



WEB COPY



W.P. Nos.27758, 27761 & 27764 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. Nos.27758, 27761 & 27764 of 2022 and
W.M.P.Nos.27050, 27053 & 27055 of 2022

N.Pounraj	... Petitioner in W.P.No.27758 of 2022
V.Adithya	... Petitioner in W.P.No.27761 of 2022
R.Manoj Kiran	... Petitioner in W.P.No.27764 of 2022

Vs.

1. Director General of Health Services,
No.446-A, Nirman Bhawan,
Maulana Azad Road,
New Delhi – 110 108.
2. The National Medical Commission,
Rep. By its Secretary,
Pocket -14, Sector – 8,
Dwaraka Phase – 1,
New Delhi – 110 077.
3. The Selection Committee for MBBS/BDS,
Rep. By its Secretary,
Directorate of Medical Education,
Kilpauk, Chennai – 600 010.
4. The Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai,
Secretariat, Chennai – 600 009.
rep. By its Chariman.



W.P. Nos.27758, 27761 & 27764 of 2022

... Respondents in all WPs

PRAYER : Petitions filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents 1 to 3 to treat the applications and permit the petitioners to participate in the 2022-2023 M.B.B.S./B.D.S. Counseling under ST category and admit the petitioners otherwise they are eligible under government quota or private quota or self finance quota or management quota without insisting upon the production of community certificate.

For Petitioners : Mr.S.Doraisamy

For Respondents : Mr.C.Kulanthaivel
Special Govt. Pleader for R1
: Ms.Shubharanjani Ananth
Standing Counsel for R2
: Ms.M.Sneha
Standing Counsel for R3
: Mrs.C.Sangamithirai
Special Govt. Pleader for R4

COMMON ORDER

Since the issue raised in these writ petitions is one and the same, with the consent of the learned counsel appearing for the parties, these writ petitions were heard together and are disposed of by this common order.

2. In all the writ petitions, the respective petitioners applied for admission in the first year M.B.B.S/B.D.S course in the State of Tamil



W.P. Nos.27758, 27761 & 27764 of 2022

Nadu during the counselling to be conducted by the 3rd respondent under Schedule Tribe quota.

3. In this context, even though the family members of the respective petitioners have already been declared as if they belongs to ST community and the certificate to that effect was issued, such certificate have not been issued to the respective petitioners.

4. Therefore, in order to get such ST certificate, the petitioners respectively had made applications to the Revenue Divisional Officer concerned, who after considering the plea raised by the petitioners has rejected the said plea, as against which, they preferred an appeal to the fourth respondent i.e., Tamil Nadu State Level Scrutiny Committee, Adi Dravidar and Tribal Welfare Department, Chennai, who is empowered to hear the appeal filed in this regard by the persons like the petitioners and accordingly the State Level Scrutiny Committee can ultimately decide the claim made by the respective parties i.e., petitioners herein as to whether the petitioners, for whom such ST certificate was sought for, belongs to the ST community.



W.P. Nos.27758, 27761 & 27764 of 2022

WEB COPY

5. In these three cases, in respect of W.P.No.27758 of 2022 is concerned, the petitioner claims that he belongs to Kurichchan community which is one of the community under the Scheduled Tribe. In other two writ petitions i.e. W.P.No.27761 of 2022 and W.P.No.27764 of 2022 are concerned, they claim that they belong to Hindu Kurumans Community which is one of the Scheduled Tribue community.

6. In this capacity, these petitioners had made applications to the 3rd respondent for getting admission in M.B.B.S. or B.D.S. for the academic year 2022-2023.

7. Insofar as these petitioners' claims are concerned, since the same having been considered and rejected by the respective Revenue Divisional Officer, they preferred appeals to the State Level Scrutiny Committee i.e. the 4th respondent herein.

8. The 4th respondent in turn directed the Director of Tribal Welfare,



W.P. Nos.27758, 27761 & 27764 of 2022

Chennai to conduct an enquiry and file a report who in turn directed the Deputy Superintendent of Police, Vigilance Cell attached with the said Department directed to conduct an enquiry and file a report. Accordingly in these cases, such an enquiry was conducted and reports were filed. Insofar as W.P.No.27758 of 2022 is concerned, the report was sent by the Deputy Superintendent of Police, Vigilance Cell, Dharmapuri to the Director of Tribal Welfare Department on 13.08.2022. In W.P.No.27761 of 2022 is concerned, such a report was sent on 06.01.2022. Insofar as the third writ petition i.e. W.P.No.27764 of 2022 is concerned, such a report was sent to the Director on 06.01.2018.

