



W.P.No.12067 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.12067 of 2023

Maria Jessica Vajoumouny

Represented by her Father and Natural Guardian

... Petitioner

Vs.

1. The Union of India,
Represented by Secretary to Government,
Ministry of Human Resource Development,
New Delhi.
2. The National Testing Agency,
(National Eligibility-cum-Entrance Test (UG) - 2023),
Represented by Secretary,
Department of Higher Education, MHRD,
NSIC - MDPP Building,
Okla Industrial Estate Phase III,
New Delhi - 110 020.
3. The Medical Counselling Committee,
Represented by Secretary,
All India Quota for Medical UG 2023,
Directorate General of Health Services,
Government of India,
Room No.348, A Wing,
Nirman Bhavan, New Delhi.



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4. The National Medical Commission,
Represented by its Chairperson,
Pocket 14, Sector 8,
Dwarka,
New Delhi - 110 077.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to enable the substitution of "FRENCH" National instead of "INDIAN" National against the Nationality Column in the petitioner's Application Number 230410040123 for NEET (UG) 2023 and to direct the corrected entry to be reflected in the "ADMIT CARD - NEET (UG) 2023" to be issued by the second respondent in the 1st week of May 2023 for the examination scheduled on the 7th May 2023.

For Petitioner : Mr.M.Ravi
For Respondents : Mr.K.Ramamoorthy
Central Govt. Standing Counsel

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the respondents to enable the substitution of "FRENCH" National instead of "INDIAN" National against the Nationality Column in the petitioner's Application Number 230410040123 for NEET (UG) 2023 and to direct the



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corrected entry to be reflected in the "ADMIT CARD - NEET (UG) 2023" to be issued by the second respondent in the 1st week of May 2023 for the examination scheduled on the 7th May 2023.

2. The petitioner has applied for the Medical Entrance Test NEET (U.G.) - 2023.

3. However, at the time of making the online application, since it has been done through an E-Seva Kendra, the data entry operator as well as her mother instead of mentioning the Nationality to which the petitioner belongs as 'French', has chosen as 'Indian' and the Category to which the petitioner belongs as 'General', has chosen as 'OBC-NCL'. Only after the board exams, after verifying the confirmation page, the petitioner noticed that she was considered as 'Indian' National and 'OBC-NCL' Category. Then only she realized the mistake committed through the data entry operator as well as her mother while making the online application. The correction with regard to the Category has been completed. Therefore, in order to change



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the Nationality from 'Indian' to 'French', the petitioner has given a representation to the second respondent on 14.04.2023. However, so far the same has not been considered and no change of Nationality has been permitted, the petitioner has approached this Court by filing the present Writ Petition.

4. The issue raised in this Writ Petition is no more *res integra* as in number of cases, these kind of change 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 14.03.2022 via e-mail, verify the community certificate



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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 classes (OBC). She has written the NEET examination for



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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 by the respondents, within a time frame to be fixed by this



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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 the same to the respective students. These orders having been accepted by the DGHS, were complied also.



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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. Since the present issue is also one and the similar, there is no embargo for the second respondent to correct the Nationality of the petitioner, therefore, following the said order, the following orders are passed:

(i) That there shall be a direction to the second respondent to consider the representation submitted by the petitioner dated 14.04.2023 in the light of the discussion herein above made and accordingly after changing the Nationality of the petitioner from 'Indian' to 'French', communicate the same to the petitioner.



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(ii) The needful as indicated above shall be undertaken by the second respondent within a period of one week 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 second respondent 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

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To

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The Union of India,
Ministry of Human Resource Development,
New Delhi.
2. The Secretary,
The National Testing Agency,
(National Eligibility-cum-Entrance Test (UG) - 2023),
Department of Higher Education, MHRD,
NSIC - MDPP Building,
Okla Industrial Estate Phase III,
New Delhi - 110 020.
3. The Secretary,
The Medical Counselling Committee,
All India Quota for Medical UG 2023,
Directorate General of Health Services,
Government of India,
Room No.348, A Wing,
Nirman Bhavan, New Delhi.
4. The Chairman,
The National Medical Commission,
Pocket 14, Sector 8,
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M.DHANDAPANI,J.

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