



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2021

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THE HONOURABLE MR.JUSTICE **V. PARTHIBAN**

W.P. (MD) No.18184 of 2020

and

W.M.P. (MD) No.15165 of 2020

S.Gowsalya

.. Petitioner

Vs

1.The State of Tamil Nadu,
Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Fort St. George,
Chennai - 600 009.

2.The Director,
Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpauk,
Chennai - 600 010.

3.The Director,
Medical Education Counselling,
Nehru Outdoor Stadium Auditorium,
Periyamedu,
Chennai.

4.The Government Higher Secondary School,
Pazhayalur Village,
Thiruppuvanam Taluk,
Sivagangai District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the second respondent to allot medical seat as per 7.5% Government School Candidates Reservation Quota under Community Rank (BC) - 46 in Rank list in the Academic Year 2020-2021 and to provide Medical seat in the Government Medical College near my native place.

For Petitioner : Mr.T.R.Subramanian



For Respondents: Mr.Sricharan Rangarajan
Additional Advocate General
assisted by Mr.K.P.Krishnadoss
Special Government Pleader

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ORDER

The case of the petitioner is that she hails from a remote rural area. Her parents were not educated and her father is a small time agriculturist. She studied upto 12th standard at the fourth respondent school and has secured 1111 marks out of 1200 marks in the first group. She claims to have studied upto +2 standard in the Government school in her village.

2.She completed her +2 standard in the academic year 2017 and thereafter, she appeared in the NEET examination but she appeared to have not scored enough marks for her to be called for the medical counselling at that time.

3.Subsequently, on 13.09.2020, the petitioner applied once again for the NEET Examination and she having scored 252 marks out of 720 in the examination. The Government has also passed a Government Order announcing of a policy decision of reserving 7.5% quota to the students who studied in Government schools in the State of Tamil Nadu. In view of the policy declaration of providing a reservation for the students who hail from the Government schools, the petitioner's chances of gaining admission to a medical course became brighter and certain.

4.While the matter stood thus, when the counselling was underway for admission to various medical courses, unfortunately, she could not access the communication regarding the counselling date fixed for the petitioner's turn. According to the petitioner, she was assigned general rank 145 and community rank (BC) 46. Despite her eligibility for her selection to the medical seat, due to the lack of communication, she could not attend the counselling which was stated to be held on 18.11.2020. However, she subsequently learnt that the communication sent through e-mail was not seen by her due to the above stated reason. Thereafter, the petitioner appears to have approached the second and third respondents to consider her unfortunate predicament and allow her to participate in the counselling on any other date. As the petitioner's efforts to get her grievance redressed did not evoke any response, the petitioner is before this Court.

5.Notice was ordered. Mr.Sricharan Rangarajan, learned Additional Advocate General appeared on behalf of the respondents assisted by Mr.K.P.Krishnadoss, learned Special Government Pleader.



6. In the last occasion when the matter was taken up for hearing, a Position Note was circulated on behalf of the respondents. The details regarding the marks secured by the petitioner have been admitted in the Position Note. According to the Note, the petitioner did not attend the first phase of the counselling held on 18.11.2020 as she was absent without any intimation. The note also further stated that the petitioner however was permitted to attend the counselling session during the second phase which was held on 04.01.2021. The permission was granted to the petitioner to attend the second phase of the counselling in deference to the interim order passed by this Court in the Writ Petition on 23.12.2020.

7. After the petitioner's participation in the second phase of counselling, in commensurate with her rank coupled with reservation quota as admissible to the petitioner's category and also by applying the latest Government Order viz., G.O.Ms.No.438, Health and Family Welfare Department, dated 29.10.2020 providing 7.5% preferential quota for the students who have studied 6th to 12th standard in Government schools, she was selected and admitted in MBBS course at Government Erode Medical College and Hospital.

8. The matter was adjourned in order to provide opportunity to the counsel appearing for the petitioner to verify from the petitioner as to whether she has been allocated a seat at Government Erode Medical College and Hospital and whether she is also willing to join in the course in terms of the said offer.

