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W.P.No.28504 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.28504 of 2022
and W.M.P.No.27818 of 2022

Muskaan Mehta

.... Petitioner

-Vs-

1.The Director of Medical Education
No.162, Periyar EVR High Road
Kilpauk, Chennai 600 010.

2.The Secretary
Selection Committee
The Directorate of Medical Education
No.162, Periyar EVR High Road
Kilpauk, Chennai 600 010.

3.The National Medical Commission
Rep.by its Secretary
Pocket 14, Sector-8
Dwaraka, New Delhi – 110 077.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to include the name of the petitioner in the rank list for admission to MBBS/BDS Course for 2022-23 session under Open Category based on the marks secured by the petitioner in NEET-UG-2022 as per the Application No.22UG812084 and to permit the petitioner to participate in the counselling for admission to MBBS/BDS Course forthwith.



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For Petitioner : Mr.G.Sankaran
For Respondents : Mr.U.M.Ravichandran
Special Government Pleader – for R1
Mr.J.Ravindran, Additional Advocate General
Assisted by Ms.M.Sneha, Standing Counsel
-for R2
Ms.Shubharanjani Ananth, Standing Counsel
-for R3

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the respondents to include the name of the petitioner in the rank list for admission to MBBS/BDS Course for 2022-23 session under Open Category based on the marks secured by the petitioner in NEET-UG-2022 as per the Application No.22UG812084 and to permit the petitioner to participate in the counselling for admission to MBBS/BDS Course forthwith.

2. The petitioner, after getting ranking in NEET UG-2022 had applied to the respondents for getting admission in MBBS course for the academic year 2022-23. The petitioner is not a native of Tamil Nadu and therefore, as per Clause 5(j) of the Instructions to Candidates, the candidates who are native of other States but studied from Classes VI to XII continuously in Tamil Nadu has to produce bonafide certificate from the school in which he/she studied to be



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considered under the Open Category. Based on these instructions, if at all the petitioner wanted to be considered under the Open Category in Tamil Nadu Medical Admission she should have obtained the bonafide certificate from the school, where she studied from VI Std to XII standard and produced the same along with the application both on-line as well as off-line. However, admittedly the petitioner had not produced such bonafide certificate obtained from the school concerned.

3. Based on this non-production of bonafide certificate on the part of the petitioner, the candidature of the petitioner has been considered and rejected by the respondent Selection Committee, as against which the petitioner has moved the present writ petition with the aforesaid prayer that the petitioner shall be permitted to participate in the counseling under the Open Category by accepting the bonafide certificate now obtained after filing of this writ petition before this Court.

4. Reiterating the aforesaid, the learned counsel for the petitioner would submit that, till last year no such condition has been imposed to produce the bonafide certificate from the school where the student had studied from Class VI to Class XII continuously for the students who belong to other States. However, this year since Clause 5(j) has been inserted in the Prospectus, the petitioner's



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candidature was rejected on the ground that she could not obtain the bonafide certificate and produce the same before the respondents while making the on-line application.

5. In this context, it is the further case of the petitioner that, the petitioner could get the bonafide certificate even in respect of Classes XI and XII from the school in which she studied, but she could not get the bonafide certificate in respect of Classes VI to X from the school where she studied and hence only part of the said bonafide certificate could not be produced at the time of making the on-line application. The learned counsel further submitted that, subsequently since the certificate has been obtained at the earliest point of time during the first round of counseling went on and since the petitioner has approached this Court, on principles of equity the petitioner may be permitted to participate in the counselling under the Open Category and therefore, in that regard the petitioner seeks the indulgence of this Court.

6. However, Mr.J.Ravindran, learned Additional Advocate General appearing for the 2nd respondent and Mr.U.M.Ravichandran, learned Special Government Pleader have submitted that, insofar as strict compliance of the conditions imposed in the Instructions to Candidates is concerned, the same are binding on both the petitioner as well as the respondent Selection Committee



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and it is a settled proposition of law. Many number of judgments have come from the law Courts that the Prospectus issued by the Selection Committee or the State Government is binding on both sides and it is a law to be enforced.

7. When that being so, Clause 5(j) has been introduced this year, where it has been made mandatory that the students who studied Classes VI to XII continuously in Tamil Nadu have to produce the bonafide certificate obtained from the school, where they studied the said classes and then only they would be considered as Open Category candidates. Since admittedly the petitioner has not produced the said bonafide certificate, not only the petitioner at least 10 candidates have not produced the said certificate in violation of clause 5(j) and they have also not been considered and their candidatures were rejected by the Selection Committee.

8. The first and second round of counseling are over and at this juncture, considering the petitioner's candidature even on equitable grounds does not arise because, if the petitioner is permitted to participate in the counseling, the other 10 candidates who have been rejected for the same reason have also to be considered. That apart, 600 and odd candidates who have also been rejected for various technical reasons also have to be included and that will create a total confusion and mess in the selection process, which is impermissible. Hence, the



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learned Additional Advocate General appearing for the 2nd respondent seeks dismissal of the writ petition.

9. Clause 5(j) of the Prospectus reads thus,

" j. Candidates who are native of other States but studied their schooling from VI Std to XII Std continuously in Tamil Nadu, have to produce their School bonafide Certificate from School in which he / she studied Std VI to XII, to be considered under the Open Category"

10. Since in the 'Instructions to Candidates', it has been made clear that the students who are native of other States and who studied their schooling from Class VI to XII in Tamil Nadu, has to produce the bonafide certificate from the school where they studied, only in that case they would be considered as Open Category for admission to MBBS course from the ranking they obtained through NEET examination.

11. Therefore, when Clause 5(j) makes it mandatory to every candidate from outside Tamil Nadu who studied classes VI to XII continuously in the State of Tamil Nadu, if they are not able to produce the bonafide certificate then they will not be treated as Open Category candidate and accordingly rejection of candidature has been made by the Selection Committee.



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12. It is not only the case of the petitioner, but other 10 candidates of this nature, since they have also not filed the bonafide certificate as stipulated under Clause 5(j), their candidature also have been rejected. That apart, learned Additional Advocate General submits that, for similar omission on the part of the candidates, 600 and odd candidates have been rejected.

13. Even though majority of them might have obtained higher ranking than those who have participated in the counseling, that would not entail them for any indulgence to participate in the counseling because they have not fulfilled the requirements as per the Instructions to Candidates.

14. In this regard, as has been rightly pointed out by the learned Additional Advocate General appearing for the respondents, the law is well settled and the Prospectus issued in this regard would be binding on both sides and also it is a law to be enforced. In that case, if any violation is noticed in the conditions which are imposed in the Prospectus, their candidature can be rejected at the threshold. Hence, the rejection now made by the respondents Selection Committee in respect of the petitioner's candidature on the ground that she failed to produce the bonafide certificate for Classes VI to X, except Classes XI and XII which she has obtained now, cannot be found fault with and therefore, such a rejection cannot be questioned.



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15. In that view of the matter, the writ petitioner has not made out any case to seek the indulgence of this Court. Hence, the writ petition fails, it is liable to be dismissed and is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

29.11.2022

Index : Yes/No
Internet : Yes/No
KST
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