



W.A.No.2402 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.A.No.2402 of 2022

Samuel Raja

.. Appellant

VS

- 1.The State of Tamil Nadu,  
rep. by its Secretary,  
Department of Health and Family Welfare,  
Fort St. George,  
Chennai-600 009.
- 2.The Director of Medical Education,  
College Road, Chennai-600 006.
- 3.The Additional Director of Medical Education,  
Chennai Region,  
Chennai-600 015.
- 4.The Secretary,  
Selection Committee,  
Directorate of Medical Education,  
Kilpauk, Chennai-600 010.



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5.The Tamil Nadu Dr. MGR University,  
rep. by its Registrar,  
No.69, Anna Salai, Guindy,  
Chennai – 600 032.

6.The Principal,  
Madha Medical College and Hospital,  
Kundrathur Main Road,  
Kovur, Chennai-600 122.

7.The Director,  
NEET Examination,  
Shiksha Kendra, 2, Community Center,  
Pree Vihar,  
Delhi-110 092.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the  
order dated 24.8.2022 passed in W.P.No.11407 of 2022.

|                     |                                                                            |
|---------------------|----------------------------------------------------------------------------|
| For the Appellant   | : Ms.Abisha Isaac<br>for M/s.Isaac Chambers                                |
| For the Respondents | : Mr.P.Muthukumar<br>State Government Pleader<br>for respondent Nos.1 to 3 |
|                     | : Mrs.M.Sneha<br>Standing Counsel<br>for respondent No.4                   |



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**JUDGMENT**

(Delivered by the Hon'ble Acting Chief Justice)

This writ appeal has been filed by the appellant, namely, Mr.Samuel Raja, son of Siluvai Raja, a resident of No.65, Bajanai Koil Street, Choolaimedu, Chennai-94, against the order dated 24.8.2022 passed in W.P.No.11407 of 2022 by the learned Single Judge.

2. Assailing the order of the learned Single Judge, Ms.Abisha Isaac, learned counsel appearing for the appellant, submitted that the appellant/writ petitioner was selected for admission into MBBS course in Madha Medical College and Hospital, Kovur, Chennai-122, the 6<sup>th</sup> respondent herein, under Management Quota for the academic year 2021-22. She would submit that the appellant was issued with an allotment order on 8.4.2022 to join the 6<sup>th</sup> respondent college, but due to non-availability of original certificates, as the same were submitted before a medical college at Bangladesh, the appellant was not in a position to produce the same on 8.4.2022 before the 6<sup>th</sup> respondent college. However, an



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undertaking was given by him to the 6<sup>th</sup> respondent college on 9.4.2022 to the effect that he would produce the original certificates as soon as possible.

3. Learned counsel appearing for the appellant further submitted that since the last date i.e. 10.4.2022 fell on Sunday, by a notification, the Selection Committee extended the mop-up round of Government/Management Quota till 11.4.2022 up to 1.00 p.m. Drawing our attention to the circular/notification dated 9.4.2022 issued by the Selection Committee, learned counsel for the appellant submitted that selected candidates, who were not able to produce the original certificates, were granted one week's time with an undertaking to produce the original certificates at the time of admission.

4. According to learned counsel, the Selection Committee in its circular/notification has made it very clear that if anyone is unable to produce original certificates on or before 10.4.2022, they can produce the same within one week from 11.4.2022 by



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submitting an undertaking and, therefore, the appellant has requested the 6<sup>th</sup> respondent by submitting an undertaking to grant admission to him. However, the 6<sup>th</sup> respondent college, without looking into the genuine grievance of the appellant and also ignoring the circular/notification of the Selection Committee, informed the Selection Committee that a vacancy has arisen for the seat meant for the appellant. When the appellant has rightly brought to the notice of the Selection Committee that the appellant deserves to be admitted in the 6<sup>th</sup> respondent college as per the circular/notification by requesting them to grant one week time to produce the relevant original certificates, at least, the Selection Committee ought to have informed the 6<sup>th</sup> respondent to admit the appellant in the MBBS course. Since the Selection Committee has failed to do so, the appellant, left with no other option, was constrained to file the writ petition, being W.P.No.11407 of 2022, on 20.4.2022.

