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W.P.No.13387 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

W.P.No.13387 of 2023

and

W.M.P.No.17946 of 2023

Dr.J.Joselin Steffi Grantia

... Petitioner

Vs.

1.The National Board of Examination,
Medical Enclave, Ansari Nagar,
P.O.Box No.4931, Ring Road,
New Delhi – 110 029.

2.The Medical Counseling Committee,
Allotment Process – Counseling,
Directorate General of Health Service,
Ministry of Health and Family Welfare,
Government of India,
Nirman Bhawan, Maulana Azad Road,
New Delhi – 110 011.

3.The Medical Council of India,
Pocket-II, Sector-8,
Dwaraka Phase – I,
New Delhi – 110 077.

... 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 records



W.P.No.13387 of 2023

relating to the rejection/communication dated 22.03.2023 made by the first respondent and quash the same and further, direct the first respondent to permit the petitioner to participate in the Post Graduate Medical Counseling by considering petitioner as Other Backward Community candidate on par with order made in W.P.No.10355 of 2020 dated 05.08.2020.

For Petitioner : Mr.D.Veerasekharan

For Respondents : Mr.J.Harikrishna
Senior Standing Counsel [R1]
Mr.V.Ashok Kumar
Central Government Counsel [R2]
Mrs.Shubharanjani Ananth
Standing Counsel [R3]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorarified Mandamus, to call for records relating to the rejection/communication dated 22.03.2023 made by the first respondent and quash the same and further, to direct the first respondent to permit the petitioner to participate in the Post Graduate Medical Counseling by considering petitioner as Other Backward Community candidate on par with order made in W.P.No.10355 of 2020 dated 05.08.2020.



W.P.No.13387 of 2023

WEB COPY

2. Though the petitioner filed W.M.P.No.17946 of 2023 seeking to fix an early date for hearing of the present writ petition, she is consented for the disposal of the main writ petition itself.

3. The case of the petitioner is that she participated in the NEET-PG examination for the year 2023 on 05.03.2023 conducted by the first respondent and secured 277 marks. At the time of submitting the online application, by inadvertence, the petitioner has filled up the particulars against the column community as General instead of OBC. According to the petitioner, this was an inadvertent mistake and the same should not be put against the petitioner, more particularly, due to the fact that the petitioner falls under OBC category and she has the necessary community certificate to substantiate the said claim.

4. It is the further case of the petitioner that, the eligibility cut-off mark for OBC category is 257. Since the petitioner has secured 277 marks, she is eligible for NEET PG 2023 admission under the OBC category. In order to rectify the mistake, the petitioner sent an e-mail to the second respondent on 21.03.2023, however, the said request was rejected by



W.P.No.13387 of 2023

communication dated 22.03.2023. Aggrieved by the same, the above writ petition has been filed before this Court.

5. The learned counsel for the petitioner submits that the issue involved in this writ petition has already been decided by this Court in W.P.No.10355 of 2020 vide order 05.08.2020. The relevant portion in the order is extracted hereunder:

“8. There is no requirement to go into the issue that has been raised in the present writ petition, since it is covered by the earlier order passed by this Court. According to the petitioner, he is coming within the cut off mark for the OBC candidate and there are lots of vacancies which remains unfilled and therefore, a similar order can be passed to enable the petitioner to participate in the stray vacancy round.

9. In view of the above discussion, this writ petition is disposed of with the following direction:

(a) The 2nd respondent is directed to place the petitioner at the bottom of the merit list meant for Other Backward Class community candidates who have been called for the counseling for the Post Graduation



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W.P.No.13387 of 2023

course.

(b) After filling up the seats based on the merit list already prepared in respect of Other Backward Class candidates, if any vacancies arise, the case of the petitioner shall be considered by treating him as an Other Backward Class candidate, provided that the petitioner satisfies all the requirements, and

(c) The candidates who are already shown in the Other Backward Class category in the merit list shall not be disturbed in any manner by the intervention of the petitioner, who is directed to be considered as an Other Backward Class candidate.

No costs. Connected miscellaneous petition is closed. ”

6. The learned counsel for the petitioner by relying upon the above order submitted that the petitioner can also be permitted as a OBC candidate to participate in the Post Graduate Medical Counseling.

7. This Court has carefully considered the rival submissions and perused the materials available on record.



W.P.No.13387 of 2023

8. The said proposition held in the case of ***Dr.Sarat Anandh vs. The National Board of Examination & 2 Ors.*** can very well be applied in the present facts of the case. Therefore, I am of the view that the said benefit can be extended to the present petitioner also.

9. Accordingly, the writ petition is disposed of with the following orders :

(a) the second respondent is directed to place the petitioner at the bottom of the merit list meant for Other Backward Class community candidates who have been called for the counseling for the Post Graduation Course.

(b) after filling up the seats based on the merit list already prepared in respect of Other Backward Class candidates, if any vacancies arise, the case of the petitioner shall be considered by treating her as an Other Backward Class candidate, provided that the petitioner satisfied all the requirements; and

(c) the candidates who are already shown in the Other Backward Class category in the merit list shall not be disturbed in any manner by the intervention of the petitioner who is directed to be considered as an Other Backward Class



W.P.No.13387 of 2023

WEB COPY

candidate.

10. With the above directions, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

28.06.2023
(2/2)

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

Note: Issue order copy on **03.07.2023**.

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To

- 1.The National Board of Examination,
Medical Enclave, Ansari Nagar,
P.O.Box No.4931, Ring Road,
New Delhi – 110 029.
- 2.The Medical Counseling Committee,
Allotment Process – Counseling,
Directorate General of Health Service,
Ministry of Health and Family Welfare,
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W.P.No.13387 of 2023

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W.P.No.13387 of 2023

M.DHANDAPANI, J.

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W.P.No.13387 of 2023

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