



W.A.No.1383 of 2022 and W.P.Nos.14836, 11952 and 11966 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

CORAM :

**THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.A.No.1383 of 2022, W.P.Nos.14836, 11952 and 11966 of 2022
and W.M.P.Nos.14049, 11371 and 11390 of 2022

W.A.No.1383 of 2022:

1. State of Tamil Nadu
represented by its Secretary,
Health and Family Welfare Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 09.
2. Selection Committee,
represented by its Director,
Directorate of Medical Education,
No.162, Periyar-EVR High Road,
Kilpauk, Chennai - 600 010. .. Appellants

Versus

1. Annapoorna Medical College & Hospital,
Rep. by its Dean Dr.P.Shanmugam,
2. Union of India
Rep. by its Secretary,
Ministry of Health and Family Welfare,
A wing, Nirman Bhavan,
Maulana Azad Road,
New Delhi - 110011. .. Respondents



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W.P.No.14836 of 2022:

1. Suganya.G.
2. Lekha Shree.V.
3. Dheekshika.A
4. Sakthi Sri.S
5. Martin Vincent
6. Deepika.S
7. Deepika.S
8. Jhazhrudhan.S.N
9. Aathithyaa.S
10. Snega.V
11. Gopika.S
12. Prafulla.J
13. Blessy.R
14. Devyani Patra
15. Sushmitha.A
16. Shanmugapriya.B
17. Vaishnavi.M

.. Petitioners

Versus

1. Union of India
Rep. by its Secretary,
Ministry of Health and Family Welfare,
A wing, Nirman Bhavan,
Maulana Azad Road,
New Delhi - 110 011.
2. State of Tamilnadu,
Represented by its Secretary,
Ministry of Health & Family Welfare,
Namakkla Kavignar Maaligai,
Fort. St.George,
Chennai - 600 009.



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3. Selection Committee,
Represented by its Director,
Directorate of Medical Education,
162, Periyar E.V.R High Road, Kilpauk,
Chennai - 600 010.
4. The Tamil Nadu Dr.M.G.R.Medical University,
Represented by its Registrar,
No.69, Anna Salai, Guindy,
Chennai - 600 032.
5. Annapoorana Medical College & Hospitals,
Rep. by its Dean Dr.P.Shanmugam .. Respondents

W.P.No.11952 of 2022:

Snekhapriya .. Petitioner

Versus

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health & Family Welfare Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Director of Medical Education,
Kilpauk,
Chennai - 600 010.
3. The Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.
4. The National Medical Commission,
Pocket 14, Sector 8,
Dwaraka Phase 1,
New Delhi - 110077.



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5. The Dean,
Annapoorna Medical College & Hospital,
Sankari Main Road,
Veerapandi Union,
Salem & District.

.. Respondents

W.P.No.11966 of 2022:

Chandiravathani

.. Petitioner

Versus

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health & Family Welfare Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Director of Medical Education,
Kilpauk,
Chennai - 600 010.
3. The Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.
4. The National Medical Commission,
Pocket 14, Sector 8,
Dwaraka Phase 1,
New Delhi - 110077.
5. The Dean,
Annapoorna Medical College & Hospital,
Sankari Main Road,
Veerapandi Union,
Salem & District.

.. Respondents



W.A.No.1383 of 2022 and W.P.Nos.14836, 11952 and 11966 of 2022

Prayer in W.A.No.1383 of 2022 : Writ Appeal filed under Caluse 15 of Letters Patent to set aside the order, dated 28.04.2022 made in W.P.No.11040 of 2022 and allow this Writ Appeal.

Prayer in W.P.No.14836 of 2022 : Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus directing the respondents 1 to 4 to register the petitioners as M.B.B.S students admitted for the academic year 2021-22 in the 5th respondent College and provide their registration numbers.

Prayer in W.P.No.11952 of 2022 : Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus directing the 5th respondent to grant admission to M.B.B.S course for the academic session 2021-2022 based on the allotment order issued by the 3rd respondent/Selection Committee, dated 26.04.2022 forthwith.

