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W.P.No.29435 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.29435 of 2022
and W.M.P.No.28770 of 2022

Sethu Arumugam RM
S/o Ramanathan, No.33, Raja Nagar
1st Main Road, Neelankarai, Injambakkam
Kancheepuram 600 115.

.... Petitioner

-Vs-

- 1 The Government of India
Rep. by its Secretary Department of Health
and Family Welfare Ministry of Health and
Family Welfare Room No. 348 A Wing Nirman
Bhavan New Delhi
- 2 The Medical Counselling Committee
(MCC) Rep. by its Chairman D.G.H.S
Ministry of Health and Family Welfare
Government of India Room No.348 A Wing
Nirman Bhavan New Delh
- 3 The Associate Dean of Graduate
Medical Education (ADGME) Directorate
General of Health Services Nirman Bhavan
New Delhi-110 001.
- 4 The National Medical Commission
Rep. by its Chairperson Sector 8
Pocket 14 Phase-I Dwarka New Delhi-110 077.

... Respondents



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Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to forthwith change the category of the Petitioner from General (UR) to OBC (Other Backward Class) in his Application No. 2266138175 and his Roll Number is PG017438 for the NEET(PG)-2022 for PG Counselling.

For Petitioner : Mr.K.Selvaraj

For Respondents : Mr.G.Baskaran, Central Government
Standing Counsel – for R1 to R3

Ms.Shubharanjani Ananth
Standing Counsel – for R4

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the respondents to forthwith change the category of the Petitioner from General (UR) to OBC (Other Backward Class) in his Application No. 2266138175 and his Roll Number is PG017438 for the NEET(PG)-2022 for PG Counselling.

2. The petitioner's Application No. is 2266138175 and Roll No. is PG017438. He belongs to OBC community and the competent authority viz., Tahsildar, Sholinganallur has also given a certificate that the petitioner belongs to OBC and he was issued OBC certificate dated 02.11.2022.



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3. When that being so, the petitioner at the time of making the on-line application, since it has been done through an E-Seva Kendra, the data entry operator instead of mentioning the community to which the petitioner belongs as OBC, has chosen as General ie Unreserved (UR) category.

4. Only after the examinations were over and results were published, after verifying the marks obtained the petitioner noticed that he was considered as General (UR) category. Then only he realized the mistake committed through the data entry operator while making the on-line application. Therefore, in order to change the community of the petitioner from 'General (UR)' to 'OBC' the petitioner has given a representations to the respondents on 05.06.2022 and 10.09.2022. However, so far the same has not been considered and no change of community has been permitted, the petitioner has approached this Court by filing the present writ petition.

5. Heard Mr.K.Selvaraj learned counsel for the petitioner, who would submit that this kind of mistake has occurred at the time of filling the on-line application by the data entry operator as the student would not be permitted to enter the data and only the data entry operator employed in the E-Seva Kendra would be able to enter the data. Therefore, in order to rectify this mistake when



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similarly placed persons like the petitioner had approached this Court, this Court had shown its indulgence in number of cases.

6. In this context, the learned counsel for the petitioner has relied upon the following judgments.

6.1. In W.P.No.6078 of 2022 dated 16.03.2022 (**K.Sanjeev Ganesh -vs- The Government of India and others**), this Court has given the following directions.

" 6. There is thus a direction to R3, represented by Mr.Subbu Ranga Bharthi, learned Standing Counsel to consider the request of the petitioner, made on 14.03.2022 via e~mail, verify the community certificate that is stated to be enclosed with the aforesaid representation and if the same is in order, carry out the change in category of the petitioner from UR to OBC, within a period of one week from today.

7. This writ petition is disposed in the above terms. Consequently, connected miscellaneous petition is closed. No costs."

6.2. In W.P.No.7108 of 2022 dated 24.03.2022 (**D.Deepika Shree -vs- The Government of India and Others**), a learned Judge of this Court has



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given the following directions.

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" 6.Hence, there is a direction to R2 to permit the petitioner to participate in the mop-up and stray vacancy rounds for Counselling for MBBS/BDS and Nursing for 2021 as and when they take place and consider her candidature in the category of OBC.

7.This writ petition is disposed, as above. No costs. Consequently, connected miscellaneous petition is closed."

