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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.03.2022

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.4660 of 2022 and
WMP.Nos.4776, 4777 & 4780 of 2022

Varshini J

... Petitioner

Vs

1. Government of Tamil Nadu,
Represented by its Secretary to Government,
Department of Health and Family Welfare,
NamakkalKavignarMaaligai,
Fort St. George, Chennai 600 009.
 2. Directorate of Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpauk, Chennai-600 010.
 3. Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpauk, Chennai-600 010.
 4. The Tamil Nadu Dr. M.G.R. Medical University,
69, Anna Salai, Rd, Guindy,
Chennai, Tamil Nadu 600 032.
 5. Trichy SRM Medical College Hospital & Research Center,
SRM Nagar, Trichy - Chennai Highway,
Irungalur Village, Tiruchirapalli - 621 105.
 6. National Medical Commission,
Pocket -14, Sector-8, Dwarka Phase-1,
New Delhi - 110 077.
- ... Respondents

PRAYER: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records of the Tentative Seat Matrix for MBBS Course in Self-Financing Medical Colleges under Management Quota 2021-2022 Session of the 3rd Respondent and quash the same insofar as it allots all seats in minority institutes for minority category candidates and consequently direct the Respondents 1 to 3 to adopt the Seat Matrix for MBBS



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Courses in Self-Financing Medical Colleges under Management Quota for the 2020-2021 Session for the present academic year.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel
for Ms.A.L.Gandhimathi
Mr.J.Ravindran AAG assisted by

For Respondents: Mr.D.Ravichander,
Special Government Pleader for R1 to R4
Ms.Subharanjani Ananth for R6
Mrs.Uma Maheswari (for R5)

O R D E R

The petitioner is an aspirant for a seat in a medical college in Tamil Nadu for the present academic year. She completed her schooling in March, 2021 and had participated in the National Eligibility cum Entrance Test (UG), 2021 (NEET), securing 450 marks with All India rank of 1,33,444, She claims reservation under Backward community, her category rank being 45,288.

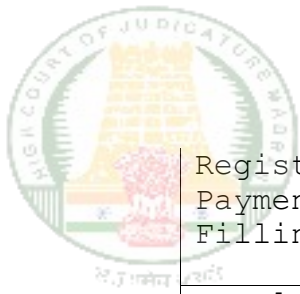
2. In the State counselling conducted by the Selection Committee with the Tamil Nadu Dr.M.G.R. University, arrayed as R3 and R4 respectively, she has secured provisional rank of 8244 and 3358 for State quota (SQ) and Management quota (MQ) respectively.

3. She was not successful in the first phase of counselling conducted for SQ. However, she claims to possess necessary eligibility for entry in an appropriate self-financing (SF) college and was hopeful of obtaining the same in MQ in the 5th respondent college, the Trichy SRM Medical College Hospital & Research Centre, an institution claiming minority status, in the MBBS course for the 2021-22 session.

4. She would argue that that she would have been successful in this regard, had the rules of the game remained consistent and had not been altered at the last moment. The schedule for counselling for the MQ in self-financing (SF) colleges stipulate as follows:

SELECTION COMMITTEE
DIRECTORATE OF MEDICAL EDUCATION, CHENNAI-10.
TENTATIVE COUNSELLING SCHEDULE FOR ADMISSION TO MBBS/BDS
COURSE 2021-2022 SESSION
MANAGEMENT/ (TELUGU & MALAYALAM) MINORITY QUOTA IN SELF
FINANCING MEDICAL / DENTAL COLLEGES

Process	Date & Time From	Date & Time To	RANK	NEET MARK
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Registration / Payment / Choice Filling & Locking	25.02.2022 03:00 P.M.	28.02.2022 12:30 P.M.	GR 001 TO GR 14913	710 TO 108
Result	01.03.2022			
Downloading the Provisional Allotment Order	01.03.2022			
Reporting Time	01.03.2022 TO 05.03.2022 UP-TO 03.00 P.M.			

