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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:29.04.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.2811 of 2022 &
WMP.Nos.2956, 2957, 2960, 5513 & 5515 of 2022

C.Lakshmi

...Petitioner

Vs.

1.The Registrar,
Tamil Nadu Dr.M.G.R.Medical University,
Guindy, Chennai-600025.

2.The Selection Committee,
Directorate of Medical Education,
Government of Tamil Nadu,
Kilpauk, Chennai-600010

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus calling for the records pertaining to 2nd respondent's list of Eligible Eminent Sports Person for MBBS/BDS 2021-2022 Session, concerned to the petitioner herein, and quash the same and consequently, direct the respondents to admit the petitioner in M.B.B.S. course for 2021-2022 session under Special Category (Sports quota).

(Prayer amended vide this order in WMP No.5515 of 2022)

For Petitioner : Mr.R.Prabhakaran

For Respondents : Mr.S.Wilson - R1
D.Ravichander
Special Government Pleader - R2

O R D E R

Heard Mr.Prabhakaran, learned counsel for the petitioner and Mr.S.Wilson, learned counsel for R1 and Mr.D.Ravichander, learned Special Government Pleader.



2. The petitioner is a Chess player, who claims to have won accolades at the District, State, National and International levels. She completed her 12th standard in the year 2021 and attended the NEET examination, obtaining 557915 as All India Rank and 238085 towards category rank. She applied for MBBS under the sports quota.

3. The eligibility for reservation of seats for Eminent Sports Person (ESP) under which category, the petitioner claims priority, is as follows:

3. Seats Reserved for Eminent Sports Person:-

(Number of seats reserved in M.B.B.S - 7 and B.D.S. - 1)

a. The candidate who have applied under Eminent Sports Person quota, seats will be allotted as per G.O. (D) No.976/H&FW Dept. Dated 01.06.2018 which is annexed in Annexure - VII.

b. The provisions contained in G.O.(1D) No.38/HE(J2) Department dated 26.02.2020 constituting a Common Committee for the selection of candidates for admission to professional courses (Engineering and Medicine) under Eminent Sports Person Category for a period of 3 years from 2020-2021 to 2022-2023 will be followed.

c. The candidates are requested to arrange the certificates as per the serial number starting from June 2017 as given in the Annexure-VII (b) and submit them along with the filled in online application form, within the stipulated time. All the particulars are to be filled up as per the guidelines given in the Annexure- VII (a). The other eligibility conditions for admission to MBBS/BDS course will be applicable as in the case of General Category.

d. The Committee shall decide and approve the eligibility norms, list of sports events marks for various categories of achievements, competent authority to issue forms/certificates, etc., for TNEA 2021/MBBS 2021 admissions under Eminent Sports Persons Quota. The Sports Quota application for MBBS admission will be scrutinized at the office of the Secretary, Selection Committee.



Open or Invitational or Memorial or any indifferent nomenclature or title of tournaments or Championships at International level, not approved by any of the above authority will not be considered for marks.

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1. Participation or achievement in International tournaments will be considered only with earlier achievements at National and State level tournaments. Direct participation in any International or National tournaments will not be considered for award of marks.

2. The highest achievement in only one annual regular tournament, officially conducted in a regular manner by the member National Olympic Committee (NOCs) authorized by the International Olympic Committee (IOC) or International Sports Federations affiliated to the IOC will be considered for award of marks. The Players/Sports person representing the Country in such tournaments through Indian Olympic Association (IOA) or respective National Sports Federation recognised by the Ministry of Youth Affairs and Sports, Government of India or IOA will be considered for award of marks in each year.

3. Only tournaments officially recognised by the Indian Olympic Association/respective official National Federations will be considered for award of marks (for each year) from 01.06.2017 to last date of submission of application (01.06.2017 to 31.05.2018, 01.06.2018 to 31.05.2019, 01.06.2019 to 31.05.2020 and 01.06.2020 to last date of submission of application).

4. Certificates of Participation of Achievements in tournaments, submitted along with Form I alone are eligible for marks indicated in Table (I) above (should be submitted before the last date of submission of application).

5. The petitioner does not claim to have participated in any of the Category I Tournaments being the Olympics, World Cup/Commonwealth Games, Asian games (Games organised once in four years by the International Olympic Committee).