Prayer in W.P.No.11966 of 2022 : Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus directing the 5th respondent to grant admission to M.B.B.S course for the academic session 2021-2022 based on the allotment order issued by the 3rd respondent/Selection Committee, dated 26.04.2022 forthwith.

In W.A.No.1383 of 2022

For Appellants : Mr.J.Ravindran,
Additional Advocate General
Assisted by Mr.A.Selvendran,



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W.A.No.1383 of 2022 and W.P.Nos.14836, 11952 and 11966 of 2022

Special Government Pleader, for A1

: Mrs.N.Sneha, for A2

For Respondents : Mr.P.H.Arvind Pandiyan, Senior Counsel
for M/s.Kavitha Deenadayalan, for R1



W.A.No.1383 of 2022 and W.P.Nos.14836, 11952 and 11966 of 2022

In W.P.No.14386 of 2022

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For Petitioners : Mr.N.Surya Narayanan

For Respondents : Mr.J.Ravindran,
Additional Advocate General
Assisted by Mr.A.Selvendran,
Special Government Pleader, for R2

: Mrs.N.Sneha, for R3

: Mr.P.H.Arvind Pandiyan, Senior Counsel
for M/s.Kavitha Deenadayalan, for R4

In W.P.No.11952 of 2022

For Petitioner : Mr.D.Ashok Kumar

For Respondents : Mr.J.Ravindran,
Additional Advocate General
Assisted by Mr.A.Selvendran,
Special Government Pleader, for RR-1 and 2

: Mrs.N.Sneha, for R3

: Mr.P.H.Arvind Pandiyan, Senior Counsel
for M/s.Kavitha Deenadayalan, for R5

In W.P.No.11966 of 2022

For Petitioner : Mr.D.Ashok Kumar

For Respondents : Mr.J.Ravindran,
Additional Advocate General
Assisted by Mr.A.Selvendran,
Special Government Pleader, for RR-1 and 2

: Mrs.N.Sneha, for R3



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COMMON JUDGMENT

D.BHARATHA CHAKRAVARTHY, J.

W.A.No.1383 of 2022 is filed by the State of Tamil Nadu represented by the Secretary to Government, Health and Family Welfare Department and the Selection Committee, represented by its Director, Directorate of Medical Education, aggrieved by the order of the learned Single Judge, dated 28.04.2022 in W.P.No.11040 of 2022. By the said order, the learned Single Judge allowed the Writ Petition filed by the first respondent/writ petitioner namely, *Annapoorna Medical College and Hospitals*, praying to issue a mandamus directing the Selection Committee to issue allotment orders to 17 students admitted under the stray vacancy counselling by the said college so that the admission of the said students for the academic year 2021-2022 can be duly registered by the other respondents.

2. W.P.No.14836 of 2022 is filed by the said 17 students, praying for a Writ of Mandamus directing the respondents to register them as M.B.B.S students duly admitted for the academic year 2021-2022 and provide their registration numbers.



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3. W.P.Nos.11952 of 2022 and 11966 of 2022 is filed by one *Snekhapriya* and *Chandiravathani*, two students, praying that the fifth respondent namely, the above-mentioned *Annapoorna Medical College and Hospitals*, to grant admission to them to the M.B.B.S course for the academic year 2021-2022 based on the allotment order issued by the Selection Committee.

4. Since the prayers in the above Writ Appeal and the above Writ Petitions pertain to the same cause of action, the above three writ petitions were tagged along with the above Writ Appeal and are accordingly heard together and disposed off by this common judgment.

5. The brief facts leading to the above appeal and petitions are that *Annapoorna Medical College and Hospitals* is a self-financing institution, approved by the respondents, having sanctioned intake of 150 M.B.B.S seats every year. While so, the Selection Committee published the medical admission prospectus on 15.12.2021 for the academic year 2021-2022, wherein, the admission schedule was specified. As per the same, the special



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counselling for 7.5% government school students was conducted on 28.01.2022 and completed on 03.02.2022. The first round of general quota counselling was conducted between 30.01.2022 to 22.02.2022. The second round was conducted during 16.03.2022 to 24.03.2022. The mop up counselling took place from 26.03.2022 to 04.04.2022. Further, the extended mop up counselling for stray vacancies was to be conducted from 07.04.2022 to 10.04.2022 and was also extended by one day, i.e., till 11.04.2022.