5. The aforesaid procedure is stated to have been released early evening on 25.03.2022, simultaneous with the seat matrix containing the details of allocation of seats in private SF colleges. At this juncture, the petitioner came to be aware of a difference in methodology for allotment of seats for the present academic year when compared with the allocation for the previous years. Admittedly, there is a difference.

6. The procedure followed for the allocation of seats to private SF colleges is stated to be on the basis of a consensual agreement as per the dictum of the judgment of the Hon'ble Supreme Court in the case of P.A.Inamdar V. State of Maharashtra. The proportion for sharing of seats has been fixed at 50:50 between the State and the colleges in terms of G.O.(MS) No.270 Higher Education (J1) Department dated 17.6.1998 dealing with the subject of framing of guidelines for confirmation of minority status. Point 8(v) states thus:

'8. The government issue the following guidelines to dispose of the pending applications claiming minority status and also applications which will be received in future from Educational institutions:

(i) The object of the educational institutions should be for promoting the interests of the minority concerned and it should sub serve the interests of the minority community concerned.

.....

(v) In the case of self-financing educational institutions imparting professional courses of education established and administered by any minority they shall admit students of that minority alone not exceeding 50% of the sanctioned strength. If there is any vacancy not filled as above such vacancy in that 50% shall be filled up only on the basis of merit and from common merit list prepared by the competent authority.'

7. According to the arrangement as above, R5 college has been surrendering 50% of the 100% allotted to it. In addition it has been retaining only 50% of the 50% share and surrendering back 50% thereof to the State for allotment as per its



reservation policy. That is, and in effect, as against the total allocation of 100%, 75% of the seats (50% originally surrendered and 25% of the 50% allotted to the college) are surrendered back to the State by the college for filling up as per State reservation Rules. This is stated to be the modus operandi followed by the State and R5 college consistently from inception of the College till academic year 2021.

8. The seat matrix for self financing colleges, as on 18.12.2020 reads thus:

COLLEGE	TOTAL
PSG INSTITUTE OF MEDICAL SCIENCES, COIMBATORE	30
SREE MOOGAMBIGAI INSTITUTE OF MEDICAL SCIENCES, KANYAKUMARI (General)	5
SREE MOOGAMBIGAI INSTITUTE OF MEDICAL SCIENCES, KANYAKUMARI (MALAYALAM MINORITY)	30
KARPAGA VINAYAKA INSTITUTE OF MEDICAL SCIENCES	20
VELAMMAL MEDICAL COLLEGE HOSPITAL & RESEARCH INSTITUTE, MADURAI	30
TRICHY (SRM) MEDICAL COLLEGE, HOSPITAL & RESEARCH CENTRE, TRICHY (General)	26
TRICHY (SRM) MEDICAL COLLEGE, HOSPITAL & RESEARCH CENTRE, TRICHY (TELEGU MINORITY)	26
TAGORE MEDICAL COLLEGE & Hospital, Chennai	30
DHANALAKSHMI SRINIVASAN MEDICAL COLLEGE & HOSPITAL, PERAMBALUR (General)	12
DHANALAKSHMI SRINIVASAN MEDICAL COLLEGE & HOSPITAL, PERAMBALUR (TELUGU MINORITY)	40
MELMARUVATHUR ADHIPARASAKTHI INSTITUTE OF MEDICAL SCIENCES & RESEARCH, KANCHEEPURAM	30
KARPAGAM FACULTY OF MEDICAL SCIENCES & RESEARCH, COIMBATORE (General)	15
KARPAGAM FACULTY OF MEDICAL SCIENCES & RESEARCH, COIMBATORE (TELUGU MINORITY)	37
MADHA MEDICLA COLLEGE & HOSPITAL, KUNDRATHUR, CHENNAI	52
ANNAPOORNA MEDICAL COLLEGE & HOSPITAL, SALEM (General)	37
ANNAPOORNA MEDICAL COLLEGE & HOSPITAL, SALEM (TELUGU MINORITY)	15
KMCH INSTITUTE OF HEALTH SCIENCES & RESEARCH, COIMBATORE	30
PANIMALAR MEDICAL COLLEGE HOSPITAL & RESEARCH INSTITUTE, POONAMALLEE, CHENNAI	52
INDIRA MEDICAL COLLEGE AND HOSPITAL, THIRUVALLUR	30
CMC Vellore - General Merit	12
CMC Vellore - SC / ST	3
Total	562



9. When the seat matrix was released on 26.02.2022, parallel with the procedure stipulating time frame for cancellation, a departure had been made in the present year and it was found that the entirety of the seats allotted by the State to the college, their 50% share, had been retained by the State for Telugu minority students alone.

