14, Sectors, Dwarka, Phase - I,
New Delhi.

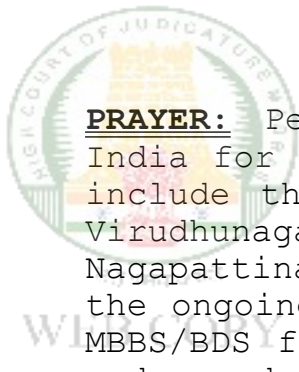
3.The Secretary,
Ministry of Health and Family Welfare,
Government of Tamil Nadu,
St. George Fort,
Chennai 600 009.

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

5.The Registrar,
The Tamil Nadu Dr.MGR Medical University,
No.69, Anna Salai,
Guindy,
Chennai 600 032.

6.The Director of Medical Education,
162, Periyar E.V.R. High Road,
Kilpauk, Chennai 600 010.

... Respondents



PRAYER: Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents to include the 11 new Government Medical Colleges at Ramanathapuram, Virudhunagar, Namakkal, Thiruppur, The Nilgiris, Dindigul, Nagapattinam, Thiruvallur, Ariyalur, Krishnagiri and Kallakuruchi in the ongoing counseling conducted by the 4th & 6th respondents for MBBS/BDS for the academic year 2020-2021 and to admit the students and conduct the classes and to conduct the class in video conference.

For Petitioner : Mr.P.M.Vishnu Varthanan
For Respondents : Mr.Vijay Narayan
Advocate General
Mr.K.Chellapandian
Additional Advocate General
Assisted by Mr.Muthu Geethaiyan
Special Government Pleader

ORDER

(Order of the Court was made by **N.KIRUBAKARAN, J**)

The Petitioner has come before this Court, seeking Writ of Mandamus directing the respondents to include 11 new Government Medical Colleges in the ongoing counselling conducted by 4th and 6th respondents for the admission of MBBS/BDS for the academic year 2020-2021.

2.This Petition has been filed as a Public Interest Litigation. The Petitioner is said to be belonging to MBC category. He has secured 521 marks out of 720 marks in the NEET examination for the academic year 2020-2021. He is the first person in his family who would like to study M.B.B.S., course. His general rank is 4027 and community rank in MBC/DNC is 810. The Petitioner would contend that the Hon'ble Chief Minister in his press release No.645 dated 07.09.2020 stated that the Government took a policy decision and inaugurated 11 new Medical Colleges in Tamil Nadu. The Petitioner and other similarly placed person look forward the Government to include the 11 new Medical Colleges inaugurated at Ramanathapuram, Virudhunagar, Namakkal, Thiruppur, The Nilgiris, Dindigul, Nagapattinam, Thiruvallur, Ariyalur, Krishnagiri and Kallakuruchi in the present counselling 2020-2021.

3.As the Petitioner scored 521 marks out of 720 marks, he expected to participate in the first counselling itself and have a chance to get a seat in the Government Medical Colleges.

4.The 11 new Medical Colleges have been inaugurated and Deens have been appointed in the following manner:

