

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.27304 of 2021
and
WMP.No.28816 of 2021

Dr.P.Nithiyanandam

... petitioner

-Vs-

1. The Secretary
Selection Committee,
Directorate of Medical Education,
162, Periyar EVR Road,
Kilpauk, Chennai-10.

2. The Tamil Nadu Dr.MGR Medical University,
Rep. By its Registrar,
69, Anna Salai,
Guindy, Chennai-32.

... Respondents

Prayer: Petitions filed under Article 226 of the Constitution of India, for issuance of Writs of Mandamus directing the respondents to select and admit the petitioner to the MDS Course commencing for the session 2021-2022 under the 5% Quota earmarked for persons with Disability (PWD) and to extend all consequential benefit of completion of the said course.

For petitioner : Mr. L.Chandrakumar

For Respondents : Mr. D.Ravichander R1
Additional Advocate General
Mr.S.Wilson R2
Standing Counsel

O R D E R

The writ petition has been filed seeking a direction to the respondents to select and admit the petitioner to the MDS Course commencing for the session 2021-2022 under the 5% Quota earmarked for persons with Disability (PWD) and to extend all consequential benefit of completion of the said course.

2. The facts of the case are as follows:

The petitioner, after completing his degree in Dental Surgery (BDS), had participated in NEET Examination for doing Post Graduation course in Dental Surgery (MDS). The aforesaid examination stipulates 5% seats earmarked for PWD candidates and the petitioner herein, who has been assessed at 75% disability of spinal muscular atroph belongs to PWD candidate and BC community. Further, as per the Notification, the candidate to claim physically handicapped quota has to procure marks viz., 40th percentile with cut off at 227 marks revised at 152 marks and also even as per 45th percentile with cut-off at 243 revised at 170 under OBC and UR-PWD respectively. In furtherance to the same, he had scored an eligible mark of 173 and he was of the view that he would be considered for selection and admission with this 5% reservation earmarked for PWD. Further, pursuant to the final result, he was not selected and he alleges that one Dr. Anu, who had obtained 170 stood selected with her communal ranking at 345, whereas the petitioner was ranked at 344. Further, he alleges that PWD category have been omitted to be admitted, more particularly that of locomotor disability. Aggrieved, he made a representation dated 11.12.2021 claiming for admission in the aforesaid quota and he had satisfied all the eligible requirement for his claim, which is pending without consideration till date. Hence, the petitioner is with this writ petition.

3. The learned counsel for the petitioner submits that having satisfied all the pre-requisites for claiming with respect to 5% reservation earmarked, the petitioner is deprived of from the natural justice, infracting mandatory requirement conferred upon the persons with Disability(PWD) and Articles 14 & 16 of the Constitution of India. Further, he pleaded this Court to pass an order of ad interim direction to direct the respondent to reserve one seat of M.D.S. Course 2021-2022 session in the 5% Quota earmarked for persons with Disability (PWD) as vacant, pending finalization of the this petition.

4. On the other hand, Mr.S.Wilson, learned standing counsel for second respondent drew the attention of this Court by referring to the counter affidavits filed by the first respondent submitted that the petitioner was not eligible in the merit list as he had procured a score of 173, which is not the minimum qualifying score for admission to MDS Course as per the National Board of Examination Notice dated 30.12.2020. Hence, the petitioner was the only person to apply, as he had not secured the minimum mark, the seat reserved under PwD Quota was converted to General Quota as per the Clause No.30(e) of MDS prospectus for admission. However, the National Board of Examination vide notice dated 10.11.2021, lowered the minimum

qualifying percentiles as to what the petitioner has alleged in his affidavit. Hence, the petitioner was eligible in the merit list. Further, the mop up counselling was conducted, in which, the petitioner had not given choice locking for the preference of colleges. However, as alleged by the petitioner that one Dr.Anu was not allotted as she had given only one choice in the Mop up Round counseling. Further, the last candidate namely Monika G, who has secured 190 marks which was way more than the petitioner's score and to the same, she was allotted in Karpaga Vinayaga Institute of Dental Sciences, Kanchipuram. In furtherance, he submitted that the Dental Council of India time schedule is over and all the seats are filled based on merit. Hence, he prayed for dismissal of this writ petition.

5. Heard both sides and perused the materials placed before this Court. Having regard to the submissions made by the counsels on the either side, this Court is of the view that due to the revised notice dated 10.11.2021, the petitioner made his way into the merit list, however, in the mopping list, he had given only one choice locking for the preference of colleges, wherein the other last allotted candidate namely Monika G got her seat in Karpaga Vinayaga Institute of Dental Sciences, Kancheepuram and as the Dental Council of India schedule is culminated on 20.11.2021, the prayer sought for by this petitioner cannot be granted and hence, this Court is inclined to dismiss this writ petition.

6. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary
Selection Committee,
Directorate of Medical Education,
162, Periyar EVR Road,
Kilpauk, Chennai-10.

2. The Tamil Nadu Dr.MGR Medical University,
The Registrar,
69, Anna Salai,
Guindy, Chennai-32.

+1cc to Mr. L.Chandrakumar, Advocate, S.R.No.6064
+1cc to the Government Pleader, S.R.No.6006

W.P.No.27304 of 2021

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NSK 20/04/2022