9. Today, when the matter is taken up for hearing, a counter affidavit has also been filed by the third respondent on behalf of respondents 1 and 2 as well.

10. The fact of the allotment of MBBS seat as per the petitioner's merit and rank in the Government Erode Medical College and Hospital has been confirmed. However, in the counter, it is stated that the allotment has been withheld subject to the outcome of the decision of this Court in this Writ Petition.

11. The learned Counsel appearing for the petitioner would submit that the classes have already commenced and any further delay in disposing of the Writ Petition would be detrimental to the interest of the petitioner and therefore, he would implore this Court to dispose of the Writ Petition in terms of the allotment already made by the selection authority to the petitioner, as the petitioner is willing to join the course immediately.

12. The learned Additional Advocate General, who appeared in the matter, has reiterated the above facts and developments as delineated above. He would submit that it was admittedly the fault of the petitioner for having not attended the first phase of



counselling and only on this Court's intervention, though she was not entitled to participate in the second phase of counselling, she was allowed to participate in the second phase of counselling on 04.01.2021.

13.In any event, in the counselling she was found to be eligible to be allotted a medical seat, of course, subject to the pending final decision in this Writ Petition.

14.This Court has considered the above factual narrative and the development that has taken place during the pendency of the Writ Petition. No doubt that the petitioner did not appear in her turn in the first phase of counselling held on 18.11.2020. Her excuse for not attending the first phase of counselling was due to lack of communication or due to petitioner being not aware of any communication sent to her calling her for the first phase of counselling. According to her, she is hailing from remote rural area and therefore, normal Internet access was hardly available in the locality.

15.This Court without venturing into the voracity of the reason given by the petitioner for her non-appearance in the first phase of counselling on 18.11.2020, yet eventually the petitioner was allowed to participate in the second phase of counselling on 04.01.2021 and she has earned her berth by being allotted a medical seat in the Government Erode Medical College and Hospital.

16.Once the petitioner has earned the seat on the basis of her performance and ranking, she must be allowed to enjoy the fruits of the outcome in the selection. When the Government has brought in G.O.Ms.No.438, Health and Family Welfare Department, dated 29.10.2020, the lofty policy of the Government must be allowed to reach all the beneficiaries of the policy. Such benefit ought not to be denied to a deserving student like the petitioner herein who hails from a remote rural area merely for the reason that she could not attend the first phase of counselling. Whatever be the reasons for her absence at the first phase of counselling, the same cannot be held against her, denying her the most valuable and a lifetime opportunity of pursuing her dream of becoming a Doctor. In the realm of a beneficial public policy of this nature, a liberal and equitable dispositions are to be preferred than adopting a pedantic and inflexible approach, in the larger interest of the recipients of the policy benefits, in order to subserve the ends of justice.

17.In the above circumstances, this Writ Petition is disposed of with a direction to the authorities concerned to declare the selection and admission of the petitioner to a medical course in Government Erode Medical College and Hospital is to be hereafter construed as not provisional on account of pendency of this Writ Petition before this Court. The competent authority is directed to issue clarification/order in this regard forthwith. The



authority is also directed to accord proper permission to the petitioner to join the course immediately on the next working day at the allocated college in order to avoid any further delay in the matter. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (RTI Act)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

- 1.The Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
- 2.The Director,
Medical Education,
No.162, Periyar E.V.R. High Road,
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- 3.The Director,
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Chennai.
- 4.The Government Higher Secondary School,
Pazhayalur Village,
Thiruppuvanam Taluk,
Sivagangai District.
- 5.The Dean,
Government Medical College & Hospital,
Erode.

+2 CC to M/s.T.R.SUBRAMANIAN, Advocate (SR-2248[F] dated 27/01/2021

W.P. (MD) No.18184 of 2020

27.01.2021

SUN (CO)

NR (27/01/2021) 5P : 8C