6. She claims entitlement under Category II for which the conditions stipulated are (i) that a minimum of 6 Countries must have participated and (ii) the tournament should be approved by the Indian Olympics Association (IOA), Sports Authority of India



(SAI) and Ministry of Youth Affairs and Sports (MYAS), Government of India.

7. The petitioner responded stating that only four Countries had participated in the tournaments in which she claimed entitlement. This, she argued, should be considered as sufficient. She supports her argument stating that for a sport like Chess, there is participation only from three to four countries and in such situation, eminent sports persons like her are refused consideration even despite high performance. Her explanations were not accepted and ultimately her name did not find place in the list of selected candidates.

8. The present Writ Petition is thus been filed impugning the condition of participation of six Countries as being arbitrary and unfair. According to her, her eligibility for the seat or otherwise must depend upon her performance which she rates highly, the number of countries as against which she has been pitted, being entirely irrelevant.

9. She refines the argument further stating that the condition of participation by six countries might well be satisfied if seen across participation in all age groups and must not be restricted only to her age category. The aforesaid argument, though figuring in the pleadings, has not been taken at the time of hearing and rightly so as it has only to be stated to be rejected. The conditions set out in the prospectus call for strict compliance and that apart, there is absolutely no basis whatsoever for the prayer of the petitioner.

10. The issues to be decided are thus, (i) whether the application of the petitioner can be said to be complete since admittedly she has not enclosed Form I therewith and whether the marks awarded to the petitioner can be said to be correct.

11. The prospectus contains the following rules in regard to allotment of seats for sports quota:

ALLOTMENT OF SEATS FOR CANDIDATES UNDER QUOTA FOR
EMINENT SPORTS PERSONS FOR 2021-2022 SESSION

1. The purpose of this quota is to recognise and give weightage to the sports eminence of the candidates and hence marks for sports achievements alone will be considered in ranking the candidates. The candidates are expected to continue good performance in sports, even after admission.





13. The Committee appears to have more generous than what the prospectus provides, since the prospectus only provides for adoption of tournaments played in one academic year whereas the committee has taken into account tournaments over a period of three years. This observation is incidental and from a reading of Annexure VII, which sets out the guidelines for allotment of seats under the ESP quota.

14. Admittedly, the petitioner in this case has not enclosed Form I as provided for in the prospectus, along with the application form. In my view, this is a fatal omission. As far as International tournaments are concerned, the competent authority for certification is stated to be the President or Secretary of the National Sports Federation, recognised by the Ministry of Youth Affairs and Sports or Indian Olympic Association. The participation certificate/Diploma is required to be signed by the President or Secretary General or Chairman of the Organising Committee of the host Nation.

15. The certificates and Form I are expected to be annexed to the application form. Though the petitioner has herself enclosed a set of certificates and forms between pages 52 and 66 of the compilation accompanying the writ affidavit, the Forms have admittedly not accompanied the application.

16. When faced with this position, learned counsel for the petitioner would rely upon three decisions of the Andhra Pradesh High Court, all rendered in the context of selection to State services under the sports quota, in *N.Anuradha V The State of Andhra Pradesh and others* (Manu/AP/1571/2021), *J.Venkat Balaji V State of Andhra Pradesh and others* (Manu/AP/1082/2021) and *Abhilash Bhimarasetty V State of Andhra Pradesh and others* (Manu/AP/1471/2021), wherein the candidates had claimed preference under relevant sports quota under the category of Kabaddi, Tennis and Boxing respectively.

17. In those cases as well, the defence of the State was that Form I had not been filed by the respective candidates and the issue crystallised for decision was whether the contents of the Form would prevail over the contents of the respective Notifications issued by the State and the Andhra Pradesh State and Subordinate Services Rules, 1996. The Court found that the impugned Government Order, in terms of which the Form was required to be filed, did not fix any clear criteria and thus concluded that the admitted achievements of the petitioners in their respective sports would suffice to secure their interests.



The claims of those petitioners was accepted in the final analysis.

18. The learned Special Government Pleader, for his part, relies upon a judgement of the Hon'ble Supreme Court in *Chairman, Odisha Joint Entrance Examination V. Jasobanta Nayak and others* ((2016) 12 SCC 4020). The challenge by the Odisha Joint Entrance Examination Committee was to a direction by the High Court to the effect that the candidate be permitted to produce a certificate of physical handicap, though the prospectus clearly prohibited submission of such certificate.

