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W.P.No.28108 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.28108 of 2022
and
W.M.P.No.27395 of 2022

R.Mahathi Barla

.. Petitioner

Vs

The Secretary
Selection Committee
Admission to MBBS/DS course 2022-2023 Session
Directorate of Medical Education
162, Periyar EVR Road
Kilpauk, Chennai - 600 010.

.. Respondent

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing respondent to consider the claim of the petitioner with NEET Application No.22UG802820 and Roll No.4101260240 (Rank-4175) for Admission to the MBBS course in Government Colleges under BC category for the academic year 2022-2023 and to allow her complete the course.

For Petitioner : Mr.L.Chandrakumar

For Respondent : Ms.M.Sneha
Standing Counsel



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ORDER

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The prayer sought for in this writ petition is a writ of Mandamus, to direct the respondent to consider the claim of the petitioner with NEET Application No.22UG802820 and Roll No.4101260240 (Rank-4175) for Admission to the MBBS course in Government Colleges under BC category for the academic year 2022-2023 and to allow her to complete the course.

2. The petitioner after completing +2, applied for admission in Medical Degree course in Tamil Nadu i.e., to the respondent Selection Committee, before which, the petitioner also have written the NEET UG-2022 and secured 506 marks out of 720.

3. The petitioner belongs to a Backward Class Community and to that effect, the concerned authority viz., the Tahsildar concerned, has given Community Certificate dated 17.11.2021, declaring that the petitioner belongs to one of the Backward Class Community.

4. With that strength, when the petitioner made an online application to get admission, the Selection Committee, having scrutinized the application submitted



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by the petitioner, seems to have not accepted the application for Backward Class Community quota on the ground that the petitioner's parent i.e., the father, belongs to Andhra Pradesh, where, he was declared to be a Backward Class Community by the Andhra Pradesh Government. Therefore, based on the Community Certificate issued to the father of the petitioner by the other State Government, the community of the petitioner can only be treated as other category and not as Backward Class Community, for which, they cited clause 5(g) of the Prospectus. Therefore, on that ground, they refused to take the petitioner as a Backward Class candidate for the purpose of getting admission in MBBS Degree course in this year and therefore, challenging the said move on the part of the respondent, the petitioner has approached this Court by filing the present writ petition.

5. Heard Mr.L.Chandrakumar, learned counsel appearing for the petitioner and Ms.M.Sneha, learned Standing Counsel appearing for the respondent.

6. When this writ petition came up for consideration on the earlier occasion i.e., on 19.10.2022, this Court after hearing both sides, passed the following orders:



“.....

2. The petitioner even though was given the community certificate and nativity certificate issued by the competent authority dated 17.11.2021 and 22.11.2021 respectively declared to be a candidate belonging to the Backward Class community, her candidature seems to have not been considered as B.C and her candidature was considered in the General category. Only, in that circumstances, the petitioner has moved the present writ petition.

3. However Ms.M.Sneha, learned Standing Counsel appearing for the respondent would submit that, the application should have been made online and what are all the documents to be forwarded or uploaded as per Clause 5(g) of the prospectus should have been uploaded and if those documents not been uploaded and not been filed by the petitioner, the candidature would be considered only as an open category candidate as per clause 5 (g) of the prospectus.

4. On perusal of the said Clause 5(g), this Court feels that, those documents except the community certificate would not disclose the community of the



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candidate. Therefore, based on the Aadhar card, driving licence, ration card, passport, SSLC, 10th and 12th mark sheet and transfer certificate, the community of the candidature cannot be decided.

5. Be that as it may. The learned Standing Counsel would submit that, present counselling started today is only meant for the students studied in the Government schools for whom the 7.5% reservation has been given and also for the candidature of disabled persons and sports persons.

6. Therefore, regular counselling would start only after 26.10.2022, hence, she wants accommodation till 26.10.2022 to get written instructions and to get along with the case.

Post the matter on 26.10.2022 immediately after admission.”

7. Pursuant to the said order, when the case is taken up for further hearing today, Ms.M.Sneha, learned Standing Counsel appearing for the respondent has produced the following positional note issued by the respondent, where *inter alia*, the respondent has stated as follows:



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“.....