6. For the purposes of filling in the stray vacancies by its email dated 07.04.2022, the Selection Committee forwarded the entire list of eligible unallotted candidates. As per the prospectus, the stray vacancies after the mop up counselling has to be filled up by the respective college as per the list of eligible candidates furnished by the Selection Committee. Paragraph No.14 of the prospectus deals with the phases of counselling, in which, in page No.24, under the head 'Mop Up Counselling', the said procedure is clearly stated in paragraph III(c), and it is useful to extract the same:

“If there is any vacancies available for MBBS/BDS course in Self Financing Medical / Dental Colleges even after MOP UP Counselling, that Vacant Seats will be considered as Stray



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Vacancies. It will be filled by the respective Self Financing Medical / Dental Colleges as per the list of eligible candidates furnished by Selection Committee.”

7. As such, by repeated emails, on 07.04.2022, the Selection Committee has been sending the list of eligible unallotted candidates so as to enable the college to send bulk SMS and call them for admission and to fill up the stray vacancies. After the cut-off date was over on 11.04.2022, on 12.04.2022, *Annapoorna Medical College and Hospitals* informed the Selection Committee of the list of 11 students admitted by it, out of the 28 unfilled seats, as per the approved format and merit list for the reference of the committee. It is necessary to extract the exact wordings of the email:

“ We are herewith enclosing 1st list of 11 students out of 28 unfilled seats as per your approved format and merit list for your kind reference.

Kindly issue us the allotment orders for the students listed below and do the needful.”

8. It is pertinent to state here that apart from the self-financing seats, on the same day, *Annapoorna Medical College* also wrote to the Selection Committee by email requesting to send a list of government quota students



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in respect of the four vacancies and the said communication is extracted hereunder:

“ As per our admitted list sent to earlier 4 GQ seats are still vacant and no students are willing to join from the 1st list of GQ students.

Kindly send the 2nd and 3rd GQ list and do the needful.”

9. In response thereof, by their email, dated 12.04.2022, the Selection Committee also sent the second, third, and final batch of eligible students for the government quota to be admitted. Thereafter, on 16.04.2022, *Annapoorna Medical College*, by its communication, dated 11.04.2022, bearing Ref.No.104/AMCH/A1/2022, submitted a list of 28 students, thereby, stating that all the stray vacancies are filled from the Selection Committee merit list. The above communication reads as follows:

“ As per reference and the subject cited above, we are herewith enclosing (Annexure – I) the list of MBBS Course students filled under stray vacancies Quota from the Selection Committee Merit list for the academic year 2021-2022.

This is for your kind information and we request your good office to issue the allotment orders for the enclosed list of students and do the needful.”



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10. The Selection Committee did not make any positive response in respect of the said request. On 19.04.2022, the Selection Committee wrote to the Additional Director General, Ministry of Health and Family Welfare, New Delhi stating that 4 seats in government quota and 14 seats in management quota remain unfilled after the stray vacancy admission process was completed by 11.04.2022 and requested for the conduction of special stray vacancy round for filling up the vacancies from 24.04.2022 to 28.04.2022.

11. On 24.04.2022, by his communication, the Additional Director General – Member Secretary, Ministry of Health and Family Welfare, Government of India informed that the last date for admission for the academic year 2021-2022 for M.B.B.S courses shall be 28.04.2022.

12. Pursuant thereof, the Selection Committee allotted candidates to the above said stray vacancies to be filled up by the said *Annapoorna Medical College* on 26-04-2022. In view of the said action, *Annapoorna Medical College*, on the same day i.e., 26.04.2022 filed W.P.No.11040 of



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2022 praying for a Writ of Mandamus for issuing allotment orders to the candidates already admitted by it as stated supra. After appearance on behalf of the respondents, the said Writ Petition was disposed off by the learned Single Judge, by an order dated 28.04.2022.