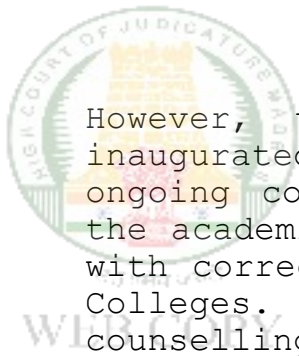


S.No	Names of new GMS in which propose to start in 2021 - 2022	Names of Mentor institution	Details of Mentor
1.	Government Medical College, Ramanathapuram	Tirunelveli Medical College, Tirunelveli	1. Dean Tirunelveli Medical College, Tirunelveli 2. Dr. Shanthanam, Vice Principal, Tirunelveli Medical College, Tirunelveli.
2.	Government Medical College, Virudhunagar	Kanyakumari Government Medical College, Asaripallam, Kanyakumari.	1. Dean, Kanyakumari Government Medical College Asaripallam, Kanyakumari. 2. Dr. Leo David, Vice Principal, Kanyakumari Government Medical College, Asaripallam, Kanyakumari.
3.	Government Medical College, Ariyalur.	KAPV Government Medical College, Trichy.	1. Dean, KAPV Government Medical College, Trichy. 2. Dr. Arshiya Begam, Vice Principal, KAPV Government Medical College, Dharmapuri.
4.	Government Medical College, Krishnagiri.	Government Dharmapuri Medical College, Dharmapuri.	1. Dean, Government Dharmapuri Medical College, Dharmapuri. 2. Dr. Murugan, Vice Principal, Government Dharmapuri Medical College, Dharmapuri.



S.No	Names of new GMS in which propose to start in 2021 - 2022	Names of Mentor institution	Details of Mentor
5.	Government Medical College, Kallakurichi.	Government Villupuram, Medical College, Villupuram.	1. Dean, Government Villupuram Medical College, Villupuram. 2. Dr. Sivakumar, Professor of General Medicine, Government Villupuram Medical College, Villupuram.
6.	Government Medical College, Dindigul.	Government Theni Medical College, Theni.	1. Dean, Government Theni Medical College, Theni. 2. Dr. Ezhilarasan, Vice Principal, Government Theni Medical College, Theni.
7.	Government Medical College, Nagapattinam.	Government Thiruvarur Medical College, Thiruvarur.	1. Dean, Government Thiruvarur Medical College, Thiruvarur. 2. Dr. Rajaram, Vice Principal, Government Thiruvarur Medical College, Thiruvarur.

S.No	Names of new GMS in which propose to start in 2021 - 2022	Names of Mentor institution	Details of Mentor
8.	Government Medical College, Namakkal.	Government Mohan Kumaramangalam Medical College, Salem	1. Dean, Government Mohan Kumaramangalam Medical College, Salem. 2. Dr. K. S. Kumaravel, Professor of Paediatrics, Government Mohan Kumaramangalam Medical College, Salem.
9.	Government Medical College, Tiruppur.	Government Medical College & ESIC Hospital Coimbatore.	1. Dean, Government Medical College & ESIC Hospital, Coimbatore. 2. Dr. T. Ravikumar, Medical Superintendent Government Medical College & ESIC Hospital, Coimbatore.
10.	Government Medical College, Thiruvallur.	Stanley Medical College, Chennai.	1. Dean, Stanley Medical College, Chennai. 2. Dr. Srividya, Associate Professor of Anatomy, Stanley Medical College, Chennai.
11.	Government Medical College, The Nilgiris.	Coimbatore Medical College, Coimbatore.	1. Dean, Coimbatore Medical College, Coimbatore. 2. Dr. Manohari, Professor of General Medicine, Coimbatore Medical College, Coimbatore.



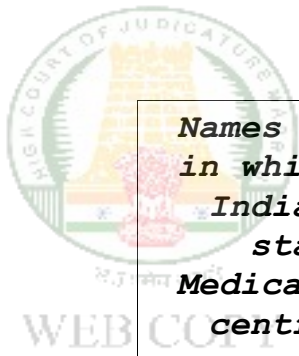
However, to the shock and surprise of the Petitioner, newly inaugurated 11 Medical Colleges have not been included in the ongoing counselling for getting admitted in M.B.B.S./B.D.S., for the academic year 2020-2021 and the Government has not come forward with correct explanation for not including the above 11 new Medical Colleges. If the 11 new Medical Colleges are to be included for the counselling in the year 2020-21, there would be an addition of 1650 medical seats. It is the contention of the Petitioner that if 1650 medical seats are added, students ailing from Government Schools would get more benefit out of the new quota of 7.5% made for Government School students and they would approximately get 124 seats in the academic year 2020-2021. Since the respondents have not included the 11 new Medical Colleges for the counselling conducted for the academic year 2020-2021, the Petitioner has come before this Court.