10. A copy of letter dated 24.02.2022 which, according to the respondent counsel, has been submitted by way of consensus by R5 college, post deliberations that took place between the State and the College, reads as follows:

TRICHY SRM MEDICAL COLLEGE HOSPITAL AND RESEARCH CENTRE
Irungalur, Tiruchirappalli - 621 105
Dr.S.Revathy, M.D., DGO., D.N.B., Date: 24.02.2022
DEAN
To
The Secretary
Selection Committee
Directorate of Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpauk,
Chennai - 600 010.

Ref.No.194/TSRMMCH & RC/ME-2/2022
Sir/Madam,
Sub: Medical Education - Trichy SRM Medical College
Hospital and Research Centre, Irungalur, Trichy
- Self financing medical colleges MBBS 2021-
2022 session degree course seat matrix -
submitted - Regarding.
Ref: E-mail letter received on:24.02.2022 of the
Secretary, Selection Committee,
Directorate of Medical Education, Kilpauk,
Chennai- 600 010.

With reference to the attachment of your E-mail letter cited above, herewith I am submitting the MBBS 2021-2022 session seat matrix from our college for further perusal and the details are given below.

Sanctioned Strength	State Quota	NRI Quota	Minority Quota
150	75	23	52

SD/-

DEAN

Trichy SRM Medical College Hospital
and Research Centre, Irungalur, Trichy

11. The total number of seats for the present year allotted is 150. The offer by the College provides for the total number



being 150, of which 75 are surrendered to the State for allotment as per the rules of reservation, 52 retained towards MQ and 23 for NRI Quota.

12. I am informed that this document constitutes the entirety of the consensual agreement and there is nothing else in this regard.

13. The allocation for the present year reads thus:-
TENTATIVE SEAT MATRIX FOR MBBS COURSE IN SELF FINANCING MEDICAL COLLEGES UNDER MANAGEMENT QUOTA 2021-2022 SESSION

COLLEGE	GENERA L	MINORITY		
		CHRISTI AN	MALAYALAM	TELUGU
TRICHY SRM MEDICL COLLEGE HOSPITAL & RESEARCH CENTRE, TRICHY				52
KARPAGA VINAYAGA INSTITUTE OF MEDICAL SCIENCES, MADURANTHAGAM	30			
PSG INSTITUTE OF MEDICAL SCIENCES, COIMBATORE	50			
SREE MOOKAMBIKA INSTITUTE OF MEDICLA SCIENCES, KANYAKUMARI			35	
DHANALAKSHMI SRINIVASAN MEDICAL COLLEGE AND HOSPITAL, PERAMBALUR				52
KARPAGAM FACULTY OF MEDICAL SCIENCES & RESEARCH, COIMBATORE				52
TAGORE MEDICLA COLLEGE AND HOSPITAL, CHENNAI	30			
VELAMMAL MEDICAL COLLEGE HOSPITAL AND RESEARCH INSTITUTE, MADURAI	30			
MELMARUVATHUR ADHIPARASAKTHI INSTITUTE OF MEDICAL SCIENCES AND RESEARCH, MELMARUVATHUR	30			
MADHA MEDICAL COLLEGE AND HOSPITAL, THANDALAM, CHENNAI		52		
ANNAPOORNA MEDICAL COLLEGE & HOSPITAL, SALEM				52
KMCH INSTITUTE OF HEALTH SCIENCES AND RESEARCH, COIMBATORE	30			