5. Learned counsel appearing for the appellant urged that the learned Single Judge, without giving any interim protection to the



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appellant, has dismissed the writ petition observing that original certificates were received by the appellant from Bangladesh medical college only on 23.4.2022 i.e. beyond 18.4.2022, which is the deadline fixed for submission of original certificates.

6. Learned counsel further submitted that had the 6<sup>th</sup> respondent, by entertaining the undertaking given by the appellant, admitted the appellant within a week's time, he could have procured the original certificates from the medical college in Bangladesh before the 6<sup>th</sup> respondent. When there is a written undertaking given to the 6<sup>th</sup> respondent, it ought not to have declared the appellant's seat as vacant on 11.4.2022, as they are expected to keep the seat meant for the appellant reserved for a period of one week. She pleaded that even this vital aspect has been completely overlooked by the learned Single Judge. In support of her submissions, learned counsel for the appellant has relied upon the judgment of a Full Bench of the Apex Court in the case of ***S.Krishna Sradha v. State of Andhra Pradesh and others, (2020) 7 SCC 465***, for the proposition that if a



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meritorious candidate/student has been denied admission in MBBS course illegally or irrationally by the authorities, for no fault on the part of the candidate, such person shall not be allowed to suffer.

7. Concluding her argument, learned counsel for the appellant vehemently and emphatically contended that there is no fault attributable to the appellant and, in this case, the fault is totally on the part of the 6<sup>th</sup> respondent in not looking into the written undertaking given by the appellant seeking time to produce the relevant original certificates and, therefore, a direction may be given to the respondents to grant admission in the next academic year with a further direction to pay compensation to the appellant.

8. Mrs.M.Sneha, learned standing counsel appearing for the fourth respondent/Selection Committee submitted that the appellant was supposed to approach the 6<sup>th</sup> respondent college with original certificates for getting admission in MBBS course on or before 10.4.2022. Considering the fact that 9<sup>th</sup> and 10<sup>th</sup> April, 2022 were Saturday and Sunday, by way of notification, the Selection



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Committee granted half a day extension till 1.00 p.m. on 11.4.2022 for joining MBBS/BDS courses in extended mop-up round of Government/Management Quota.

9. Learned standing counsel would submit that the appellant did not possess the original certificates to be produced before the 6<sup>th</sup> respondent for getting admission and, admittedly, he sought time to produce original certificates on the premise that all his original certificates were submitted to a medical college in Bangladesh. In a letter dated 9.4.2022 given by the appellant before the 6<sup>th</sup> respondent, he did not give a specific undertaking that he would produce original certificates within one week's time. However, he has mentioned that he would produce the original certificates as soon as possible.

10. Learned counsel for the Selection Committee further submitted that the appellant did not even bring to the notice of the Selection Committee about the non-possession of original certificates before 1.00 p.m. on 11.4.2022, except sending an e-



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mail message on 12.4.2022. But, in the meanwhile, the 6<sup>th</sup> respondent informed the fourth respondent/Selection Committee that the appellant has not joined the college and, therefore, the seat may be treated as vacant. When the appellant has not approached the Selection Committee either on the day when he approached the 6<sup>th</sup> respondent or the next day, no fault can be attributed on the Selection Committee.

11. Learned counsel for the Selection Committee finally argued that when a concession was given to the students to produce original certificates within one week time, they will have to produce the original certificates within the stipulated time. In the case on hand, the appellant himself admitted that he was not able to procure original certificates within a week's time. Therefore, the learned Single Judge has clearly observed that the appellant was able to get original certificates only on 23.4.2022, which is beyond the cut-off date. Therefore, the argument of learned counsel for the appellant that the case of the appellant should be treated as an exceptional case for admission is far-fetched.