9. Thereafter, these reports ought to have been forwarded to the 4th respondent State Level Scrutiny Committee for consideration and based on which final orders shall be passed by the 4th respondent State Level Scrutiny Committee.

10. However, in none of these three cases such final orders have been passed by the 4th respondent State Level Scrutiny Committee.



W.P. Nos.27758, 27761 & 27764 of 2022

11. In the meanwhile, since the last date for making application for getting admission in Medicine for the current year was about to be closed, they made applications and the applications submitted by the petitioners seems to have been scrutinised and categorized only as general category, because, their claim for community status in ST category made by the respective petitioners could not be considered by the 3rd respondent as there has been no conclusive order passed in this regard by the 4th respondent State Level Scrutiny Committee. Only at this juncture, these writ petitions have been filed for the respective prayers.

12. Heard Mr.S.Doraisamy, learned counsel appearing for the petitioner who having reiterated the aforestated would seek indulgence of this Court to give a direction to the 4th respondent to pass orders after getting the report from the Director concerned or if already received the reports, orders shall be directed to be passed and in the meanwhile, pending orders to be passed by the 4th respondent, the learned counsel for the petitioner seeks further direction to the 3rd respondent to permit these petitioners to participate in the counselling under ST quota and select a seat in Medicine as per their *inter se* merits among the ST candidates and



W.P. Nos.27758, 27761 & 27764 of 2022

such kind of selection of seats if any made by these petitioners would be subject to the outcome of the order to be passed by the 4th respondent, he contended.

13. On the other hand, Ms.M.Sneha, learned Standing Counsel appearing for the 3rd respondent would submit that, the ranking list for this year in M.B.B.S. and B.D.S. has already been issued and according to the schedule, the counseling will start for special categories like 7.5% reserved categories as well as the differently abled persons and sports quota by 19.10.2022, a regular counseling will take place after sometime.

14. The learned Standing Counsel would further submit that, insofar as the status of these petitioners are concerned, they are still treated only as general candidates as their community status is yet to be decided, hence they cannot be categorised as ST candidates as of now.

15. I have also heard Mr.C.Kulanthaivel, learned Special Government Pleader appearing for the 1st respondent and Ms.Shubharanjani Ananth, learned Standing Counsel for the 2nd respondent and Mrs.C.Sangamithirai, learned Special Government Pleader



W.P. Nos.27758, 27761 & 27764 of 2022

for the 4th respondent who would submit that, if the report has already been received by the 4th respondent from the Director based on which orders would be passed on the plea raised by the petitioners by way of appeal against the order passed by the respective RDOs regarding the claim made by the petitioners for getting ST status.

16. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

17. The issue raised in these writ petitions has already been decided in some of the cases of similar nature and recently I had an occasion to consider two such writ petitions in W.P.Nos.27505 & 27507 of 2022 where in the matter of *V.Avandhika and D.Swarnalakshmi Vs. Director General of Health Services and others* passed an order on 14.10.2022 where *inter alia* the following orders have been passed:

“8. On perusal of the enquiry report, submitted by the Deputy Superintendent of Police as has been extracted herein above in both the cases after having considered the documents produced by the respective petitioners’ side and



after having enquiry in the locality about the customs, usage etc., of the family concerned, the report has been filed recognising the claim made by the petitioners that the petitioners belongs to Hindu-Kurumans community, which is one of the community under the ST.

9. Therefore, prima facie it could be ascertained that there was a positive report submitted by the Enquiry Officer and based on which alone the fourth respondent State Level Scrutiny Committee is going to pass the final order.

10. Before which, the report has to be forwarded by the Director of Tribal Welfare, Chennai to the fourth respondent, therefore, it will take a reasonable time. However, in the meanwhile since the counselling for admission to M.B.B.S Courses and B.D.S Courses is going to start shortly, the petitioners, if are considered to be ST candidates, they may have the prospects of getting admission under the said quota and if the declaration to that effect by the fourth respondent is getting delayed and in the meanwhile, the counselling is completed and the seats ear marked for ST quota are filled up, then ultimately it would be a case of fiat accompli and therefore this Court feels that, a comprehensive directions can be given in these writ petitions by disposing these writ petitions finally. Accordingly the following orders are passed in the writ petitions:



