



W.P.No.12760 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.12760 of 2023

V.A.Varun Prakash

... Petitioner

Vs.

1. The Secretary,
Union of India,
Ministry of Education,
New Delhi – 110 001.
2. The Secretary,
Union of India,
Ministry of Health and Family Welfare,
New Delhi – 110 001.
3. The Senior Director,
NEET (UG),
National Testing Agency,
C-20 1A/8, Sector 62, IITK Outreach Centre,
NOIDA – 201 309.
4. The Chairman,
National Medical Commission,
Pocket-14, Sector-8, Dwaraka Phase-1,
New Delhi-110 077, India.



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5. The Medical Counselling Committee,
(MCC) Rep by its Chairman DGHS,
Ministry of Health and Family Welfare,
Government of India Room No.348 A Wing,
Nirman Bhavan, New Delhi – 110 011.

6. Selection Committee,
Rep. by its Chairman,
Directorate of Medical Education,
163, Periyar E.V.R.High Road,
Kilpauk, Chennai – 600 010.

7. The Director of Medical Education,
Director General of Health Services,
156, Poonamallee High Road,
New Boopathy Nagar, Chetpet,
Chennai – 600 031.

8. National Board of Examinations,
H698+9FC, Medical Enclave,
Ansari Nagar, Mahatma Gandhi Marg,
Ring Road, New Delhi,
Delhi 110 029.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to pass appropriate orders for the rectification of the category from GENERAL TO OBC IN THE NEET (PG) 2023 Score card of VARUN PRAKASH V.A. With APPLICATION No.PG 23017871 and ROLL No.23661146448.



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For Petitioner : Mr.A.Syed Kaleesha
For Respondents : Mr.D.Simon
Central Govt. Standing Counsel-R1
and R2

M/s.Shubharanjani Ananth
Standing Counsel for R4

Ms.M.Sneha
Standing Counsel for R6

O R D E R

The prayer sought for herein is for a Writ of Mandamus to direct respondents to pass appropriate orders for the rectification of the category from GENERAL TO OBC IN THE NEET (PG) 2023 Score card of VARUN PRAKASH V.A. With APPLICATION No.PG 23017871 and ROLL No.23661146448.

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

3. However, at the time of making the application through online



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for NEET (PG) 2023, instead of entering the community of the petitioner as OBC, it was wrongly entered as General Category, due to which the petitioner could not get through NEET examination. Seeking rectification of the category from GENERAL to OBC in NEET (PG) 2023, the petitioner has made a representation dated 11.04.2023 before the respondents, which evoked no response. Hence the above Writ Petition.

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:

"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



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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 given the following directions.

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



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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.

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



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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.

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 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



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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 / respondents 2 and 3 to act upon and thereafter communicate to the petitioner the change in community at the earliest."

5. In view of the issue having been settled already and the present case falls squarely within the four corners of the said decision, this Court is inclined to extend the same benefit to this petitioner also with the following directions:

(i) That there shall be a direction to the respondents to consider the representation submitted by the petitioner dated 11.04.2023 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.

(ii) The needful as indicated above shall be



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undertaken by the respondents within a period of two weeks from the date of receipt of a copy of this order.

(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.

6. Accordingly, this Writ Petition is disposed of. No costs.

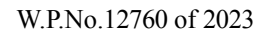
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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
(rap)

To

1. The Secretary,

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2. The Secretary,
Union of India,
Ministry of Health and Family Welfare,
New Delhi – 110 001.
3. The Senior Director,
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7. The Director of Medical Education,
Director General of Health Services,



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M.DHANDAPANI,J.

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