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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **14.12.2022**

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 33770 of 2022

Shruthika S K

... Petitioner

..Vs..

1. Director of Medical Education
162, Periyar E.V.R. High Road, Kilapuk
Chennai – 600 010.
2. Selection Committee
Represented by its Secretary
Directorate of Medical Education
162, Periyar E.V.R. High Road, Kilpauk,
Chennai – 600 010.
3. National Medical Commission
Pocket -14, Sector -8, Dwarka Phase I
New Delhi – 110 077.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the records relating to the Tentative Mop-up Counseling Schedule for Government Quota seat admission to MBBS/BDS Degree Courses in Tamil Nadu Government Medical / Dental Colleges, Government Seats in Self-Financing Medical / Dental Colleges and Private Universities for 2022-2023 sessions of the 2nd respondent dated 13.12.2022 in so far as it makes candidates who have been allotted a seat under



Management Quota or NRI Quota ineligible to participate in the State Mop-up rounds and quash the same and direct the 2nd respondent to permit the petitioner to participate in the Mop-up Counselling Schedule for State Government Quota admission to MBBS/BDS degree courses in the Tamilnadu Government Medical/Dental Colleges, Government seats in self-financing Medical/Dental College and Private Universities 2022-23 sessions held from 13.12.2022 at 6.00 a.m., to 14.12.2022 at 5.00 a.m.

For Petitioner	:: Mr. P.Pandiyaraj
For 1 st Respondent	:: Ms. Geetha Thamaraiselvan Special Government Pleader
For 2 nd Respondent	:: Ms. Sneha
For 3 rd Respondent	:: Ms. Shubharanjani Ananth Standing counsel

ORDER

The Writ Petition has been filed in the nature of a Certiorarified Mandamus calling for the records relating to the Tentative Mop-up Counseling Schedule for the State Government Quota seat admission to MBBS/BDS Degree Courses in Tamil Nadu Government Medical / Dental Colleges, Government Seats in Self-Financing Medical / Dental Colleges and Private Universities for 2022-2023 sessions of the 2nd respondent dated 13.12.2022 in so far as it makes candidates who have been allotted a seat under Management Quota or NRI Quota



ineligible to participate in the State Mop-up rounds and quash the same and direct the 2nd respondent to permit the petitioner to participate in the Mop-up Counselling Schedule for State Government Quota admission to MBBS/BDS degree courses in the Tamilnadu Government Medical/Dental Colleges, Government seats in self-financing Medical/Dental College and Private Universities 2022-23 sessions held from 13.12.2022 at 6.00 a.m., to 14.12.2022 at 5.00 a.m.

2. The relief sought is a little confusing. Let me examine it in a more direct language.

3. The petitioner had qualified in the NEET examination. She wanted to pursue her MBBS Course. To join the MBBS Course, she had to attend counseling sessions. The Counseling Session consists of Round 1 and Round 2 and then though those who are left out will attend what is called a Mop-up round. The term Mop-up may not be proper since it signifies wiping the remains, however, this is the term used and understood.

4. If a candidate, who participates in the counseling Session and attends the first round of counseling and is allotted a seat either under the All-India Quota within 15% or State Quota within 85% then



he or she cannot attend the second counseling. If he/she is not inclined to take up the seat allotted in the first counseling, he / she can move over to the second counseling. Another candidate in the list would now be called upon to attend the first counseling.

5. Again in the second counseling, he/she is eligible to join the MBBS Course, a particular seat would be offered. It could be either under the All-India quota or under the State Quota. It could also be under the Management or the NRI quota. If the candidate takes up that allotment, the name would be blocked. The name would be forwarded to the particular college to which the candidate was allotted a seat. In that particular college, the candidate will have to pay the necessary fees.

6. The petitioner herein was given the option to join the Management quota in the second round of counseling. She took up that seat. She also paid the necessary fees in Tagore Medical College and Hospital at Chennai. Having paid the necessary fees, she now wants permission to participate in the Mop-up round.

7. The prospectus under which she applied and the rules under which she must abide make it very clear that she should not



have accepted the allotment in the second round of and she should have opted to attend the Mop-up round.

