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W.P.No.19866 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.07.2023

Pronounced on : 18.07.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.19866 of 2023
and WMP.No.19188 of 2023

Harivathsan RP (Minor)

... 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.



W.P.No.19866 of 2023

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.The 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.The National Board of Examinations

H698+9FC, Medical Enclave
Ansari Nagar, Mahatma Gandhi Marg
Ring Road, New Delhi
Delhi - 110 029.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus (a) directing the respondents to pass appropriate order for the rectification of the category from GENERAL TO OBC in the NEET (UG) 2023 Score card of HARIVATHSAN RP with APPLICATION No.230410223671 and ROLL No.4101050036; (b) pass any other order as this Court may deem fit.



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For Petitioner : Mr.A.Syed Kaleesha

For Respondents : Mr.R.Subramanian, ACGSC for R1 & R2
Ms.Sunita Kumari, Standing Counsel for R3
Ms.Shubaranjani Ananth for R4
Ms.Sneha for R6
Mr.S.J.Mohammed Sathik for R7

ORDER

The petitioner, a minor, has filed this petition through his next friend and father, says that he belongs to Hindu Thuluva Vellala community, and that it is a notified OBC community. However, when the petitioner applied for sitting in the NEET (UG) Examination, 2023, he inadvertently filled the online application as if he belongs to the General Category. The petitioner has scored 128 out of 720, and for general category the cut off mark is 137. The petitioner now says that the information provided in the online application has happened by mistake, and to support that the petitioner belongs to OBC he has produced a community certificate issued on 20.06.2023.

2. As per the income certificate dated 07.07.2023, produced by the petitioner, the combined annual income as an individual / family, is Rs.5,40,000/- and



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hence he would fall within OBC- Non Creamy layer category. The petitioner states that he is going abroad and that he requires that his category be changed from General to OBC- Creamy layer in the NEET Exam-2023 results, in order to facilitate him to prosecute his studies accordingly.

3.This Court is informed that the community classification as per the Central Government Notification are Open Category, OBC, SC and ST. The category OBC is further divided into Creamy Layer and Non Creamy Layer. However, when it comes to this State, the categories are Open Category or General Category, MBC, BC, SC & ST. Those who fall within MBC and BC as per the State classification will fall under the category OBC under the Central classification. This difference in categorisation of communities is said to create confusion and that this is one such instance, this Court is informed.

4.Mr.R.Subramanian, the learned ACGSC takes notice for the 1st and 2nd respondents. Mrs.Sunitha Kumari, the learned standing counsel takes notice for the 3rd respondent. Mrs.Shubharanjani Ananth, the learned standing counsel takes notice for the 4th respondent. Mrs.Sneha, the learned counsel takes notice for the 6th respondent.



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5. This court is informed that the intimation for interview would be dispatched based on the category in which a candidate falls, taking into account the cut-off marks prescribed for the category, and that since the online registration for NEET (UG) 2023 Counselling for Government College has ended, and since the process of converting the category from "General" to "OBC" will take sometime, if the petitioner insists in considering his name at the middle of the admission process of the current academic year, it will disrupt the process.

6. The petitioner has created a situation for himself. A sheer lapse in care on his part is likely to spoil his hopes in joining the medical course in the current academic year. This Court sympathises with the petitioner, but mere sympathy cannot vest the petitioner with any right that he be called for counselling.

7. This Court now directs that the second respondent to consider the case of the petitioner, cause an enquiry if it is felt necessary, and change his category from General to OBC (Non-creamy layer) in the NEET results for the



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examination for UG, 2023 as expeditiously as possible. And, in the eventuality of the second respondent changing the category of the petitioner as required by him, the same is required to be communicated to such authority who are entrusted with the responsibility of conducting counselling. The writ petition is disposed of accordingly. No costs.

18.07.2023

Index : Yes / No

Speaking order / Non-speaking order
ds

Note : Issue order copy on 18.07.2023

To:

- 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
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ds

Pre-delivery order in
W.P.No.19866 of 2023

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