5. Heard Mr.P.M.Vishnu Varthanan, learned counsel appearing on behalf of the Petitioner and Mr.Vijay Narayan, learned Advocate General, assisted by Mr.Muthu Geethaiyan, learned Special Government Pleader.

6. There is no dispute with regard to the announcement made by the Hon'ble Chief Minister on 07.09.2020. As per the press release No.645 stating that the Government took a policy decision for establishing 11 new Medical Colleges in 11 districts, the colleges were inaugurated and Deens have been appointed. As rightly pointed out by the learned Advocate General, the Government is taking all the efforts to make the inaugurated colleges operational. It is evident from the note of the Director of Medical Education, Chennai, filed before this Court by the learned Advocate General that the Government of India approved the request of the Government of Tamil Nadu for establishment of 11 new Medical Colleges under the centrally sponsored scheme with the funding pattern of 60:40 after the cut off date (i.e.,) on 07.07.2020. The said note is extracted as follows:

"POSITION NOTE ON THE SUBJECT RELATED TO THE ESTABLISHMENT OF NEW GOVERNMENT MEDICAL COLLEGES AT 11 DISTRICT

- i. As per the erstwhile MCI regular time schedule, the last date for applying for permission for establishing New Medical College from the academic year 2020-21 was 07.07.2019.
- ii. The Government of India, New Delhi has approved the request of Government of Tamil Nadu for the establishment of New Medical College at the following districts, under centrally sponsored scheme with the funding pattern of 60:40 after the cut off date (i.e.) on 07.07.2020. The Government of India letter No & Date and Government of Tamil Nadu order No. & Dates are noted against each of the District.



Names of the Districts in which Government of India, approval for starting of New Medical College, under centrally sponsored scheme	Govt. of India Communication No & Date	Government of Tamil Nadu Order No. & Date
Ramanathapuram	Letter No.U 14017/95/2019/MEII, dated 23.10.2019.	G.O. (Ms.) No.465/Health and Family Welfare (MCA-2) Department, Dated. 15.10.2019
Virudhunagar		G.O. (Ms.) No.466/Health and Family Welfare (MCA-2) Department, Dated. 15.10.2019
The Nilgiris		G.O. (Ms.) No.467/Health and Family Welfare (MCA-2) Department, Dated. 15.10.2019
Dindigul		G.O. (Ms.) No.468/Health and Family Welfare (MCA-2) Department, Dated. 15.10.2019
Tiruppur		G.O. (Ms.) No.469/Health and Family Welfare (MCA-2) Department, Dated. 15.10.2019
Namakkal		G.O. (Ms.) No.470/Health and Family Welfare (MCA-2) Department, Dated. 15.10.2019



Nagapattinam	Letter No.U 14017/95/2 019/MEII, dated 27.11.2019 .	G.O. (Ms.) No.536/Health and Family Welfare (MCA- 2) Department, Dated. 29.11.2019
Krishnagiri		G.O. (Ms.) No.537/Health and Family Welfare (MCA- 2) Department, Dated. 29.11.2019
Thiruvallur		G.O. (Ms.) No.538/Health and Family Welfare (MCA- 2) Department, Dated. 29.11.2019
Ariyalur	Letter No.U 12012/916/ 2019/MEII, dated 27.01.2020	G.O. (Ms.) No.48/Health and Family Welfare (MCA- 2) Department, Dated. 10.02.2020
Kallakurichi		G.O. (Ms.) No.47/Health and Family Welfare (MCA- 2) Department, Dated. 10.02.2020

iii. Consequent on receipt of approval of Government of India, the Government of Tamil Nadu has issued orders for the establishment of New Government Medical Colleges at the above said Districts with an annual intake of 150 MBBS seats each, from the academic year 2021-2022.

iv. It is further submitted that approval for project and construction is going on and by the earliest next year the NMC approval will be given subject to creation of infrastructure and equipment.

v. Based on that applications for the establishment of new Government Medical College at the above said Districts were submitted by the Special Officer cum Deans of respective Colleges on 27.11.2020, to the National Medical Commission through online mode."

