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W.P.NO.17457 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.17457 of 2022

Dr.Ayna Ovezova

... Petitioner

Versus

- 1.The Principal Secretary to Government,
Health, Medical Education and Family Welfare Department,
Chennai-600009.
2. The Director of Medical Education,
No.156, Poonamallee High Road,
Chennai -600010.
3. The Selection Committee
Directorate of Medical Education,
162, Periyar E.V.R.High Road,
Kilpauk, Chennai-600010.
4. The Medical Counselling Committee
Directorate General of Health Services,
Nirman Bhavan,
New Delhi-110108.
5. The National Medical Commission,
Pocket-14, Sector 8, Dwaraka Phase-1,
New Delhi-110077.
6. Director General of Health Service,
(DGHS) Nirman Bhavan,
Maulana Azad Road,
New Delhi-110011

... Respondents



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Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus directing the 1st and 2nd respondents to consider the petitioner's representation dated 28.06.2022 to issue appropriate notifications and or instructions to include Overseas Citizens of India (OCI) to be eligible for admission against any NRI seat or any supernumerary seat for post graduate degree courses under the management quota in the Self Financing Medical Colleges in Tamil Nadu in the prospectus for the forthcoming year 2022-2023 as per the Ministry of Home Affairs, Government of India Notification dated 04.03.2031.

For Petitioner : Mr.J.Saravana Vel

For Respondents : Mr.J.Ravindran
Addl.Advocate General
assisted by
Mr.T.Seenivas
Spl.Government Pleader
For R.1 and R.2

Mr.J.Ravindran
Addl.Advocate General
assisted by
Ms.Sneha
For R.3

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the 1st and 2nd respondents to consider the petitioner's representation dated 28.06.2022 to issue appropriate notifications and or instructions to include Overseas Citizens of India (OCI) to be eligible for



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admission against any NRI seat or any supernumerary seat for the post graduate degree courses under the management quota in the Self Financing Medical Colleges in Tamil Nadu in the prospectus for the forthcoming year 2022-2023 as per the Ministry of Home Affairs, Government of India Notification dated 04.03.2021.

2. Heard Mr.J.Saranavel, learned counsel for the petitioner and Mr.J.Ravindran, learned Additional Advocate General accepts notice on behalf of the respondents. By consent of both the parties, this writ petition has been taken up for final disposal at the admission stage itself.

3. According to the petitioner, she is an OCI card holder and is a citizen of Turkmenistan. She has married an Indian citizen and has got two children and they are permanent residents of Kanyakumari District. In the year 2021, she has also written NEET examination. However, according to the petitioner, as per the prospectus issued for the year 2020-2021, in respect of admissions to post graduation courses in Government and Self Financing Medical Colleges, it is stipulated that only Indian Citizens can be admitted to those courses. According to the petitioner, it is contrary to the Gazette Notification dated 04.03.2021 issued by the Ministry of Home Affairs which



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entitles the petitioner as an OCI card holder to appear for All India Entrance tests such as National Eligibility cum Entrance Test, Joint Entrance Examination (Mains), Joint Entrance Examination (Advanced) or such other tests, to make them eligible for admission only against any Non-Resident Indian seat or any other supernumerary seat. Since the petitioner apprehends that the same prospectus which was issued last year will be issued this year also, which according to the learned counsel for the petitioner, is contrary to the Government of India Notification dated 04.03.2021 referred to supra, the petitioner has given a representation on 28.06.2022 requesting the respondents 1 and 2 to issue appropriate notifications and or instructions to include Overseas Citizens of India (OCI) to be eligible for admission against any NRI seat or any supernumerary seat for post graduate degree courses under the management quota in the Self Financing Medical Colleges in Tamil Nadu, in the prospectus for the forthcoming year 2022-2023.

4. Learned counsel drew the attention of this Court to the prospectus issued for the last academic year and also the Notification issued by Government of India referred to supra and also submits that if the same prospectus is issued for this academic year also, it will be contrary to the Notification. Learned counsel also submits that she is entitled to be considered



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for admission to PG courses against the NRI seats and supernumerary seat and further submits that since the Notification is of recent origin, the prospectus to be issued by the Government of India for admission to Post Graduate Degree courses in management quota including NRI of Self Financing Medical Colleges in Tamil Nadu for the Academic Year 2022-2023, has to include Overseas Citizens of India (OCI) candidates also.

5. No prejudice would be caused to the respondents if the petitioner's representation is considered on merits and in accordance with law in the light of the Notification dated 04.03.2021 issued by Ministry of Home Affairs, Government of India.

6. The learned Additional Advocate General appearing for the respondents fairly submits that the representation of the petitioner will be considered on merits and in accordance with law after affording a fair hearing to the petitioner.

7. After recording the rival submissions and after giving due consideration to the Notification issued by the Ministry of Home Affairs, referred to supra, this Court directs the respondent 1 and 2 to consider the



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petitioner's representation dated 28.06.2022 requesting the respondents 1 and 2 to issue appropriate Notification and or instructions to include Overseas Citizens of India (OCI) to be eligible for admission against any NRI seat or any supernumerary seat for post graduate degree courses under the management quota in the Self Financing Medical Colleges in Tamil Nadu in the prospectus for the forthcoming academic year 2022-2023, on merits and in accordance with law, after affording a fair hearing to the petitioner, within a period of two weeks from the date of receipt of a copy of this order.

8. With the aforesaid direction, the writ petition is disposed of. No costs.

08.07.2022

sr

Index: Yes/No

Speaking Order/Non-Speaking Order

Note: Issue order copy on 11.07.2022

To

1.The Principal Secretary to Government,
Health, Medical Education and Family Welfare Department,
Chennai-600009.

2. The Director of Medical Education,
No.156, Poonamallee High Road,
Chennai -600010.

<https://www.mhc.tn.gov.in/judis>



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3. The Selection Committee
Directorate of Medical Education,
162, Periyar E.V.R.High Road,
Kilpauk, Chennai-600010.
4. The Medical Counselling Committee
Directorate General of Health Services,
Nirman Bhavan,
New Delhi-110108.
5. The National Medical Commission,
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6. Director General of Health Service,
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ABDUL QUDDHOSE, J

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