

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.26400 of 2022
and W.M.P.No.25475 of 2022

R.Shreeram, Age-17 Years
Rep.by his Father R.Raja
No.94A, East Raja Street
Big Kancheepuram
Kancheepuram – 631 502.

.... Petitioner

-Vs-

- 1 The Secretary to Government
Government of India
Ministry of India, Ministry of Human
Resources Development, New Delhi.
- 2 The Chair Person
National Testing Agency 9C/20 1A/B Sector
62 IITK Qutreach Centre Noida Uttar Pradesh
- 3 The Senior director
(NEET(UG)) 9C/20 1A/B Sector 62 IITK
Outreach Centre Noida Uttar Pradesh.
- 4 The Director of Medical Education
(Neet Counseling 2020) 162 EVR
Periyar Salai Kilpauk Chennai.
- 5 The National Medical Commission
rep. by its Board of Governors
(Ministry of Health and Family Welfare)
Pocket 14 Section VIII Dwaraka Phase-1 New
Delhi-111 077.

- 6 The National Testing Agency
Rep. by TSG NEET Unit Additional Block-C-
20/1A 8 Sector-62 Noida Uttar Pradesh-201
309.
- 7 The Medical Counseling Committee (MCC)
Rep.by its Chairman, DGHS, Ministry of
Health and Family Welfare, Government of
India, Room No.348, 'A' Wing, Nirman Bhavan
New Delhi- 110 011.
- 8 The Associate Dean for Graduation Medical
Education (AGDME), Directorate General of
Health Services, Nirman Bhawan,
New Delhi – 110 011.
- 9 The National Medical Commission
rep.by its Chairperson,
Pocket 14 Section VIII Dwaraka Phase-1 New
Delhi-111 077.

(Respondents 7 to 9 impleaded vide order
dated 18.10.2022 in WMP No.26858 of 2022)

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing respondents to consider the petitioners representation dated 23.09.2022 thereby make changes in the category General to OBC Category with regard to the petitioners Online Application Number 220410765889 and Roll Number 4101280408 in the National Eligibility cum Entrance Test (UG) (NEET) for the course of MBBS based on the petitioners OBC Certificate dated 03.09.2022 vide No. TN-620220831252 issued by the Tahsildar, Kancheepuram.

For Petitioner : Mr.S.L.Sudarsanam

For Respondents : Mr.B.Rabu Manohar
Senior Central Government
Standing Counsel – for R1

Ms.Sunita Kumari, Standing Counsel
-for RR 2 to 4, 6 and 9

Ms.Shubharanjani Ananth
Standing Counsel – for R5

Ms.V.Sudha, Standing Counsel-for RR 7&8

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the respondents to forthwith change the category of the petitioner from General (UR) to OBC (Other Backward Class) in his Application No.220410765889 and his Roll Number is 4101280408 for the NEET (UG)-2022 for UG Counselling for MBBS / BDS and Nursing-2022.

2. The petitioner has passed Higher Secondary Course examination during May 2022 and the petitioner, in order to undergo the medical course, has submitted an on-line application to write the NEET UG-2022 examination. His Application No.is 220410765889 and Roll No. is 4101280408. He belongs to OBC community and the competent authority viz., Tahsildar, Kancheepuram has also given a certificate that the petitioner belongs to OBC and he was issued OBC

certificate dated 03.09.2022.

3. When that being so, the petitioner at the time of making the on-line application, since it has been done through an E-Seva Kendra, the data entry operator instead of mentioning the community to which the petitioner belongs as OBC, has chosen as General ie Unreserved (UR) category.

4. Only after the examinations were over and results were published, after verifying the marks obtained the petitioner noticed that he was considered as General (UR) category. Then only he realized the mistake committed through the data entry operator while making the on-line application. Therefore, in order to change the community of the petitioner from 'General (UR)' to 'OBC' the petitioner has given a representation to the respondents on 23.09.2022. However, so far the same has not been considered and no change of community has been permitted, the petitioner has approached this Court by filing the present writ petition.

5. Heard Mr.S.L.Sudarsanam, learned counsel for the petitioner, who would submit that this kind of mistake has occurred at the time of filling the on-line application by the data entry operator as the student would not be permitted to enter the data and only the data entry operator employed in the E-Seva

Kendra would be able to enter the data. Therefore, in order to rectify this mistake when similarly placed persons like the petitioner had approached this Court, this Court had shown its indulgence in number of cases.

6. In this context, the learned counsel for the petitioner has relied upon the following judgments.

6.1. In W.P.No.6078 of 2022 dated 16.03.2022 (**K.Sanjeev Ganesh -vs- The Government of India and others**), this Court has given the following directions.

