



WEB COPY

W.P.(MD)No.18059 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.18059 of 2019

and

W.M.P. (MD)No.14501 of 2019

G.Arun Kumar

... Petitioner

-Vs-

1. The State of Tamil Nadu
Rep. by its Secretary,
Health Department,
Fort St.George,
Chennai.
2. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai - 10.
3. The Selection Committee,
Rep. by its Secretary,
Directorate of Medical Education,
No.162, Periyar E.V.R.High Road,
Kilpauk, Chennai - 600 010.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to grant admission to the petitioner for the MBBS Course under Physically Challenged Category for the year 2019-20 in view of the Eligibility Certificate issued by the Regional Medical Board/Rajiv Gandhi Government General Hospital dated 21.05.2019 in the light of the judgment of this Court in W.P.(MD)No.14777 of 2018 dated 23.04.2019 and the judgment of the Hon'ble Division Bench in W.A.No.1788 of 2018 dated 28.08.2018 within the time period stipulated by this Court.

For Petitioner : Mr.T.Aswin Rajasimman
For Mr.T.Lajapathi Roy

For Respondents : Mr.M.Rajarajan,
Additional Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

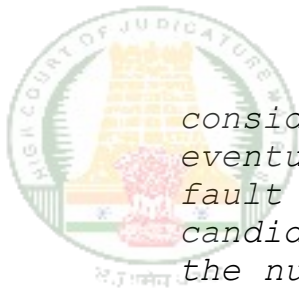
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2.The writ petitioner is a physically challenged person and he applied for admission to MBBS course under the said reserved category for the academic year 2018-2019. He had secured 140 marks in NEET. However, he was not granted admission because the selection committee had disputed the certificate obtained by him. Therefore, the petitioner had to file W.P.(MD)No.14777 of 2018. Vide order dated 23.04.2019, I had directed the Director of Medical Education to constitute a fresh Medical Board and give a certificate of eligibility. The Board constituted by the second respondent confirmed the status of the petitioner as a physically challenged individual. Since the academic year for which admission was sought had expired, I had directed that the petitioner could be considered for the next academic year. However, the petitioner's case was not considered for the academic year 2019-2020 also. Therefore, the petitioner filed Cont.P.(MD)No.978 of 2019. The respondents took the stand that the NEET marks obtained by the candidate in the previous year could not be made use of for gaining admission in the subsequent year. Since such a contentious issue was raised, I felt that the same could not be gone into in contempt jurisdiction. Therefore, giving liberty to the petitioner to file a fresh writ petition, Cont.P.(MD)No.978 of 2019 was closed on 02.08.2019. Availing the said liberty, the petitioner filed the present writ petition in August, 2019. In spite of best efforts taken by the learned counsel for the petitioner as well as the innumerable letters written by the petitioner himself, the writ petition could be taken for disposal only today ie., 06.01.2021.

3.When the matter was taken up for hearing, the learned Additional Government Pleader for the respondents states that all the seats for the academic year 2020 - 2021 have already been filled up. Therefore, the only question that arises for my consideration is whether the respondents can be directed to admit the writ petitioner for the next academic year. The learned counsel for the petitioner drew my attention to the judgment of the Hon'ble Supreme Court reported in **(2019) SCC Online SC 1609 (S.Krishna Sradha vs. The State of Andra Pradesh & Others)**. The three Judge Bench of Hon'ble Supreme Court in paragraph 33 (iii) answered the issue as follows:-

"(iii) In case the Court is of the opinion that no relief of admission can be granted to such a candidate in the very academic year and wherever it finds that the action of the authorities has been arbitrary and in breach of the rules and regulations or the prospectus affecting the rights of the students and that a candidate is found to be meritorious and such candidate/student has approached the court at the earliest and without any delay, the court can mould the relief and direct the admission to be granted to such a candidate in the next academic year by issuing appropriate directions by directing to increase in the number of seats as may be



considered appropriate in the case and in case of such an eventuality and if it is found that the management was at fault and wrongly denied the admission to the meritorious candidate, in that case, the Court may direct to reduce the number of seats in the management quota of that year, meaning thereby the student/students who was/were denied admission illegally to be accommodated in the next academic year out of the seats allotted in the management quota."

4.Now I have to give a finding as to whether the case of the petitioner would fall within the aforesaid ratio. No doubt, the petitioner is physically challenged candidate. He was arbitrarily denied admission for the academic year 2018-2019. The candidates who had secured lower marks were given admission to MBBS Course under the physically challenged quota. Therefore, I have to give a finding that the petitioner was also meritorious. Now the question is whether, I can direct the respondents to accommodate the petitioner under said quota for the academic year 2020-2021/2021-2022. I am afraid that my hands are tied. The Hon'ble Supreme Court authorizes the Court to direct admission of the petitioner only in the succeeding year (next academic year). The petitioner ought to have been admitted during the academic year 2018-2019. The next academic year would only be 2019-2020. It would not be proper for this Court to direct the respondents to accommodate the petitioner for the academic year 2021-2022. Even, if any seat falls vacant for the current academic year namely, academic year 2020-2021, I am not in a position to grant relief. Since the respondents had unfairly denied medical seat to the petitioner during the academic year 2018-19, the petitioner was constrained to move this Court thrice. The respondents are to be blamed for this. I therefore direct the first respondent to pay a sum of Rs.2.00 lakhs (Rupees Two Lakhs Only) towards cost for the petitioner. The petitioner may utilise this amount for payment of coaching fee and I can only wish him good luck in his attempt to make it in the next academic year. This is because there is no outer age limit for taking part in National Eligibility cum Entrance Test.

5.With this direction to pay cost, the writ petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

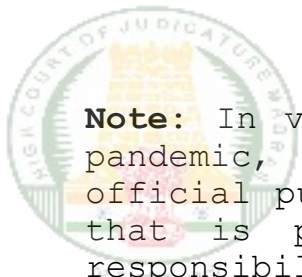
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Sub Assistant Registrar(CS)

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To:

1. The Secretary,
Health Department,
Fort St.George,
Chennai.
2. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai - 10.
3. The Secretary,
The Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R.High Road,
Kilpauk, Chennai - 600 010.

+1 CC to Mr.T.LAJAPATHI ROY, Advocate (SR-514[F] dated 07/01/2021)
+1 CC to M/s.GP (SR-449[F] dated 07/01/2021)

W.P. (MD) No.18059 of 2019
06.01.2021

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