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PANIMALAR MEDICAL COLLEGE HOSPITAL & RESEARCH INSTITUTE, CHENNAI, TAMIL NADU		52		
INDIRA MEDICAL COLLEGE & HOSPITALS, THIRUVALLUR	30			
SWAMY VIVEKANANDHA MEDICAL COLLEGE HOSPITAL AND RESEARCH INSTITUTE	30			
ARUNAI MEDICAL COLLEGE & HOSPITAL, TIRUVANNAMALAI				52
ST.PETERS MEDICAL COLLEGE HOSPITAL AND RESEARCH INSTITUTE, KRISHNAGIRI	30			

14. The petitioner questions this departure from the allocation of the previous year also on the ground that such a departure has caught the students body by surprise as there was an expectation by non-Telugu minority students that they could well aspire for a seat in the 25% of the MQ normally surrendered back by R5 to the State.

15. Mr.ARL.Sundaresan, learned Senior Counsel appearing for the petitioner also makes a larger argument stating that the question of allotment of seats to minority students should also be seen in the context of the pronouncements of the Hon'ble Supreme Court rendered thus far. In this context, he takes me through the judgments in the case of T.M.A.Pai Foundation V. State of Karnataka, Islamic Academy of Education V. State of Karnataka and P.A.Inamdar (supra).

16. Before and without adverting to the overarching issue raised, one must address the more immediate and pressing question raised by the petitioner in regard to the deviation in procedure followed for the present academic year, and the fairness and transparency, if any, in the same.

17. The system of professional education is, today, unbearably competitive and even ruthless. More often than not, students are required, and called upon to decide their preferences and commence preparations for the course of their choice several years prior to the critical school years, being the 10 +2 classes. They undertake a very informed and thorough analysis of the available choices, both in terms of the courses on offer as well as the educational institutions in the fray.

18. The procedure to be followed, quotas, categories and subjects available and all other aspects of the matter call for detailed study and a considered decision is to be taken only thereafter, bearing in mind the different options. While Education, as a concept, theoretically retains its noble



character, as a system, touching upon the lives and futures of several lakhs of the youth, it has assumed a mystical and mythical persona, often unpredictable and many a time, draconian.

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19. Thus, an aspirant for a medical seat for the present year would necessarily have had to plan based upon prevailing trends and procedures that have been in vogue over the years. In my considered view, it is thus imperative that the rules of the game remain constant and transparent, and any change must be made cautiously and after adequate, advance notice is given to the student population.

20. While Courts would normally be slow to interfere in changes effected to a system or policy at the instance of the State, such change must not be seen to be arbitrary in that it has been imposed without sufficient notice. The bifurcation of seats to minority SF institutions is in the ratio of 50% - 50%; that is, while allocating 100 seats, to a college, the said college routinely and 'consensually' surrenders 50 back to the State.

21. In addition, colleges have also been surrendering a percentage of the 50% allotted to them, back to the State and this, being a consistent modus operandi, would certainly have weighed with the students while deciding the strategy for admission.

22. Strategizing, for a student today, is an important part of the process of education. This is effectively achieved only if the information available in public domain is up-to-date and does not present any last-minute surprises. With the release of the seat matrix simultaneous with the counselling procedure, students have suddenly been made aware of a drastic change in the process whereby the entirety of the allocation of 50% has been absorbed by the institution for the minority community.

23. At the level of the students, this would certainly have taken them by surprise seeing as unless a certificate of religious minority/linguistic minority is produced, the student would be unable to participate in the counselling. Their careful strategy and planning would have been rendered awry.

24. Thus, though a matter of internal policy concerning the deployment of seats by a minority institution, there must be some transparency and fairness in procedure in so far as this has a serious ramification upon the career of an aspirant.

25. Mr. Ravichander, learned Special Government Pleader appearing for the official respondents draws attention to the



stipulation in G.O.(Ms) No.192 dated 01.06.2007 stating that the procedure followed in this year qua allocation is the correct procedure. According to him, the bifurcation that was effected till the last academic year was, in fact, incorrect, insofar as it had resulted in the State getting benefit of 75% of the seats, whereas, it was only entitled to 50% as per the prevailing legal position. Thus, he would urge that the Court not interfere in the present bifurcation as this reflected the proper methodology to be followed.