3. *It is respectfully submitted that the petitioner Application No.22UG802820 and she has scored 506 marks out of 720 in NEET UG-2022 examination.*

4. *It is submitted that as per the prospectus said clause 5(g)*

“Candidates who are Native of Tamil Nadu and have studied from Standard VI to Standard XII in schools of Tamil Nadu should also produce Nativity Certificate and Community Certificate issued by the competent authority along with the true copies of certificates of either one of the parents such as any one of (Aadhar Card / Driving Licence / Ration Card / Passport) and any one of (SSLC / 10th, 12th Mark Sheet or Transfer Certificate). In case, parents are not literate, then No Graduation Certificate for parents or First Graduation Certificate of the candidate, from the competent Revenue Authority should be enclosed. The Community Certificate of either one of the parent should be enclosed to claim Communal Reservation. If candidates do not submit the above mentioned certificates and if he/she had studied Standard VI to Standard XII completely in Tamil Nadu, the candidate will be considered under Open Category only.”



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5. *It is submitted that as per the above clause supporting document of parents are from Andhra Pradesh and to claim the communal reservation, have to produce the community certificate. But the petitioner parent have produced community certificate from the Government of Andhra Pradesh.*

6. *It is submitted that as per prospectus clause 5(k) as follows:*

“Community Certificate obtained from other States will not be considered for reservation.”

7. *It is submitted that under the circumstances stated above the petitioner's prayer could not be considered to claim reservation under BC category.
.....”*

8. Relying upon this positional note, learned Standing Counsel appearing for the respondent would submit that, even though the petitioner's Community has been declared by giving a certificate to that effect by the Tamil Nadu State Revenue Authorities and the Community Certificate also has been produced by the petitioner at the time of online application, insofar as the petitioner's parent i.e., the father of the petitioner is concerned, though he was declared to be a Backward



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Class person by the Andhra Pradesh Government, in view of clause 5(k) of the Prospectus, where it is stated that the Community Certificate obtained from other States would not be considered for reservation, such a reservation was denied for the petitioner to claim a seat under Backward Class quota. Therefore, on that ground alone, the candidature of the petitioner for admission based on the *inter se* merit in Backward Class quota was not considered by the respondent, she contended.

9. Heard Mr.L.Chandrakumar, learned counsel appearing for the petitioner, who pointed out that, insofar as clause 5(k) is concerned, it is meant only with regard to the candidates and not for the parents of the candidates concerned. Therefore, that has been wrongly interpreted by the respondent and making such an interpretation, the respondent since have denied admission to the petitioner, who secured 506 marks out of 720, a meritorious student like the petitioner should not be denied seat under Backward Class quota for such a frivolous reason, which is in fact erroneous, by giving interpretation to clause 5(k) of the Prospectus, he contended.



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10. I have considered the said rival submissions made by learned counsel on either side and perused the materials placed before this Court.

11. As has been rightly pointed out by the learned counsel appearing for the petitioner, clause 5(k) even though stated that the Community Certificate obtained from other States will not be considered for reservation, that is meant for candidates concerned, in this case, the petitioner's candidature has been considered by the concerned Authority of the State of Tamil Nadu and a Community Certificate to that effect has been issued on 17.11.2021, where, the petitioner's Community has been declared to be one of the Backward Class Community. Therefore, the petitioner was entitled to get a certificate of Backward Class Community and accordingly, the Community Certificate was also issued and the same has also been produced by the petitioner by uploading the same along with the online application and these factors have not been denied by the respondent also.

12. Merely because the petitioner's father's Community Certificate since was issued by other State viz., Andhra Pradesh, by giving a plain interpretation, in fact which is a wrong one of clause 5(k) of the Prospectus, the respondent since have



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denied admission to the petitioner, even otherwise the petitioner is eligible to get admission in MBBS course, is bad in law. Therefore, this Court has no hesitation to hold that the view taken by the respondent in denying admission to the petitioner under Backward Class quota would not sustain in the legal scrutiny and therefore, this Court is inclined to dispose of this writ petition with the following orders:

That there shall be a direction to the respondent to permit the petitioner to participate in the counselling for admission in first year MBBS Course for the Academic Year 2022-2023 under the Backward Class Community quota and based on the marks she obtained in the NEET UG-2022 examination if the petitioner is able to secure a seat, the petitioner's admission shall be ensured in this regard under the Backward Class quota. The respondent shall immediately permit the petitioner to participate in the counselling as per the ranking of the petitioner, by treating the petitioner as Backward Class Community candidate, based on the marks she obtained in the NEET UG examination as stated *supra*.



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13. With these directions, the writ petition is ordered and there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

26.10.2022

Index: Yes/No
drm

Note: Issue order copy on 27.10.2022

To

The Secretary
Selection Committee
Admission to MBBS/DS course 2022-2023 Session
Directorate of Medical Education
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R. SURESH KUMAR, J.
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