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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.1262 of 2022

and

W.M.P.No.1366 of 2022

V.Ilaiya Visagan

...Petitioner

Vs

- 1.The Registrar,
Tamil Nadu Dr. MGR Medical University,
Guindy, Chennai-600 032.
- 2.The Controller of Examinations,
Tamil Nadu Dr. MGR Medical University,
Guindy, Chennai-600 032.
- 3.Kanyakumari Government Medical College,
Kanyakumari District,
Rep. by its Dean.
- 4.The Collector,
Dharmapuri,
Dharmapuri District.
- 5.The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 to accept the examination fee from the petitioner and permit the petitioner to appear for the 1st year MBBS Examinations to be held from 01.02.2022 and to publish the results and continue his study without any hindrance.

For Petitioner : Mr.S.Doraiswamy
For Mr.V.Elangovan

For Respondents R1 to R3 : Mr.D.Ravichandran
Special Government Pleader

For Respondents R4 & R5 : Mrs.C.Sangamithirai
Special Government Pleader



ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus to direct the respondents 1 to 3 to accept the examination fee from the petitioner and permit the petitioner to appear for the 1st year MBBS Examinations to be held from 01.02.2022 and to publish the results and continue his study without any hindrance.

2.The case of the petitioner is that he belongs to Kurumans community which is classified as a Scheduled Tribe Community. The petitioner's mother applied for Community certificate for the petitioner and his sister on 26.09.2017 before the 4th respondent and subsequently, the 5th respondent issued a notice dated 31.01.2019 to appear for enquiry. Accordingly, the petitioner's mother appeared for enquiry and submitted the necessary documents, however no order was passed even after sending reminder request on 16.09.2020. Therefore, the petitioner filed a writ petition in W.P.No.14206 of 2020 and this Court by its order dated 15.10.2020 directed the respondents to pass orders within a period of four weeks. However, the 5th respondent rejected the petitioner's mother's claim on the ground that her relatives belong to Kurumbar and Kurmumba Community. As against the rejection order, the petitioner's mother preferred an appeal before the 4th respondent on 23.01.2021, however no orders have been passed even after several reminders.

3. Such being the situation, the petitioner applied for NEET examination and obtained 369 out of 720 marks. However, since the community certificate was not issued to the petitioner, the same was not enclosed by him in the application and he was treated as General Category candidate. Hence, the petitioner filed a writ petition in W.P.No.16261 of 2020 and this Court vide order dated 11.11.2020 permitted the petitioner to participate in the counselling under the Scheduled Tribes Category (in short ST) and thereafter, the petitioner participated in the counselling and got admitted in the 3rd respondent college and completed the 1st year M.B.B.S course. However, the petitioner was not permitted to pay the examination fess for the examination that is scheduled to be held on 01.02.2022 since he has not produced the community certificate. Hence, this present Writ petition is filed seeking for an interim order directing the respondent 1 to 3 to accept the examination fees from the petitioner and to permit him to appear for the 1st year MBBS examinations that is to be held from 01.02.2022.

4.The learned counsel for the petitioner submits that based on the Community certificate obtained by the petitioner's



mother, the petitioner filed an application for obtaining community certificate and the same is pending for a long time. Though the petitioner's mother is having valid community certificate stating that she belong to Kurumans community, the petitioner is not issued with the community certificate by the 4th respondent which is not acceptable. He further submitted that, in the meanwhile, the petitioner got admitted in the 3rd respondent college in the light of the order of this Court dated 11.11.2020 without insisting upon the community certificate. While such being the situation, restricting the petitioner to appear for the 1st year MBBS examination that is to be held on 01.02.2022 on the ground that the petitioner has not produced the community certificate is not sustainable one. Hence, he submitted that, it would suffice, if this Court issues direction to the respondents 1 to 3 to accept the examination fee from the petitioner and to permit him to appear for the 1st year MBBS examination that is to be held from 01.02.2022.

5. The learned counsel appearing for the respondents 1 to 3 submitted that, the petitioner does not possess any valid certificate to prove his community and in the absence of any certificate to show that the petitioner belong to Kurumans community permitting him to write the examination will affect the interest of the respondents. Hence, he prays for dismissal of this Writ petition.

6. Heard the arguments advanced by the learned counsel on either side.

7. The facts in the present case are not in dispute. Admittedly, the petitioner's mother possess valid community certificate and till date her community certificates was not cancelled. Equally, the petitioner has not obtained the community certificate from the competent authority and the same is pending before the concerned respondent. However, in the mean while, the petitioner got admitted in the 3rd respondent college, whileso, not permitting the petitioner to appear in the MBBS examinations that is to be held from 01.02.2022 is not sustainable. The non-consideration of the application of the petitioner by the concerned respondent cannot be put against the petitioner. Hence, this Court issues direction to the respondents 1 to 3 to permit the petitioner to pay the fees and to appear in the examination to be held from 01.02.2022 by accepting the examination fee from the petitioner. However, the result shall not published and it should be published only after the issuance of community certificate and it is made clear that the petitioner cannot claim equity on the basis of this order for appearing in examination in future.



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8.This Writ Petition is disposed of with the aforesaid direction. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Registrar,
Tamil Nadu Dr. MGR Medical University,
Guindy, Chennai-600 032.
- 2.The Controller of Examinations,
Tamil Nadu Dr. MGR Medical University,
Guindy, Chennai-600 032.
- 3.The Dean,
Kanyakumari Government Medical College,
Kanyakumari District,
- 4.The Collector,
Dharmapuri, Dharmapuri District.
- 5.The Revenue Divisional Officer,
Dharmapuri, Dharmapuri District.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.4829

+1cc to the Government Pleader Sr.No.5148 (30/05/2022)

W.P.No.1262 of 2022
and
W.M.P.No.1366 of 2022

KK(CO)
SB(27/01/2022)