26. Learned counsel for R5, for her part, toes the line of the State, in addition, disavowing all responsibility, and stating that they have merely acted upon the mandate of the State year on year, and the present academic year is no exception. While in the earlier years they had surrendered, in terms of the agreements, a further 25% of the seats in addition to the 50% originally allotted to them, in the present year they have retained the entirety of the 50% allotted to them. There is little discretion available to them in such matters, she submits.

27. One of the tenets of fairness is consistency and transparency. If at all the respondents were of the view that there should be a change in allocation in the system of bifurcation followed thus far, they ought to have put this change in public domain in advance to enable the students to aware of such a proposed change and plan accordingly. Revealing the seat allocation at the last minute would result in jeopardising the students' interest and putting their plans to disarray.

28. In my view, the publication of seat matrix should be done well in advance to enable this process as springing it upon the students at the last minute would be directly opposed to the triple test of fair, transparent and non-exploitative process to be followed.

29. As far as the present Writ Petition is concerned, in light of the opinion expressed by me in paragraphs 22 to 28 above, the petitioner must be accommodated subject to her satisfying all other admission parameters in R5 college upon the premise that the procedure for seat allocation followed till last year, continues to exist in her case.

30. To be noted, that she is the only candidate who has questioned the procedure and thus, no omnibus direction is thought unnecessary as it would upset the apple cart needlessly. This decision will thus apply in personam qua the petitioner alone. She has been permitted vide interim order granted on



28.02.2022 to submit an application which, I am told, she has done.

31. Let the application be considered and her candidature for selection be considered in light of the discussion in this judgment, in accordance with all applicable rules and regulations barring the restriction placed by the seat matrix for the present year.

32. In concluding as above, I also draw support from an order passed by the Hon'ble Supreme Court in IA No.10741/2022 dated 14.02.2022 in re. Christian Medical College, Vellore challenging the allocation and distribution of seats for the present academic year. The Court, as an arrangement specific only to the present academic year, directed that the intake shall comprise partly, to the extent of 70%, of students drawn from the list of Christian minority students prepared by the State of Tamil Nadu on the basis of their NEET PG marks.

33. The remaining 30% of the seats were directed to be filled in by the management following the same procedure followed for the previous academic year, that is, 2020-2021. The order reads thus:

'I.A No.10741/2022:

On 19.01.2022, we directed that the admissions to the applicant college would be made from students belonging to Christian minority for PG courses 2020-21 from the NEET merit list. This I.A has been filed for a direction that allotment of students to the PG courses should be made from the All India merit list and not from the list prepared by the State for Christian minority students belonging to the State of Tamil Nadu.

A writ petition has also been filed by the students who completed their MBBS course from the applicant college raising similar grounds. That apart, the students belonging to the other states who have completed MBBS course in the applicant college are not being considered for admission on the ground that they are not residents in the state of Tamil Nadu. Yet another complaint which has been made by the students is that in service doctors have been given preference for admission in the application college by being allotted more marks.

The writ petition filed by the applicant is listed for hearing on 07.03.2022. The direction that was issued by this Court on 19.01.2022 relates to admissions to PG courses for the academic year 2021-2022 only. However, we are of the opinion that the order dated 19.01.2022 has to be clarified.



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Without entering into the merits of detailed submissions made by Mr. Shyam Divan, learned senior counsel for the applicant, Ms. Anitha Shenoy, learned senior counsel and Mr. Sheshadri Naidu, learned counsel appearing for the students in the writ petition as well as Mr. Amit Anand Tiwari, learned Additional Advocate General for the State of Tamil Nadu, we are of the considered view that admissions to the PG for the academic year 2021-2022 shall be made in the following terms:

70 % of the admissions shall be made from the list of Christian minority students prepared by the State of Tamil Nadu on the basis of the marks obtained by the students in NEET PG examination. The Remaining 30% of the seats shall be filled up by the management by the same procedure that was followed for the academic year 2020-2021. The students belonging to States other than the State of Tamil Nadu who have completed their MBBS course in CMC, Vellore shall be entitled to be treated as residents of the State of Tamil Nadu in accordance with the prevalent procedure followed in the State of Tamil Nadu, subject to their entitlement.