WEB COPY



W.P. Nos.27758, 27761 & 27764 of 2022

- ◆ *That there shall be a direction to the fourth respondent to immediately receive the report from the Director of Tribal Welfare, Chennai as the DSP concerned of the Vigilance Cell attached with the fourth respondent have already submitted the report in the Month of June and in the Month of August of 2022 itself and after getting the report from the Director of Tribal Welfare, the fourth respondent having considered the same shall pass final orders as to the status of the petitioners within a period of two weeks from the date of receipt of a copy of this order.*
- ◆ *In the meanwhile, there shall be a direction to the third respondent to permit the petitioners viz., V.Avandhika and D.Swarnalakshmi to participate in the Counselling to be conducted by the third respondent for admission in M.B.B.S. and B.D.S Courses for the academic year 2022-2023 under the schedule tribe community quota.*
- ◆ *Based on the inter se merit among the ST candidates, if the petitioners are able to secure a seat that admission shall be subject to the outcome of the decision to be made by the fourth respondent State Level Scrutiny Committee as to the communal status of these petitioners and the petitioners shall not claim, any equity, in case any negative order is passed by the fourth respondent State Level Scrutiny Committee, on the ground that they have been permitted to participate in the counselling to choose a seat on their choice based on their inter se merit in the ST quota.*

With these directions, these writ petitions are disposed of. No costs. Connected miscellaneous petitions are closed.”



W.P. Nos.27758, 27761 & 27764 of 2022

18. The facts of the present case also is similar to that of the said writ petitions and in these cases also when appeal was pending before the 4th respondent State Level Scrutiny Committee as per their direction through the Director of Tribal Welfare Department, enquiry was conducted by the Deputy Superintendent of Police, Vigilance Department and a report has already been sent in all the three writ petitions and in each of the cases, positive report has been sent by the Deputy Superintendent of Police, therefore based on such report and on considering the same, the 4th respondent State Level Scrutiny Committee can pass orders within a time frame.

19. But, in the meanwhile since the counseling is going to be commenced tomorrow i.e. on 19.10.2022 the petitioners in view of the positive report that has been forwarded by the DSP concerned of the Vigilance Department for consideration to the 4th respondent and there may be a positive order likely to be passed by the 4th respondent in this regard, this Court feels that if the petitioners interest are not protected by permitting them to participate in the counseling for selecting a seat under the ST quota ultimately even if they get the status of ST community from



W.P. Nos.27758, 27761 & 27764 of 2022

the 4th respondent on a later date, then it will be a case of *fiat accompli* and therefore in order to avoid the situation as the education carrier of these petitioners are involved, this Court is inclined to pass the following orders:

(i) That there shall be a direction to the 4th respondent to immediately receive the report from the Director of Tribal Welfare, Chennai as the DSP concerned of the Vigilance Cell attached with the 4th respondent have already submitted the reports in the year 2018 and 2022 and after getting the reports from the Director of Tribal Welfare, the 4th respondent having considered the same shall pass final orders as to the status of the petitioners within a period of three weeks from the date of receipt of a copy of this order.

(ii) In the meanwhile, there shall be a direction to the 3rd respondent to permit the petitioners viz., N.Pounraj, V.Adithya and R.Manoj Kiran to participate in the Counseling to be conducted by the 3rd respondent for admission in M.B.B.S. and B.D.S Courses for the academic year 2022-2023 under the Schedule Tribe community quota.



W.P. Nos.27758, 27761 & 27764 of 2022

(iii) Based on the *inter se* merit among the ST

WEB COPY candidates, if the petitioners are able to secure a seat that admission shall be subject to the outcome of the decision to be made by the 4th respondent State Level Scrutiny Committee as to the communal status of these petitioners and the petitioners shall not claim any equity, in case any negative order is passed by the 4th respondent State Level Scrutiny Committee, on the ground that they have been permitted to participate in the counseling to choose a seat on their choice based on their *inter se* merit in the ST quota.

20. With the above directions, these Writ Petitions are disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

18.10.2022

Index : Yes/No

Speaking order : Yes/No

Note : Issue order copy on 19.10.2022

Sgl



W.P. Nos.27758, 27761 & 27764 of 2022

To

WEB COPY

1. The Secretary to Government
The Union of India
Department of Health and Family Welfare Services,
New Delhi – 110 011.
2. National Testing Agency,
C-20, 1A/8, Sector- 62
IITK Outreach Centre,
Noida – 201 309.
3. The Chairman,
National Medical Commission,
Pocket-14, Sector-8,
Dwarka Phase – 1,
New Delhi – 110 077.
4. The Convener,
Centralized Admission Committee (CENTAC),
Pondicherry Engineering College Campus,
Pillaichavadi, Puducherry – 605 014.



WEB COPY



W.P. Nos.27758, 27761 & 27764 of 2022

R.SURESH KUMAR, J.

Sgl

W.P. Nos.27758, 27761 &
27764 of 2022

18.10.2022