



W.P.No.16753 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2023

CORAM

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

W.P.No.16753 of 2023

Srijan Shankar

... Petitioner

Vs.

1.National Testing Agency
An Autonomous Organization under
the Department of Higher Education,
Ministry of Education, Government of India
C-20 1A/8, Sector 62
IITK Outreach Centre,
NOIDA-201309

2. The Director General of Health Services,
Ministry of Health and Family Welfare,
Nirman Bhavan,
New Delhi - 110 007.
(R2 suo-moto impleaded vide order
dated 07.06.2023 made in W.P.No.16753 of 2023)

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any other appropriate Writ, order or direction in the nature of a Writ directing the Respondent to consider the representation of the petitioner vide email dated 13.05.2023 and letter dated 23.05.2023 sent via registered post for change of Petitioner's candidature for NEET Examination 2023 from General category to OBC category for Application No.230410653311 and admit card bearing Roll No.4104010193.

For Petitioner : Mr.Mohammed Fayaz Ali
For Respondents : Mrs.Sunita Kumari,
Standing Counsel
for National Testing Agency-R1

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the first respondent to consider the petitioner's representation dated 13.05.2023 made for change of Petitioner's candidature for NEET Examination 2023 from general category to OBC category in his application and the admit card and also the letter dated 23.05.2023.



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

3. However, at the time of making the application through online instead of entering the community of the petitioner as OBC, it was wrongly entered as General Category. The petitioner has wrongly entered the category, which has been subsequently noticed i.e., after the declaration of the examination results because of which, the petitioner would stand affected, as he has to be treated as a candidate under OBC category, as otherwise he may not get the chance of getting admission in the Medicine course for the academic year 2023-2024. Therefore, in order to change the community from General Category to OBC, the petitioner has moved the present Writ Petition.

4. The issue raised in this Writ Petition is no longer *res integra* as in number of cases, these kind of change of community has been entertained and orders were passed by this Court. Attention of this Court was drawn to



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the decision of this Court in W.P.No.11754 of 2023 vide order dated 19.04.2023, this Court had passed the following order:-

"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 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



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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 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



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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.

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



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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.*

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 stands on similar footing, following the said order, the following order is passed:



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(i) That there shall be a direction to the respondents, especially the 2nd respondent to consider the representation submitted by the petitioner dated 23.05.2023 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 undertaken by said 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 2nd 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.



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6. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs.

07.06.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

NHS

**Note to Registry : Registry to implead R-2 as party respondent
in this Writ Petition.**

To

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M.DHANDAPANI,J.

NHS

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