The applicant college is also directed to ensure that no unnecessary / additional conditions are imposed for admission to the PG courses for the academic year 2021-22.

We make it clear that this order is restricted only for the purpose of admission for the year 2021-2022 and shall not be treated as a precedent.

Interlocutory application stands disposed of. Pending application(s), if any, shall stand disposed of.

I.A.No.10893/2022:

By this application, the applicant seeks stay of operation and implementation of the communication dated 29.4.2021. A further direction is sought to the State to not interfere with the admissions of the NEET qualified candidates to UG MBBS course to the applicant institution. This I.A. is disposed of in terms of the IA No.10741/2022 and admissions to Under Graduate medical course in CMC Vellore for the academic year 2021-2022 shall be in the same manner and proportion as mentioned in the order in IA No.10741/2022. The only addition that requires to be made relates to admissions to the dependents of staff members working in CMC Vellore. We are informed by Mr. Shyam Divan, that the past practice followed by the institution was allotment of 10% seats of the undergraduate course every year to the children of the



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employees without insisting on their belonging to Christian Community. The interim arrangement for the present academic year is permitting the institution to make admissions to 30% of the seats by following the procedure that was followed for the year 2020-2021. 10% admissions to be allotted to the children of the staff members working in the applicant college would be within the said 30%. We reiterate that this order is restricted only for admissions to undergraduate course for the academic year 2021-2022.

Interlocutory application stands disposed of. Pending application(s), if any, shall stand disposed of.

List the writ petitions on 07.03.2022.'

34. I now advert to the larger issue touched upon by Mr.Sundaresan. 11 Judges of the Hon'ble Supreme Court came together to decide various seminal issues touching upon various aspects of the system of education in India in T.M.A Pai Foundation (supra). They considered inter alia the questions of Regulations to be framed relating to private unaided professional institutions.

35. While answering several questions in the context of who would constitute 'minority' under Article 30 of the Constitution of India and to what extent should regulation be provided for administration and control over educational institutions, agencies and bodies of minority institutions, the Bench notes that the essence of secularism in India would turn upon the recognition and preservation of different types of people with vast diversity in language, belief and culture, reiterating that though different, they stand together as a whole.

36. Thus the purport of Articles 29 and 30 should, while seeking to preserve the differences that exist, also be interpreted such that unity of all is maintained. Paragraph 161 of the judgement, to aforesaid effect, is extracted below. They urge, while answering one of the questions raised, that a rational procedure/mechanism be evolved by setting up statutory Tribunals to deal with the grievances arising from the management of aided and unaided institutions and employees thereof. Though rendered in 2002, no such mechanism has been evolved till date by the State.

161. The essence of secularism in India is the recognition and preservation of the different types of people, with diverse languages and different beliefs, and placing them together so as to form a whole and united India. Articles 29 and 30 do not more than seek to preserve the



differences that exist, and at the same time, unite the people to form one strong nation.

37. In Islamic Academy (supra), a Constitution Bench of the Hon'ble Supreme Court was constituted to clear doubts and anomalies that were raised in regard to various consequences that arose upon implementation of the judgment in T.M.A.Pai Foundation (supra).

38. On the question of admission of students by minority institutions, the Bench reiterated that merit, and merit alone, must guide the process of admission. Today, admission to medical courses is based upon the NEET scores, in addition to rules of reservation and regulations in the State and counselling is via a single window. In all, some measure of uniformity in the regime has been ushered in by these factors.

39. In paragraph 190 of the judgment in Islamic Foundation (supra), the Bench states that unless there exists any exigency normally the institutions will have the right to admit a higher percentage of students depending upon their need. However all such students must be admitted only on merit. In the event, some seats remain vacant, they must be filled by general category students strictly on merit.