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12. We have considered the rival submissions and also perused the materials available on record.

13. For proper appreciation, the following dates and events are necessary:

| <i>Date</i> | <i>Events</i>                                                                                                                                                              |
|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 08.04.2022  | <i>Provisional allotment order issued in favour of the appellant by the Selection Committee.</i>                                                                           |
| -           | <i>Notification issued by the third respondent extending the time limit till 11.4.2022 upto 1.00 p.m.</i>                                                                  |
| 09.04.2022  | <i>Instruction of the third respondent to all Dean/Principal of the Colleges to admit candidates with an undertaking to provide original certificates within one week</i>  |
| 09.04.2022  | <i>Undertaking given by the appellant to the 6<sup>th</sup> respondent college to produce the 10<sup>th</sup> and 12<sup>th</sup> certificates as soon as receive it.</i>  |
| 10.04.2022  | <i>E-mail sent by the appellant to the Selection Committee informing that he will pay the fee amount and fulfill all admission formalities by 10.4.2022 without delay.</i> |
| 12.04.2022  | <i>E-mail sent by the appellant to the first respondent.</i>                                                                                                               |
| 12.04.2022  | <i>E-mail sent by the appellant to the fourth respondent.</i>                                                                                                              |



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14. Firstly, when the appellant was granted admission into MBBS course in the 6<sup>th</sup> respondent college under Management Quota for the academic year 2021-2022 after extending the mop-up round conducted by the fourth respondent/Selection Committee, he was issued with an allotment order to join the 6<sup>th</sup> respondent college on 8.4.2022. It is an admitted fact that the appellant has already joined in a medical college in Bangladesh by producing his original certificates. The Selection Committee, realising the fact that 9<sup>th</sup> and 10<sup>th</sup> April, 2022 happen to be Saturday and Sunday, came forward to give an extension on 9.4.2022 making it clear that if any student is unable to produce original certificates, they can produce originals within a week's time, for which an undertaking is required to be given.

15. As could be seen from the notification found at page 120 of the typed set annexed to the writ petition, the Selection Committee stated as under:

*"It is informed that the candidates who have been allotted in the MBBS/BDS courses for the academic*



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*year 2021-2022 session, the joining date for MBBS/BDS Courses in Extended Mop-up round of Government/Management Quota has been extended till 11.04.2022 up-to 1.00 P.M.”*

16. In the instant case, the appellant approached the 6<sup>th</sup> respondent seeking admission with available certificates, but without originals. Even in his undertaking dated 9.4.2022, the appellant has not specifically mentioned that he needs a week's time to produce original certificates. A reading of the undertaking given by the appellant would clearly show that he sought an indefinite time by stating that he would produce original certificates as soon as possible. This could also be easily seen from the finding given by the learned Single Judge in the order dated 24.8.2022, wherein the learned Single Judge observed that an undertaking was given by the appellant on 9.4.2022 to the 6<sup>th</sup> respondent college stating that he shall submit the certificates expeditiously. As stated supra, the Selection Committee has granted only a week's time to produce the original certificates for those who could not produce original certifications at the time of admission. Thus, the deadline



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for submission of original certificates ends on 18.4.2022.  
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17. In the instant case, firstly, the appellant has not given any undertaking to produce original certificates within a week. Secondly, the original certificates were made available only on 23.04.2022. Thirdly, the appellant has sent e-mail request only on 12.04.2022 and thereafter, he did not pursue the matter and filed the writ petition on 20.04.2022 and, in the meanwhile, much water has flown.

