



W.P(MD)No.9165 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.9165 of 2020

and

W.M.P(MD)Nos.8381 and 8383 of 2020

P.Nandhini

... Petitioner

Vs.

1.The Member Secretary,
Medical Services Recruitment Board,
7th Floor, DMS Buildings,
359, Anna Salai, Teynampet,
Chennai – 600 006.

2.The Director of Indian Medicine and Homeopathy,
Directorate of Indian Medicine and Homeopathy,
Arignar Anna Government Hospital and Indian Medicine Campus,
Arumbakkam, Arumbakkam Post,
Chennai – 600 106.

3.S.Kaleeshwari

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings issued by the first respondent in Oo.Mu.No.598/Ma.P.The.Va/Ni.4/2020 dated 15.06.2020 and the



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proceedings of the first respondent in No.03/MRB/2018 dated 02.03.2020 and quash the same and consequently direct the respondents to appoint the petitioner in the post of Dispenser/Pharmacist(Homeopathy) under the priority category of Inter Caste Marriage in the existing vacancies by considering the representation submitted by the petitioner, dated 16.03.2020.

For Petitioner : Mr.S.Ramsundar Vijayaraj
For R-1 : Mr.T.S.Mohammed Mohideen
For R-2 : Mr.S.P.Maharajan,
Special Government Pleader

ORDER

This writ petition has been filed to quash the impugned order passed by the first respondent in Oo.Mu.No.598/Ma.P.The.Va/Ni.4/2020, dated 15.06.2020 and the proceedings of the first respondent in No.03/MRB/2018, dated 02.03.2020 and consequently, to direct the respondents to appoint the petitioner in the post of Dispenser/Pharmacist(Homeopathy) under the priority category of Inter Caste Marriage in the existing vacancies by considering the representation submitted by the petitioner, dated 16.03.2020.



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2. The case of the petitioner is that she has completed her S.S.L.C., in the year 2008 and thereafter, completed her Higher Secondary Education in the year 2010 and subsequently, completed her Diploma in Integrated Pharmacist in the year 2014 at Government Siddha Medical College. She belongs to Hindu Arunthathiyar community coming under the category of Scheduled Caste. She was married to one Manikandan, who belongs to Jangam community which comes under the category of Most Backward Class Community and her marriage was also duly registered before the Sub-Registrar, Kannivadi, Dindigul District on 15.03.2020.

3. While being so, the first respondent issued a notification to fill up 405 Posts of Dispenser/Pharmacists by stipulating certain qualifications. The petitioner submitted her application on 15.09.2019. In such circumstances, the first respondent has published the list of selected candidates on 02.03.2020, wherein the name of the petitioner was not found, instead, the name of one S.Kaleeshwari was found and included in the category of SC(A) under the priority category for women.



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Hence, the petitioner has made a representation to the respondents on 16.03.2020. However, the first respondent without considering the case of the petitioner rejected the petitioner's request vide the impugned order, dated 15.06.2020. Hence, the petitioner has filed this writ petition with the aforesaid prayer.

4. The learned counsel appearing for the petitioner would submit that the petitioner performed inter-caste marriage and therefore, she is entitled for considering her candidature under the priority category. However, the first respondent has rejected the request of the petitioner depriving her right guaranteed under Articles 14, 16 and 21 of the Constitution of India, which is not sustainable and hence, prayed for appropriate orders.

5. Per contra, the learned standing counsel appearing for the first respondent Board would submit that the petitioner secured only 42.69 marks. Moreover, the petitioner has not applied for the post of Pharmacist(Homeopathy) and only applied for Pharmacist(Siddha). The



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selection list was prepared and published based on the merit and communal reservation as laid down in Tamil Nadu Government Servants (Conditions of Service) Act, 2016. Further, G.O.Ms.No.401, Health and Family Welfare (C2) Department, dated 16.12.2014 and as per Section 27 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the category of Inter Caste Marriage is not listed as a category to be given priority in appointments. Therefore, the prayer sought for by the petitioner cannot be granted and hence, prayed for dismissal of this writ petition.

6. Heard the learned counsel appearing on either side and perused the materials produced before this Court.

7. Admittedly, the petitioner secured lesser marks than the last selected candidate for the post of Pharmacist(Homeopathy), namely, one Kaleeshwari(SCA-Woman). Further, the petitioner participated in the selection process for the Post of Pharmacist(Siddha). Though the petitioner claimed that she applied for the Post of Pharmacist and



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Dispenser, in order to ascertain the claim made by the petitioner, this Court perused the application submitted by the petitioner. On perusal of the application, it is seen that the petitioner applied for the Post of Pharmacist(Siddha) and not for Dispenser or for Pharmacist(Homeopathy). In addition to that, as per G.O.Ms.No.401, Health and Family Welfare (C2) Department, dated 16.12.2014, the category of Inter Caste Marriage is not listed as a category to be given priority in appointments. Therefore, in the absence of any provision for inclusion of inter-caste marriage in the priority category, the claim made by the petitioner in this writ petition cannot be granted.

8. In the result, this writ petition is dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

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The Director of Indian Medicine and Homeopathy,
Directorate of Indian Medicine and Homeopathy,
Arignar Anna Government Hospital and Indian Medicine Campus,
Arumbakkam, Arumbakkam Post,
Chennai – 600 106.



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M.DHANDAPANI, J.

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