40. They then proceed to discuss the special needs of minority institutions in the States, taking note of the position that the largeness or otherwise of a minority community in a State must be determined, and a proper percentage of seats fixed, that must be attributed to the community. The requirements of minority communities must be seen in the context of the total population of the State.

41. This would be the same whether the minority is linguistic or religion based. There are several other factors that would bear the relevance such as the need of different communities, the nature of the courses offered and importantly the need of the local community. The reference to local needs denotes the interests of the larger population in the State and if it is established that the local needs are in compelling public interest, they will have primacy over the need of the minority. They state at paragraph 169 onwards as follows:

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169. Unless there exists any exigency normally the institutions will have the right to admit a higher percentage of students depending upon their need. However all such students must be admitted only on merit. In the event, some seats remain vacant, they must be filled by general category students strictly on merit.



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170. As noticed hereinbefore, different States and different High Courts have laid down different percentages of seats for management and the State. The learned counsels appearing on behalf of parties have submitted that this Court may, with a view to avoid any future controversy, fix a definite percentage for the said purpose. We are afraid that it is not possible. Different institutions may be established by different minority communities. The need of the minority community may differ from State to State. The need of the minority community may have a nexus with the population belonging to that community in that State. It will further depend upon various other relevant factors. By way of example, we may say that in a State where the Percentage of a particular religion may be 30 or 35, the minority institution established by members of that religion may have a higher stake than the members of the community professing a religion but the population of which is negligible. Similar may be the case with minority institutions based on language.

171. The percentage of seats will also depend upon the need of the community in a particular State as also the need of the institution itself. The nature of the professional course would also have relevance. All these factors must be taken into consideration by the appropriate committee or Body so long a statutory regulation is not framed in this behalf.

172. Furthermore, the need of the community vis-a-vis the local needs must be judged upon taking into consideration the relevant factors and ignoring irrelevant ones. In terms of Paragraph 68 of the judgment, local need would be a relevant factor for the purpose of determining the percentage of students who would be admitted on non-minority quota. Local needs, if it is compelling state interest, will have, a primacy over the need of the minority community and in that view of the matter it would not be correct to lay down a proposition of law that the need of that community in the State would be paramount. Each case, thus, has to be considered on its own merit and no hard and fast rule can be laid down therefor.

173. For the aforementioned purpose also, a machinery should be evolved in the respective



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States, the decision of which shall be final and binding.

.....

MERIT :

175. Technical profession in general and medical profession in particular in all countries and in all ages has been considered to be a noble profession. To acquire excellence, these professions demand a very high calibre, which criteria can be satisfied only by the meritorious students. If we want to achieve very high standard which would be comparable to the standard of the developed countries, then merit and merit alone should be the basis of selection for the candidates.

176. Secondly, not only to maintain high standard of education, but also to maintain uniformity of standard, the right of selection of candidates for any professional course cannot be left to the discretion of any individual management. Efforts must be made to find out one single standard for all the institutions.

177. Thirdly, to ensure high standard of education and for that purpose to ensure admission to the most eligible candidates, requiring merit in a poor country like ours, the tuition and other fees should be within the reach of common people.

178. So far as minority institutions are concerned, merit criteria would have to be judged like a pyramid. At the kindergarten, primary, secondary levels, minorities may have 100% quota. At this level the merit may not have much relevance at all but at the level of higher education and in particular professional education and post graduate level education, merit indisputably should be a relevant criteria. At the post-graduation level, where there may be a few seats, the minority institutions may not have much say in the matter. Services of doctors, engineers and other professionals coming out from the institutions of professional excellence must be made available to the entire country and not to any particular class or group of people, All citizens including the minorities have also a fundamental duty in this behalf.

At paragraph 193, the Bench states as follows:.

193. Furthermore, the need of the community vis-a-vis the local needs must be judged upon taking into consideration the relevant factors and ignoring irrelevant ones. In terms of Paragraph 68



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of the judgment, local need would be a relevant factor for the purpose of determining the percentage of students who would be admitted on non-minority quota. Local needs, if it is compelling state interest, will have, a primacy over the need of the minority community and in that view of the matter it would not be correct to lay down a proposition of law that the need of that community in the State would be paramount. Each case, thus, has to be considered on its own merit and no hard and fast rule can be laid down therefor.