The said approval has been granted for annual intake of 150 M.B.B.S., seats in each Medical Colleges from the academic year 2021-2022.

7. Though the Medical Colleges have been inaugurated, as pointed by the learned Advocate General, construction works are going on and

<https://hcservices.ecourts.gov.in/hcservices/>

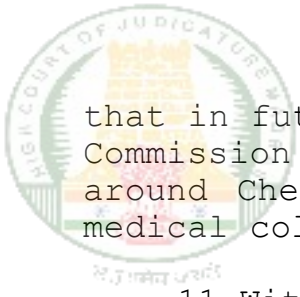


it is not possible to commence the classes, without any infrastructures. The buildings have to be constructed and all the infrastructural facilities have to be created, so that the National Medical Commission would inspect and give approval. The learned Advocate General pointed out that the respective Special Officer cum Deans of the Medical Colleges submitted the applications on 27.11.2020 to National Medical Commission through online mode for approval. Based on the application given by the Deans, National Medical Commission have to make inspection and on satisfaction only approval would be given. Without approval from the National Medical Commission, no Medical Colleges would start function. When that is the requirement under law, there cannot be any direction to the respondents to include those 11 newly inaugurated Medical Colleges for counselling in the year 2020-2021. No doubt 1650 medical seats would be added. But that cannot be a ground to give direction, especially, when the National Medical Commission has not inspected the colleges and take a decision with regard to the approval.

8. When the construction is going on, creation of infrastructure and equipment is in the process, which are all prerequisite for approval of National Medical Commission, it is not expected by the Petitioner to include the newly inaugurated 11 Medical colleges in the counselling for the academic year 2020-2021.

9. Though the prayer sought for by the Petitioner is premature, the respondents are directed to take appropriate steps viz., to create infrastructures like construction of buildings, including labs and erection of equipments at the earliest, so that appropriate approval would be granted by the National Medical Commission on inspection and at least from the academic year 2021-2022, the newly inaugurated 11 Medical colleges would start function, with an annual intake of 150 M.B.B.S., seats each.

10. As on date, there are 23 Government medical colleges and 11 new medical colleges are to be added and the total number of medical seats available for admission in Tamil Nadu in Government medical colleges alone would be about 5300. Though there are already 23 Government medical colleges and 3 Government controlled medical colleges in existence with intake of 3650 students, 11 medical colleges are to be established and the number of seats to be added is 1650. Similarly, the number of private medical colleges including deemed universities are 25. Almost 16 to 20 private medical colleges are located in and around Chennai viz., Kancheepuram and Tiruvallur district. Once a medical college is established, it is not only for teaching the medical students but also for treating the people residing in that area. Crowding medical colleges in one area will not help the people at large. Therefore, the National Medical Commission has to see that the approval is granted only to the applicants who would establish medical colleges in the area where there is no medical college at all, thereby the treatment facilities in the area would be improved. Therefore, this Court hopes



that in future, the State Government as well as the National Medical Commission would not give approval for any medical college in and around Chennai or in any other city which has already got enough medical colleges like Pondicherry.

11. With the above directions, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-

Assistant Registrar (CSIII)

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Sub Assistant Registrar (CS)

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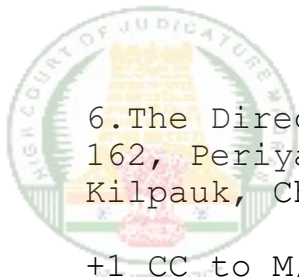
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+1 CC to M/s.P.M.VISHNUVARTHANAN, Advocate (SR-25119[F] dated
03/08/2021)

W.P. (MD) .No.17263 of 2020

Dated : 30.07.2021

SGS (CO)

KB(24.08.2021) 11P 8C