



WEB COPY



W.P.No.11476 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.11476 of 2023

and

W.M.P.No.11360 of 2023

D.Keerthana

... Petitioner

Vs.

1.The Registrar,
The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai,
Guindy, Chennai – 600 032.

2.The Controller of Examinations,
The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai,
Guindy, Chennai – 600 032.

3.The Principal,
Annai Veilankannis College of Nursing,
No.33, Gandhi Road,
Nedungundram,
Chennai – 600 127.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned further proceedings of the impugned



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letters No.EX.VIIA(1)/16148/2022, dated 13.09.2022 and 16.12.2022 issued by the second respondent and quash the same and consequently, direct the respondents 1 and 2 to permit the petitioner to continue her B.Sc. (Nursing) Degree Course in the third respondent College.

For Petitioner : Mr.M.Sriram

For Respondents : Mr.S.Wilson [R1 & R2]

ORDER

The Writ Petition is filed seeking for a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned further proceedings of the impugned letters No.EX.VIIA(1)/16148/2022, dated 13.09.2022 and 16.12.2022 issued by the second respondent and consequently direct the respondents 1 and 2 to permit the petitioner to continue her B.Sc (Nursing) decree course in the third respondent college.

2. The case of the petitioner is that, she has been admitted in B.Sc.(Nursing) Degree Course for the academic year 2021 – 2022 in the third respondent College. While so, the Indian Nursing Council by a notification dated 05.07.2021 revised the regulation and curriculum for



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B.Sc. (Nursing) Degree Course regulations, 2020. As per the said revised regulation, the reservation policy explicitly states that the minimum marks to be obtained in three major subjects in respect of candidates belonging to SC/ST/OBC shall be 40% instead of 45% for General category candidates. However, the respondent-University by its letters dated 13.09.2022 and 16.12.2022 rejected the petitioner's candidature on the ground that the petitioner secured an aggregate mark of only 44.66% in three major subjects instead of 45% and informed the third respondent College to discharge the petitioner from the said course. The third respondent College by its letter dated 23.12.2022 explained the circumstances and requested the respondent-University to permit the petitioner to continue the course. Since there was no reply from the respondent-University, the petitioner has filed the above Writ Petition before this Court for appropriate directions.

3. The learned counsel for the petitioner submits that, the B.Sc.(Nursing) Degree Course is governed by the notification issued by the Indian Nursing Council dated 05.07.2021, in which, it has been specifically stated that, in respect of OBC candidate, the required



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percentage is 40% in three major subjects, whereas the respondent-University refused to accept the petitioner's candidature on the ground that the petitioner has not secured 45% instead of the petitioner securing 44.6%, which is not sustainable. Accordingly, he prays for appropriate orders.

4. Per contra, the learned counsel appearing for the respondents 1 and 2 submits that the Indian Nursing Council by a notification dated 05.07.2021 revised the Regulation and Curriculum for B.Sc (N) programme Regulations 2020. The important admission terms and conditions stipulated in the Revised Regulations are extracted hereunder:-

“2. Minimum Educational Qualification:-

a) Candidate with Science who have passed the qualifying 12th Standard examination (10+2) and must have obtained a minimum of 45% marks in Physics, Chemistry and Biology taken together and passed in English individually.

b) Candidates are also eligible from State Open School recognized by State Government and National Institute of Open School (NIOS) recognized by Central Government having Science subjects and English only.

c) English is a compulsory subject in 10+2 for being eligible for admission to B.Sc.(Nursing).



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8. Reservation Policy :

Reservation of seats in for admission in Nursing Colleges for SC/ST/OBC/EWS/PH.

Admission under the reserved quota shall be subject to reservation policy and eligibility criteria for SC/ST/OBC/EWSS prescribed by the Central Govt./State Govt./Union Territory as applicable to the College concerned.

In respect of candidates belonging to SC/ST/OBC the marks obtained in 3 core subjects shall be 40% instead of 45% for General Category candidates...”

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents 1 and 2 and perused the materials available on records.

6. The respondent-University claims that, as per the B.Sc.(Nursing) programme Regulations 2020, the minimum educational qualification for the Candidate with Science who have passed the qualifying 12th Standard examination (10+2) and must have obtained a minimum of 45% marks in Physics, Chemistry and Biology taken together and passed in English individually. Reservation of seats in for admission in Nursing Colleges based on the Reservation Policy and



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eligibility criteria for SC/ST/OBC/EWSS prescribed by the Central Govt./State Govt./Union Territory as applicable to the College concerned. In respect of candidates belonging to SC/ST/OBC the marks obtained in 3 core subjects shall be 40% instead of 45% for General Category candidates. However, as per the prospectus issued by the Selection Committee, Directorate of Medical Education, Chennai, the minimum eligibility mark for B.Sc. Nursing Course is 45% for OC/BC/MBC/DNC candidates.

7. Admittedly, the Indian Nursing Council issued a notification dated 05.07.2021, which makes it clear that, the minimum eligibility marks for admission in B.Sc.(Nursing) Course is 40% in respect of OBC candidates. However, the respondent-University rejected the petitioner's candidature by citing the minimum eligibility marks mentioned in the prospectus issued by the Selection Committee. It is pertinent to note that the prospectus cannot over read the notification issued by the Indian Nursing Council. Hence, the impugned letters issued by the respondent-University rejecting petitioner's candidature, is liable to be set aside.



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8. Accordingly, the writ petition is allowed and the impugned letters No.EX.VIIA(1)/16148/2022, dated 13.09.2022 and 16.12.2022 issued by the second respondent are set aside and the respondent-University is directed to permit the petitioner to continue her B.Sc.(Nursing) Degree Course forthwith in the third respondent College and pass appropriate orders. No Costs. Consequently, the connected miscellaneous petition is closed.

25.04.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

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M.DHANDAPANI, J.

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