“ 6. There is thus a direction to R3, represented by Mr.Subbu Ranga Bharthi, learned Standing Counsel to consider the request of the petitioner, made on 14.03.2022 via e~mail, verify the community certificate that is stated to be enclosed with the aforesaid representation and if the same is in order, carry out the change in category of the petitioner from UR to OBC, within a period of one week from today.

7. This writ petition is disposed in the above terms. Consequently, connected miscellaneous petition is closed. No costs.”

6.2. In W.P.No.7108 of 2022 dated 24.03.2022 (**D.Deepika Shree -vs-**

The Government of India and Others), a learned Judge of this Court has given the following directions.

“ 6.Hence, there is a direction to R2 to permit the petitioner to participate in the mop-up and stray vacancy rounds for Counselling for MBBS/BDS and Nursing for 2021 as and when they take place and consider her candidature in the category of OBC.

7.This writ petition is disposed, as above. No costs. Consequently, connected miscellaneous petition is closed.”

6.3. Likewise, in another case in W.P.No.19405 of 2022 dated 27.07.2022 **(L.Anjana -Vs- The Government of India and others)**, this Court has passed the following orders.

“ 5. The petitioner claims that by inadvertence, in her on-line application, she has mentioned her Community as General (UR) instead of Other Backward classes (OBC). She has written the NEET examination for the Post Graduate Medical courses. The counselling is scheduled to take place on 01.08.2022. According to the petitioner, due to the inadvertent mistake committed by her, in her on-line application, she is now considered under the General (UR) category instead of Other Backward Classes(OBC). In such circumstances, she has given a representation to the respondents on 05.06.2022 requesting the 3rd respondent to consider her application under the OBC category.

6. The learned counsel for the petitioner also drew the attention of this Court that in similar matters, a direction had been issued by this Court to the 3rd respondent to consider the request of the applicants after verification of the Community Certificates enclosed by them along with the representations.

7. The petitioner has also enclosed her Community Certificate dated 24.11.2019 along with his writ petition, which discloses that she belongs to Other Backward Classes (OBC) category. A copy of the on-line application has also been filed along with this writ petition, wherein, she has mentioned inadvertently the category as General, instead of Other Backward Classes.

8. No prejudice would be caused to the respondents, if the petitioner-s representation referred to supra is considered on merits and in accordance with law by the respondents, within a time frame to be fixed by this Court.

9. For the foregoing reasons, this Court directs the 3rd respondent to consider the request of the petitioner-s representation dated 05.06.2022 after verifying the Community Certificate that is stated to be enclosed with the aforesaid representation and if the same is in order, carry out the change in category of the petitioner from UR to OBC, within a period of one week from the date of receipt of a copy of this order."

7. I have considered the submissions made by the learned counsel for both sides and have perused the materials placed on record.

8. It is a fact that the petitioner belongs to OBC community and the competent authority viz., the Revenue Department has issued the community certificate. At the time of making the on-line application for NEET UG-2022 examination, this mistake has occurred and only recently this has been realized after the results were published by verifying the ranking given to the petitioner. This kind of mistakes are being committed by the petitioner and other such students and number of such students have already approached this Court and a series of orders have been passed as stated supra, where directions were given to the Directorate General of Health Services to make rectification and accordingly communicate the same to the respective students. These orders having been accepted by the DGHS, were complied also.

9. Therefore, this Court feels that, in this context since earlier orders have been passed by this Court in number of cases, where directions were issued only to the Directorate General of Health Services to act upon, this Court has no hesitation to hold that in this case also a direction can be given to the DGHS / respondents 7 and 8 to act upon and thereafter communicate to the petitioner the change in community at the earliest.

10. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

- That there shall be a direction to the respondents, especially respondents 7 and 8 to consider the application submitted by the petitioner dated 23.09.2022 in the light of the discussion herein above made and accordingly after changing the community of the petitioner from 'General' to 'OBC', communicate the same to the petitioner.
- The needful as indicated above shall be undertaken by said respondents within a period of two weeks from the date of receipt of a copy of this order.
- It is made clear that, in this regard if any internal verification or communication has to be obtained or verified by the respondents 7 and 8 with any other agency like NTA that also can be undertaken by them and needful shall be complied with and communicated within the period indicated as above.

11. With the above directions, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

18.10.2022

Index : Yes/No

Internet : Yes/No

KST

Note : Issue order copy on 20.10.2022

To

- 1 The Secretary to Government
Government of India, Ministry of India, Ministry of Human
Resources Development, New Delhi.
- 2 The Chair Person
National Testing Agency 9C/20 1A/B Sector
62 IITK Outreach Centre Noida Uttar Pradesh
- 3 The Senior director, (NEET(UG)) 9C/20 1A/B
Sector 62 IITK Outreach Centre Noida Uttar Pradesh.
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R. SURESH KUMAR, J.

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