13. The learned Single Judge, after considering the objections on behalf of the respondents and the timeline of events, found that even in respect of the last day as claimed as on 11.04.2022, no materials were placed evidencing the said position. The list of 11 students was forwarded on 12.04.2022 and thereafter, the complete set of 28 students were forwarded by email only on 20.04.2022. The learned Single Judge overruled the objection that the procedure followed by the college by allocating seats by itself is erroneous and that the admission slip should be issued by the Selection Committee. The learned Single Judge held that the prospectus makes it clear that the filling in of the stray vacancies is to be done by the colleges themselves, from and out of the list furnished by the Selection Committee. Therefore, the procedure followed by *Annapoorna Medical College* was held to be in order.



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14. The learned Single Judge found that the other objection that they could not have filled up the vacancies on 24.04.2022 when there was no extension of time cannot be countenanced, since, subsequently, the last date has been stipulated as 28.04.2022. The learned Single Judge further found that all the 17 students were admitted only from the list forwarded by the Selection Committee and even among the 17, 2 students were also in the last list of allotment sent by the Selection Committee for admission on 26.04.2022. Therefore, the learned Single Judge allowed the Writ Petition as prayed for. Aggrieved by the same the present Writ Appeal is filed.

15. In the meanwhile, the concerned 17 students have filed the above Writ Petition praying for the relief of regularising their admission as stated above. Two of the candidates allotted by the Selection Committee on 24.04.2022 to be admitted by *Annapoorna Medical College* on 26.04.2022, reported to the college and the college informed them that already it had filled in the vacancies and had filed the above Writ Petition. In spite thereof, they reported to the college upto 28.04.2022 and aggrieved by the fact that in spite of allotment by the Selection Committee, the College did



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not grant admission, they filed the above Writ Petitions for direction to admit them.

16. Heard *Mr.J.Ravindran*, the learned Additional Advocate General for the appellants, *Mr.D.Ashok Kumar*, the learned Counsel for the two students who are not admitted - the petitioners in W.P.No.11952 of 2022 and W.P No.11966 of 2022, *Mr.P.H.Arvind Pandiyan*, the learned Senior Counsel appearing for the respondent/ *Annapoorna Medical College*.

17. *Mr.J.Ravindran*, the learned Additional Advocate General drew the attention of this Court to the original timeline that the admissions for stray vacancies had to be made by 11.04.2022. From the email communication of *Annapoorna Medical College*, dated 12.04.2022, it is clear that they had admitted only 11 students as on 11.04.2022 in respect of the 28 vacancies. After 11.04.2022, they do not have any right whatsoever to admit students beyond the cut-off date. Thereafter, they submitted a communication to the Selection Committee on 16.04.2022. However, it is dated 11.04.2022, in which, surprisingly, they stated as if they had admitted students for all the 28 vacancies on 11.04.2022 itself. If they had admitted



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28 students as on 11.04.2022, they would not have informed as if they had admitted only 11 students in their email, dated 12.04.2022. Thus, it can be seen that the action of the college is highhanded and the college have chosen to take a deliberate risk and play with the life and careers of the students. In any event, as per the affidavit, it is averred that the College granted admission to the said students only on 13.04.2022, on which date, there was no mandate for the college to admit the students as the extension of time, upto 28.04.2022, was announced only on 24.04.2022.

18. The learned Additional Advocate General would further submit that once the time was extended, the Selection Committee is entitled to allot the students for stray vacancies and as a matter of fact, it had forwarded the allotment list on 24.04.2022 with direction to admit them on 26.04.2022. The said students are arbitrarily denied admission by the college. Therefore, the admissions made by the college is illegal and does not deserve allotment order / regularising the admission. The college alone is responsible for the plight of the students. The students cannot be held as a shield by the erring college. The learned Single Judge had decided the writ petition without considering the above-mentioned fraudulent act of the college and no



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finding, whatsoever, has been rendered in regard to the contention to the respondents. Therefore, the Writ Appeal is to be allowed.

