



W.P. No.9130 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.9130 of 2023

Dr. Tamizhmaran

... Petitioner

Vs

1. The Union 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 Delhi.

3. The National Board of Examinations in Medical Science,
Rep. By its Joint Director (Medical),
Medical Enclave,
Ansari Nagar,
Mahatma Gandhi Marg,
New Delhi – 110 029.



W.P. No.9130 of 2023

4. The National Medical Commission,
Rep. By its Chairperson,
Sector 8, Pocket 14,
Phase – I,
Dwarka,
New Delhi – 110 077.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to change the category of the petitioner from General(UR) to OBC (NCL) (Other Backward Classes (Non Creamy Layer) in his Application No.PG23030548 and Roll No.23661146486 for enabling consideration of the petitioner's candidature under the said category and permit the petitioner to attend the NEET PG-2023 counselling for allotment of seats under All India Quota, to be conducted by the 2nd respondent herein the OBC (NCL) category.

For Petitioner	: Mr.M. Ravi
For Respondents	: Mr.N. Rajan for R1 & R2 Mr.R. Thirunavukarasu for R3 Ms.Subharanjani Ananth for R4

ORDER

The prayer sought for herein is for a writ of mandamus directing the the respondents to change the category of the petitioner from General(UR) to OBC (NCL) (Other Backward Classes (Non Creamy Layer)) in his Application No.PG23030548 and Roll No.23661146486 for enabling



W.P. No.9130 of 2023

consideration of the petitioner's candidature under the said category and permit the petitioner to attend the NEET PG-2023 counselling for allotment of seats under All India Quota, to be conducted by the 2nd respondent herein the OBC (NCL) category.

2. The petitioner written the NEET (P.G.)-2023 examination conducted by the respondents.

3. However, at the time of making the application through online instead of entering the community of the petitioner as OBC (NCL), it was wrongly entered as General Category and this mistake was occurred. The petitioner has wrongly entered the category and the same has been noticed subsequently i.e., after the declaration of the examination results and because of which, the petitioner is affected, as his candidate is concerned in OBC category, he may get the chance of getting admission in PG Medical course for the year 2023. Therefore, in order to change the community from General Category to OBC, the petitioner has submitted a representation on 18.03.2023, which has not been responded, till date. Hence, this writ petition.



W.P. No.9130 of 2023

4. The issue raised in this writ petition is no more res integra as in number of cases, these kind of change of community has been entertained and orders were passed by this Court, pursuant to which, the Directorate General of Health Services has already passed several orders to change the community and the following orders are to be noted:

“4.1. 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.

4.2. 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 given the following directions :



W.P. No.9130 of 2023

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.

4.3. 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



W.P. No.9130 of 2023

respondents on 05.06.2022 requesting the 3rd respondent to consider her application under the OBC category.

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.

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

6. 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 UG-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



W.P. No.9130 of 2023

same to the respective students. These orders having been accepted by the

WEB COGHS, were complied also.

7. 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 respondents to act upon and thereafter communicate to the petitioner the change in community at the earliest.

8. Since the present issue is also one and the similar, therefore, following the said order, this Court issues the following directions :-

(i) Respondents shall consider the representation submitted by the petitioner dated 18.03.2023 in the light of the discussion herein above made and accordingly after changing the community of the petitioner from “General” to “OBC(NCL)”, communicate the same to the petitioner.

(ii) 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.



W.P. No.9130 of 2023

(iii) It is made clear that, in this regard if any internal verification or communication has to be obtained or verified by the respondents 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.

Accordingly, this writ petition is disposed of. No costs.

26.04.2023

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
vsi2



WEB COPY



W.P. No.9130 of 2023

M.DHANDAPANI, J.

vsi2

To

1. The Union 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 Delhi.

3. The National Board of Examinations in Medical Science,
Rep. By its Joint Director (Medical),
Medical Enclave,
Ansari Nagar,
Mahatma Gandhi Marg,
New Delhi – 110 029.

4. The National Medical Commission,
Rep. By its Chairperson,
Sector 8, Pocket 14,
Phase – I,
Dwarka,
New Delhi – 110 077.

W.P. No.9130 of 2023

26.04.2023