6.3. Likewise, in another case in W.P.No.19405 of 2022 dated 27.07.2022

(L.Anjana -Vs- The Government of India and others), this Court has passed the following orders.

" 5. The petitioner claims that by inadvertence, in her on-line application, she has mentioned her Community as General (UR) instead of Other Backward classes (OBC). She has written the NEET examination for the Post Graduate Medical courses. The counselling is scheduled to take place on 01.08.2022. According to the petitioner, due to the inadvertent mistake committed by her, in her on-line application, she is now considered under the General (UR) category instead of Other Backward Classes(OBC). In such circumstances, she has given a representation to the respondents on 05.06.2022 requesting the 3rd respondent to consider her application under the OBC category.



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6. *The learned counsel for the petitioner also drew the attention of this Court that in similar matters, a direction had been issued by this Court to the 3rd respondent to consider the request of the applicants after verification of the Community Certificates enclosed by them along with the representations.*

7. *The petitioner has also enclosed her Community Certificate dated 24.11.2019 along with his writ petition, which discloses that she belongs to Other Backward Classes (OBC) category. A copy of the on-line application has also been filed along with this writ petition, wherein, she has mentioned inadvertently the category as General, instead of Other Backward Classes.*

8. *No prejudice would be caused to the respondents, if the petitioner-s representation referred to supra is considered on merits and in accordance with law by the respondents, within a time frame to be fixed by this Court.*

9. *For the foregoing reasons, this Court directs the 3rd respondent to consider the request of the petitioner-s representation dated 05.06.2022 after verifying the Community Certificate that is stated to be enclosed with the aforesaid representation and if the same is in order, carry out the change in category of the petitioner from UR to OBC, within a period of one week from the date of receipt of a copy of this order."*



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7. I have considered the submissions made by the learned counsel for both sides and have perused the materials placed on record.

8. It is a fact that the petitioner belongs to OBC community and the competent authority viz., the Revenue Department has issued the community certificate. At the time of making the on-line application for NEET PG-2022 examination, this mistake has occurred and only recently this has been realized after the results were published by verifying the ranking given to the petitioner. This kind of mistakes are being committed by the petitioner and other such students and number of such students have already approached this Court and a series of orders have been passed as stated supra, where directions were given to the Directorate General of Health Services to make rectification and accordingly communicate the same to the respective students. These orders having been accepted by the DGHS, were complied also.

9. Therefore, this Court feels that, in this context since earlier orders have been passed by this Court in number of cases, where directions were issued only to the Directorate General of Health Services to act upon, this Court has no hesitation to hold that in this case also a direction can be given to the DGHS / 3rd respondent to act upon and thereafter communicate to the petitioner the



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change in community at the earliest.

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10. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

- That there shall be a direction to the respondents, especially 3rd respondent to consider the representations submitted by the petitioner dated 05.06.2022 and 10.09.2022 in the light of the discussion herein above made and accordingly after changing the community of the petitioner from 'General' to 'OBC', communicate the same to the petitioner.
- The needful as indicated above shall be undertaken by said respondents within a period of two weeks from the date of receipt of a copy of this order.
- It is made clear that, in this regard if any internal verification or communication has to be obtained or verified by the 3rd respondent with any other agency like NTA that also can be undertaken by them and needful shall be complied with and communicated within the period indicated as above.



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11. With the above directions, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

07.11.2022

Index : Yes/No

Internet : Yes/No

KST

Note : Issue order tomorrow (08.11.2022)

To

- 1 The Secretary to Government, Department of Health and Family Welfare Ministry of Health and Family Welfare Room No. 348 A Wing Nirman Bhavan New Delhi
- 2 The Chairman, Medical Counselling Committee (MCC) D.G.H.S, Ministry of Health and Family Welfare Government of India Room No.348 A Wing Nirman Bhavan New Delhi.
- 3 The Associate Dean of Graduate Medical Education (ADGME) Directorate General of Health Services Nirman Bhavan New Delhi-110 001.
- 4 The National Medical Commission Rep. by its Chairperson Sector 8 Pocket 14 Phase-I Dwarka New Delhi-110 077.



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R. SURESH KUMAR, J.

KST

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