18. In **S.Krishna Sradha**, supra, the Full Bench of the Apex Court held:

*"13. in the light of the discussion/observations made hereinabove, a meritorious candidate/student who has been denied an admission in MBBS course illegally or irrationally by the authorities for no fault of his/her and who has approached the Court in time and so as to see that such a meritorious candidate may not have to suffer for no fault of his/her, we answer the reference as under:*



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*13.1. That in a case where candidate/student has approached the court at the earliest and without any delay and that the question is with respect to the admission in medical course all the efforts shall be made by the court concerned to dispose of the proceedings by giving priority and at the earliest.*

*13.2. Under exceptional circumstances, if the court finds that there is no fault attributable to the candidate and the candidate has pursued his/her legal right expeditiously without any delay and there is fault only on the part of the authorities and/or there is apparent breach of rules and regulations as well as related principles in the process of grant of admission which would violate the right of equality and equal treatment to the competing candidates and if the time schedule prescribed - 30<sup>th</sup> September, is over, to do the complete justice, the Court under exceptional circumstances and in rarest of rare cases direct the admission in the same year by directing to increase the seats, however, it should not be more than one or two seats and such admissions can be*



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*ordered within reasonable time i.e. within one month from 30<sup>th</sup> September i.e. cut-off date and under no circumstances, the Court shall order any admission in the same year beyond 30<sup>th</sup> October. However, it is observed that such relief can be granted only in exceptional circumstances and in the rarest of rare cases. In case of such an eventuality, the Court may also pass an order cancelling the admission given to a candidate who is at the bottom of the merit list of the category who, if the admission would have been given to a more meritorious candidate who has been denied admission illegally, would not have got the admission, if the Court deems it fit and proper, however, after giving an opportunity of hearing to a student whose admission is sought to be cancelled.*

*13.3. In case the Court is of the opinion that no relief of admission can be granted to such a candidate in the very academic year and wherever it finds that the action of the authorities has been arbitrary and in breach of the rules and regulations or the prospectus*



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*affecting the rights of the students and that a candidate is found to be meritorious and such candidate/student has approached the court at the earliest and without any delay, the court can mould the relief and direct the admission to be granted to such a candidate in the next academic year by issuing appropriate directions by directing to increase in the number of seats as may be considered appropriate in the case and in case of such an eventuality and if it is found that the management was at fault and wrongly denied the admission to the meritorious candidate, in that case, the Court may direct to reduce the number of seats in the management quota of that year, meaning thereby the student/students who was/were denied admission illegally to be accommodated in the next academic year out of the seats allotted in the management quota.*

*13.4. Grant of the compensation could be an additional remedy but not a substitute for restitutorial remedies. Therefore, in an appropriate case the Court may award the compensation to such a meritorious candidate*



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*who for no fault of his/her has to lose one full academic year and who could not be granted any relief of admission in the same academic year.*

*13.5 It is clarified that the aforesaid directions pertain to admission in MBBS course only and we have not dealt with postgraduate medical course.”*

19. In view of the factual scenario stated supra and the fact that there is a total failure on the part of the appellant in not producing original certificates within the time stipulated, the judgment of the Full Bench relied upon by learned counsel for the appellant in the case of **S.Krishna Sradha**, supra, is not applicable to the case of the appellant.

20. As rightly held by the learned Single Judge, when a deadline has already been fixed by the Apex Court as 28.4.2022 for completion of admission, the question of admitting a student beyond the said deadline will not arise.



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21. We are also of the view that now six months have passed by from the date of issuance of the allotment order in favour of the petitioner and, as admitted by both sides, the seat meant for the appellant was allotted to some other candidate next in the line. Therefore, at this distant point of time, it is very difficult for us to grant the relief prayed for by the appellant.

22. We, therefore, do not find any infirmity in the order of the learned Single Judge to cause interference and, accordingly, the writ appeal fails.

23. In the result, the writ appeal is dismissed. There will be no order as to costs.

(T.R., ACJ.) (D.K.K., J.)  
31.10.2022

Index : Yes/No  
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To:

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- 1.The Secretary,  
State of Tamil Nadu,  
Department of Health and Family Welfare,  
Fort St. George,  
Chennai-600 009.
- 2.The Director of Medical Education,  
College Road, Chennai-600 006.
- 3.The Additional Director of Medical Education,  
Chennai Region, Chennai-600 015.
- 4.The Secretary,  
The Selection Committee,  
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