19. *Mr.D.Ashok Kumar*, the learned Counsel appearing on behalf of the two students, would submit that the said two students have been lawfully allotted by the Selection Committee. They had promptly reported to the college on 26.04.2022. However, they have been illegally denied admission. As a matter of fact, both the said students could not secure admission in any other college and prays that the Writ Petitions filed by the students be allowed and they be granted admission.

20. *Per contra*, *Mr.P.H.Arvind Pandiyan*, the learned Senior Counsel, appearing on behalf of the college, would contend that firstly, the college had granted admission to the students only from the list provided by the Selection Committee. As per the prospectus, which is extracted above, the procedure for filling in the stray vacancies is not by allotment list to be forwarded by the Selection Committee. The respective colleges can make admission from the list forwarded to them by the email, dated 11.04.2022. After forwarding the entire list of eligible unallotted candidates to the



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college for the purpose of granting admission by the college itself, there was no question of the Selection Committee forwarding a list of another 5 candidates as on 24.04.2022 with further direction to admit them on 26.04.2022.

21. The learned Senior Counsel would contend that the last date for admission, in any event, has been extended up to 28.04.2022 and therefore, the admission of the students is within the permitted time limit. The objection made by the appellants that the admissions were made beyond the cut-off date would not survive in view of the extension of time. The learned Senior Counsel would also submit that it can be seen that even the Selection Committee has been forwarding candidates on 12.04.2022, expecting extension of time which would be clear from their email in respect of government quota candidates. As far as the alleged highhandedness on the part of the college is concerned, the learned Senior Counsel would submit that the first mail sent by the college on 12.04.2022 clearly states that it is the first list of admitted candidates. Therefore, the second communication was sent containing all the candidates. This apart, the college has categorically stated in the affidavit, filed in support of the Writ Petition, that



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the admissions were made only on 13.04.2022 and there is no highhandedness on the part of the college in filling up the stray vacancies, when everybody, including the Selection Committee, were expecting extension of time. The learned Senior Counsel would submit that the only error committed by the college is that when they submitted the letter containing 28 students, instead of dating the same as 16.04.2022, which is the date of the submission, the original last date of admission being 11.04.2022 was mentioned in the letter as the date of admission. Therefore, the learned Senior Counsel would submit that the learned Single Judge has rightly allowed the Writ Petitions and the students are undergoing the courses and till date the necessary allotment orders are not issued by the Selection Committee and their admissions are not registered by the other respondents / authorities on account of which the students' career is put to jeopardy as the internal examinations are fast approaching.

22. We have considered the rival submissions made on either side and perused the material records of the case. In this case, we are concerned with the admission to the stray vacancies after the mop up counselling. The method of filling up the same is categorically delineated in the prospectus



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vide para 14 – III(c) extracted above. From the same, it is clear that stray vacancies have to be filled up only by the concerned college and should be from the list forwarded by the Selection Committee. Accordingly, we find the procedure adopted by *Annapoorna Medical College*, by filling up all the 28 stray vacancies from among the candidates as per the list forwarded by the Selection Committee *vide* its email, dated 11.04.2022, is in order and the action of the Selection Committee in forwarding an allotment list of 15 candidates for stray vacancies on 24.04.2022 to be admitted on 26.02.2022 is directly contrary to the prospectus and hence illegal.

23. We are next concerned with the admission of 17 candidates. Of the 17 candidates, the learned Additional Advocate General has no objection in respect of 11 candidates who are admitted on 11.04.2022. Even among the balance 17 candidates, since 2 candidates were also in the allotment order of the Selection Committee and hence there is no objection. We are therefore concerned with the fate of the remaining 15 candidates. Firstly, their eligibility is not in question as they are in the merit list forwarded by the Selection Committee. Secondly, their admission procedure has been found to be in accordance with the prospectus.