8. In the instant case, the petitioner had joined the course. She had accepted the allotment. She had paid the fees. It is now only just that she permits another candidate Who also has a dream to join MBBS Course to participate in the Mop-up round. She cannot claim a seat in the second round of counseling and having secured that seat, again claim to participate in the Mop-up round. This claim of the petitioner defies logic.

9. The relevant rules have also been pointed out to me and the following rules are relevant:-

“As per the prospectus clause 14 IV-(b), a candidate not holding any MBBS/BDS seats under All India Quota and State Quota (Government/Management/NRI) will be allowed to participate in State Quota Mop-up counselling.

b) A candidate not holding any MBBS/BDS seats under All India Quota and State Quota will be allowed to participate in State Quota Mop-up counselling.”



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10. This has been interpreted by the learned counsel by stating that a candidate even if allotted seat in the second round of counseling can still participate in the Mop-up round. That interpretation is not correct. It has been held as not correct by also the Hon'ble Supreme Court.

11. My attention is also drawn to the Judgment of the Hon'ble Supreme Court in ***Writ Petition (Civil) No.174 of 2022 [Anjana Chari S N Vs. The Medical Counselling Committee (MCC) & Ors.]***, wherein it had been held as follows:-

“3 The following directions are issued in order to facilitate the completion of the counseling process for the NEET - PG 2021-2022:

(i) The All India Quota2 mop-up round of counseling shall stand cancelled;

(ii) For the 146 additional seats which became available after AIQ round 2 on 16 March 2022, a fresh round of counseling shall be conducted as a special case. Students who have joined in round 2 either of the state



quota or of the AIQ, will be at liberty to participate in the fresh round of counseling without any financial penalties;

(iii) In order to facilitate the expeditious completion of the process, the DGHS shall invite options from students for the 146 new seats within twenty-four hours of the uploading of the notification and the process shall be completed within a period of seventy-two hours after the cut of for receipt of options; (iv) A fresh mop-up round for AIQ seats shall be conducted and an endeavour shall be made to complete the process within a period of two weeks; and (v) In line with the regulations which have been notified on 5 April 2018, students who have joined in round 2 of the state quota or round 2 of the AIQ shall not be eligible to participate in the mop-up round for All India Quota. ”

12. Consequent to the directions, the following notice was also issued by the Director General of Health Services, Ministry of Health and Family Welfare dated 12.07.2022:-

“Urgent Attention all participating States/Counselling Authorities and Candidates:



In compliance of the directions of the Hon'ble Supreme Court of India vide Order dated 31.03.2022 in W.P.(C).No. 174 of 2022, Medical Counseling Committee of DGHS, MoHFW has developed a software for all the participating states/counselling authorities for NEET-UG/PG to upload the names and roll numbers of students who have joined up to round 2 and further rounds of the state quota or round 2 of the AIQ on the common portal.

These joined candidates up to round 2 of AIQ or State Quota shall not be eligible to participate in the further rounds for All India Quota or for State Quota from the academic year 2022-23 onwards.”

13. Further reference can also be drawn to another Judgment of the Hon'ble Supreme Court in ***Contempt Petition (Civil) No. 289 of 2022 in W.P.(Civil) No. 223 of 2022 [Subhankar Pattanayak Vs. K. Ramesh Reddy & Ors]***, wherein this particular notice had been examined and it had been observed as follows:-

“8 The development of the above software should ensure that a uniform pattern is followed by all the States across India commencing from the academic year 2022-2023.”



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14. Rules are clear. The rules are straightforward. The Judgments also lay down that a candidate, who had opted for a seat in the second round of counselling and had joined the course cannot attend the Mop-up round. The petitioner has to fail in her endeavour in the present Writ Petition.

15. The Writ Petition Stands dismissed. No costs.

16. I only hope that the learned counsel may advise the petitioner to concentrate on her studies and count her blessings rather than complaining about an opportunity which she feels should have been given to her, ailing to understand that she had been blessed with the opportunity to render service to the society by qualifying to be a Medical Professional.

14.12.2022

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Index: Yes/No
Internet: Yes/No
Speaking / Non Speaking Order



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C.V.KARTHIKEYAN, J.,

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To

1. Director of Medical Education
162, Periyar E.V.R. High Road, Kilapuk
Chennai – 600 010.
2. The Secretary
Selection Committee
Directorate of Medical Education
162, Periyar E.V.R. High Road, Kilpauk,
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