42. The emphasis is on merit and the overarching need to ensure that selection of students is merit-based. This must attain fruition when the needs of the minority as well as local needs are balanced and synchronised. In P.A.Inamdar, the question that lay before them related to appropriation by the State of a percentage of the seats held by a private institution. The Bench held this to be impermissible and would amount to nationalisation of seats, as held in T.M.A.Pai Foundation. However, they did say that it was left to the States to arrive into consensual agreements as to seat sharing, if the private party and the State could arrive at some agreement in this regard.

43. The educational system is compared with a pyramid-like structure, to state that the higher the level of education, the lesser would be the seats and higher the weightage and consideration for merit. Thus taken from primary to professional, post graduate level, the higher one were to ascend, the greater the play of merit in seat allocation and selection.

44. As a consequence, intervention of other factors at higher stages of professional and technical education would be far less when compared with primary levels of education. Needless to say this intervention must be transparent and clear as any opaqueness would have a telling effect upon the career of the students and the system of education itself.

45. The march of law as seen from the reading of the judgments in T.M.A.Pai Foundation, Ismalic Academy and P.A.Inamdar(supra) has been noticed in a more recent judgment by three Judges of the Hon'ble Supreme Court in Christian Medical College Vellore Association V. Union of India and others . In this matter, the validity of NEET as a procedure for admission to medical dental courses, both graduate and post-graduate, was questioned.



46. The procedure was re-affirmed holding that a centralised admission process does away with the evils of an unfair, non-transparent, otherwise exploitative admission process and also reduces the dangers of corruption and other unscrupulous practices that were being adopted in private medical colleges. Hence, in national interest and in the welfare of the students community, the Bench reiterated the position that a transparent, merit based selection that was in public interest, was the need of the hour.

47. On this seminal and all-important question of whether the process followed in allocation is itself correct, I would have only this to say. If quality must be the by-word to achieve professional and technical excellence, it is imperative that merit and nothing but merit, forms the touchstone for admissions. No doubt there have to be other considerations, bearing in mind various societal and economic parameters, in arriving at a decision, but the primary and overarching consideration must be merit.

48. As admitted by the State, the procedure followed by the State and private SF colleges till the last academic year has not resulted in an equitable distribution of seats, as the State had been absorbing more than 50% of the seats allotted, to itself. That apart, the 'consensuality' aspect of the arrangement is also rather suspect.

49. Let the State look into and revamp the procedure presently followed for allocation, as the procedure followed thus far hardly appears to be scientific, or based upon research. It is high time a deep study of all parameters are undertaken and a proper mechanism evolved for allotment of seats in SF institutions in line with the observations of the Hon'ble Supreme Court that achieve the balance between scientific, transparent and inclusive. A tall order, no doubt, but one that must be undertaken in the interests of the State, forthwith.

50. This Writ Petition is allowed in the aforesaid terms. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Government of Tamil Nadu,
Department of Health and Family Welfare,
NamakkalKavignarMaaligai,
Fort St. George, Chennai 600 009.
2. Directorate of Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpauk, Chennai-600 010.
3. Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpauk, Chennai-600 010.
4. The Tamil Nadu Dr. M.G.R. Medical University,
69, Anna Salai, Rd, Guindy,
Chennai, Tamil Nadu 600 032.
5. National Medical Commission,
Pocket -14, Sector-8, Dwarka Phase-1,
New Delhi - 110 077.

+1cc to M/s.AL.Gandhimathi, Advocate, S.R.No.17224
+1cc to M/s.P.R.Umamaheswari, Advocate, S.R.No.17958
+1cc to the Government Pleader, S.R.No.17792

W.P. No.4660 of 2022 and
WMP.Nos.4776, 4777 & 4780 of 2022

SPD(CO)
SB(24/03/2022)