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Therefore, the only irregularity is that as on date of their admission, the announcement of the Central Government extending the time upto 28.04.2022 had not come. However, subsequently the order of the Ministry of Health & Family Welfare Services reads as follows:

.....

<i>S/ No.</i>	<i>Counselling for Courses</i>	<i>Last date of admission for the academic year 2021 for MBBS courses</i>
<i>1.</i>	<i>MBBS</i>	<i>28th April, 2022</i>

24. Once 28.04.2022 is announced as last date, the admissions made until the last hour of 28.04.2022 are deemed to be within the time and it cannot be said that the admissions made during the period between the original cut-off date i.e., 11.04.2022 and the date of announcement i.e., 24.04.2022, will be illegal. Once the last date is announced the authorities concerned have the mandate to admit the students on all days upto 28.04.2022 and therefore there is no illegality in the admission of the said students. Once there is no illegality and the students being admitted on merit, we hold that they are entitled for the necessary formal allotment orders from the Selection Committee and registration by all other



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appropriate authorities. Therefore, the Learned Single Judge has rightly allowed their writ petition.

25. The W.P.No.14836 of 2022 is also filed by the said 17 students for the very same relief and therefore, the same shall stand allowed in terms of the order of the learned Single Judge in W.P.No.11040 of 2022 filed by the *Annapoorna Medical College*.

26. Coming to the Writ Petitions filed by *Snekhapriya* and *Chandiravathani*, firstly, we are of the view that their very allotment by the Selection Committee on 24.04.2022 is illegal and is in contravention of the prospectus, as there were only stray vacancies to be filled up and therefore, they do not have any consequential right to admission. This apart, the last date of admission was on 28.04.2022. When they reported to the college on 26.04.2022, already the college had moved the above Writ Petition and in view thereof, they were rightly denied admission since the seats were already filled up. Once the mop up counselling is also over, the students cannot even have any legitimate expectation for allotment as the same is not provided in the prospectus. Even though the petitioners are put to anxiety



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and unnecessary hardship due to the error committed by the Selection Committee, no relief could be granted to them as there are no other vacancies and the last date for filling up of the seats also ended on 28.04.2022 and their Writ Petitions are filed only on 02.05.2022. Therefore, finding no merits the said writ petitions are dismissed.

27.In the result:

- a. The W.A.No.1383 of 2022 stands dismissed;
- b. The W.P.Nos.11952 of 2022 and 11966 of 2022 stand dismissed;
- c. The W.P.No.14836 of 2022 stands allowed in terms of the order dated 28.04.2022 in W.P.No.11040 of 2022;
- d. The appellants as well as the official respondents are directed to do the needful of issuing the formal orders of allotment, registration, etc., so that the 28 students, including the 17 the Writ Petitioners in W.P.No.14836 of 2022, can pursue the M.B.B.S course for the academic year 2021-22, without any hardship, at *Annapoorna Medical College and Hospitals*; and
- e. There shall be no order as to costs;



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f. Consequently, the connected miscellaneous petitions are closed.

(T.R., ACJ.)

(D.B.C., J.)

22.12.2022

Index : yes
Speaking order
grs

To

1. The Secretary,
Ministry of Health and Family Welfare,
A wing, Nirman Bhavan,
Maulana Azad Road,
New Delhi - 110 011.
2. The Secretary,
Ministry of Health & Family Welfare,
Namakkla Kavignar Maaligai,
Fort. St.George,
Chennai - 600 009.
3. The Director,
Directorate of Medical Education,
162, Periyar E.V.R High Road, Kilpauk,
Chennai - 600 010.
4. The Tamil Nadu Dr.M.G.R.Medical University,
Represented by its Registrar,
No.69, Anna Salai, Guindy, Chennai - 600 032.
5. The Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.
6. The National Medical Commission,
Pocket 14, Sector 8,



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7. The Dean,
Annapoorna Medical College & Hospital,
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**T.RAJA, ACJ.,
AND
D.BHARATHA CHAKRAVARTHY, J.,**

grs

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22.12.2022