



W.P.No.16846 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.16846 of 2023

Shubiksha S Raju

... Petitioner

Vs.

1. National Board of Examination in Medical Science
Represented by its President
Dabri-Gurgaon Road,
Near District Court,
Dwarka Sector 9 Rd
PSP Area,
New Delhi-110 077.
2. The National Medical Commission,
Represented by its Secretary
Pocket 14, Sector - 8,
Dwarka1, Phase-1,
New Delhi - 110 077.



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3. Medical Counselling Committee,
Government of India,
Directorate of General Health Services
Ministry of Health and Family Welfare,
Nirman Bhawan,
New Delhi-110 001.

4. Tamil Nadu Medical Council
Represented by its Secretary,
No.914 Poonamallee High Road,
Arumbakkam,
Chennai, Tamilnadu
India.

5. The Director,
Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R.Salai,
Kilpauk, Chennai-600 010

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents herein to accept and consider petitioner category in Application in PG23007292 bearing Roll No.23661140170 from General to Other Back ward Class (OBC) in the National Eligibility cum Entrance Test Post Graduate Examination, 2023 (NEET-PG) conducted by the first respondent on 05.03.2023 and consequently directing the respondents to consider the marks secured by the petitioner in Other Backward Class (OBC) instead of



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General Category based on the community certificate dated 26.02.2008 issued by the Tahsildar, Chennai.

For Petitioner : Mr.N.R.Elango, Senior Counsel
for M/s.A.S.Aswin Prasanna

For Respondents : Mrs.Shubharanjani Ananth for R1 & R2

: Ms.Anitha,
Central Govt. Standing Counsel for R3

: Mr.E.Veda Bagath Singh
Special Government Pleader for R4

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 31.05.2023 made for change of Petitioner's candidature for NEET Examination 2023 from general category to OBC category in her application and the admit card.

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



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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 she 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 made a representation to the respondents. Since, the same was not considered by the respondents, 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 31.05.2023 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. Registry is directed to communicate the order copy to the Director General of Health Services, Ministry of Health and Family Welfare, Nirman Bhavan, New Delhi - 110 007.

7. 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 Office :

Issue order copy on 04.07.2023

To

1. The President
National Board of Examination in Medical Science
Dabri-Gurgaon Road,
Near District Court,
Dwarka Sector 9 Rd
PSP Area,
New Delhi-110 077.



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M.DHANDAPANI, J.

NHS

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