19. In that case, the Medical Board as constituted under the prospectus had found that the candidate had only 20% visual disability and not 40% which was the required percentage. The High Court had directed that the recruiting agency go by a certificate issued by the District Headquarters Hospital, opining that there was no reason to disbelieve the same.

20. However, this direction was not accepted by the Hon'ble Supreme Court, which stated that the Medical Board constituted under the prospectus would have the last word as far as certifying the handicap was concerned. They state that the Medical Board has been constituted as per the norms of prospectus and it has clearly recorded its opinion as regards the disability of vision of the respondent. In such a situation, we are constrained to hold that the High Court was not justified in interfering with the selection process in exercise of writ jurisdiction and declaring the disability of the respondent No.1 at 40% and to consider his case in the category of physically handicapped persons. The approach being erroneous, the order is wholly untenable.

21. Rules/conditions stipulated under the prospectus thus call for strict compliance and no deviation must be entertained in this regard. In *Director of Medical Education and another V. M.Aarthy* (2019 SCC Online Mad 28115), a Division Bench of this Court reiterated the settled position that the prospectus for any course would constitute the rule of appointment.

22. All the clauses in the prospectus thus bind the candidate who submits an application pursuant thereto constituting a strict rule of selection. It is not a contract qua the parties that is subject to interpretation of the Courts. The learned Special Government Pleader would thus urge that the admitted breach of condition by the candidate in this case must be viewed as being fatal to her cause.



23. In the case of S.Satishchandran, rep. by his next friend and guardian S.Ramadevi V. The State of Tamil Nadu and another (1995-1-L.W.219) a Division Bench of this Court considered the prayer for a writ of certiorarified mandamus quashing the selection list for B.E. under sports category and a direction to the respondent to select the petitioner for the 1st year B.E. course in an appropriate college.

24. The Bench noticed that the procedure followed by the Committee was in tune and tandem with that envisaged under the prospectus. So too in this case. In fact, as observed in one of the preceding paragraphs, the Selection Committee has been more generous to the petitioner than what the prospectus envisages. However, as the application of the petitioner did not contain Form I, the responsibility cast upon the petitioner to establish the veracity of the certificates produced by her had not been discharged.

25. The Forms produced before the Court are dated 17.08.2021 and there was nothing that prevented the petitioner from enclosing the same with the application itself, or at least placed before the Selection Committee. The purpose of the Form is for a certification of the achievements of the player by an accredited agency to rule out instances of wrongful claims and figures as a categoric mandate under Category II(4) of the prospectus, extracted in paragraph 4 of this order, supra. It is thus incumbent upon the candidate to produce such certification by the competent authority as the very claim as an eminent sports person, will hinge upon such certification.

26. The decisions cited by the petitioner would not advance her case, since the Court in those decisions has categorically held that the relevant Notification did not provide any clarity in the matter. In this case, the prospectus is clear.

27. Pending Writ Petition, the petitioner has filed WMP No.5515 of 2022 seeking amendment of the prayer as follows:

Writ of Certiorarified mandamus calling for the records pertaining to 2nd respondent's list of Eligible Eminent Sports Person for MBBS/BDS 2021-2022 Session, concerned to the petitioner herein, and quash the same and consequently, direct the respondents to admit the petitioner in M.B.B.S. course for 2021-2022 session under Special Category (Sports quota).

28. This amendment petition is ordered, but will not advance the cause of the petitioner as admittedly, there has



been no compliance of the condition in the prospectus. Thus, the question of upsetting the selection list does not arise. This Writ Petition is dismissed. No costs. Connected Miscellaneous Petitions are closed.

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s/d-
Assistant Registrar

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Sub-Assistant Registrar

To

1.The Registrar,
Tamil Nadu Dr.M.G.R.Medical University,
Guindy, Chennai-600025

2.The Selection Committee,
Directorate of Medical Education,
Government of Tamil Nadu,
Kilpauk, Chennai-60001

W.P.No.2811 of 2022 &
WMP.Nos.2956, 2957, 2960,
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SSD(CO)
SP(06/06/2022)