



W.A.Nos.2274 & 2304 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.Nos.2274 & 2304 of 2019

The Director General
Head Quarters Office
Employees State Insurance Corporation
Panchadeep Bhavan
New Delhi 110 002

.. Appellant in both the W.A's

v.

1. M.Rithika
represented by her Father and Guardian
Mr.R.Muthukumar
2. National Medical Commission
represented by its Secretary
Pocket 14, Sector 18
Dwaraka Phase I
New Delhi 110 011
(R2 suo motu impleaded vide order
of Court dated 22.10.2020 in WA's)
3. The Director General of Health Service
Ministry of Health and Family Welfare



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Government of India, Nirman Bhavan
New Delhi 110 108

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4. The Director
Directorate of Medical Education
No.162, EVR Periyar Salai
Kilpauk
Chennai 600 010
5. The Secretary
Selection Committee
Directorate of Medical Education
No.162, EVR Periyar Salai
Kilpauk
Chennai 600 010
6. The Union of India
represented by its Secretary
Ministry of Labour and Employment
Social Security Division
Shram Sakthi Bhavan
Rafi Marg
New Delhi .. Respondents in WA.2274/19
1. M.Rithika (Minor)
represented by her Father and Guardian
Mr.R.Muthukumar
2. National Medical Commission
represented by its Secretary
Pocket 14, Sector 18
Dwaraka Phase I
New Delhi 110 011
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3. The Director
Directorate of Medical Education
No.162, EVR Periyar Salai
Kilpauk
Chennai 600 010
4. The Secretary
Selection Committee
Directorate of Medical Education
No.162, EVR Periyar Salai
Kilpauk
Chennai 600 010
5. M.Shradha
6. The Director General of Health Service
New Delhi
7. The Government of Tamil Nadu
represented by its Secretary
Higher Education Department
Chennai 600 009
8. The Union of India
represented by its Secretary
Ministry of Labour and Employment
Social Security Division
Shram Sakthi Bhavan
Rafi Marg
New Delhi

.. Respondents in WA.2304/19

Writ Appeals filed under Clause 15 of the Letters Patent, against the common order dated 07.06.2019 made in W.P.No.17948 of 2017 & W.P.No.35853 of 2016, respectively.



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For Appellants :: Mr.AR.L.Sundaresan
Additional Solicitor General
assisted by Mr.K.M.Venugopal
Senior Panel Counsel
in WA.2274/2019

Mr.AR.L.Sundaresan
Additional Solicitor General
assisted by Mr.K.Prabakar
Senior Panel Counsel
in WA.2304/2019

For Respondents :: Mr.S.N.Ravichandran for R1
in both WA's
Ms.Shubharanjani Ananth for R2
in both W.A's
Mr.U.M.Ravichandran
Special Government Pleader for
R4 & R5 in WA.2274/2019 &
for R3, R4 & R7 in WA.2304/2019
Batta with petn.due reg R6 in
WA.2274/2019

COMMON JUDGMENT

(Judgment of the Court was made by D.KRISHNAKUMAR,J.)

The first respondent/writ petitioner filed the Writ Petition No.35853 of 2016 for issuance of a writ of certiorarified mandamus, calling for the records of the impugned allotment order of MBBS seat for the ESIC



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Medical Colleges under the Insured Persons Quota passed by the Employees State Insurance Corporation on 23.09.2016 and to quash the same as illegal and contrary to the Hon'ble Apex Court orders dated 22.09.2016 in the Contempt Petition © No.584 of 2016 in C.A.No.4060 of 2009 for filling up the 2016-17 medical seats all over India, with a consequential direction to the Employees State Insurance Corporation to transfer the minimum of 20% seats meant for the Insured Persons Quota in ESIC Medical Colleges to be filled up by conducting fresh counselling by the State Selection Committee, Directorate of Medical Education, Chennai in accordance with NEET All India rank holders merit list. The first respondent also filed Writ Petition No.17948 of 2017 for issuance of a writ of certiorarified mandamus, calling for the records relating to the impugned notification issued by the National Medical Commission through their website dated 05.07.2017 and to quash the same as illegal and contrary to the orders passed in U.P.Unaided Medical Colleges v. Union of India dated 15.09.2016 by the Hon'ble High Court of Judicature at Allahabad and further violating the clause 6(iii) 2010 of the National Medical Commission notification dated 21.12.2010 and consequently to permit the first respondent/writ petitioner to participate in



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the online counselling process. So far as the prayer sought for in the first writ petition is concerned, the writ Court, taking note of the counter affidavit filed by the Medical Council of India that the whole process of admission in the medical colleges for the academic year 2016-17 was already over, though found that the 20% quota reservation for the Wards of Insured Persons of ESIC is unconstitutional and illegal, thought it fit not to disturb the admission and declined to grant any relief to the first respondent/writ petitioner. So far as the prayer sought for in the second writ petition is concerned, the writ Court, declaring the reservation policy of Employees State Insurance Corporation providing 20% seats to Wards of Insured Persons of ESIC as unconstitutional and illegal, directed the ESIC not to provide any reservation for the Wards of Insured Persons of ESIC while admitting students in the medical colleges of ESIC. However, the writ Court did not disturb the admission granted to the wards of employees registered under ESIC till the date of the impugned order, as the first respondent/writ petitioner did not implead the candidates who have been admitted for the academic year 2017-18 pursuant to the counselling conducted for the Wards of Insured Persons of ESIC. Challenging the said



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order, the instant intra-Court appeals have been filed by the Employees State Insurance Corporation before this Court.

2. When the writ appeals were taken up for hearing, Mr.AR.L.Sundaresan, learned Additional Solicitor General appearing for the appellant submitted that after the order passed by the writ Court, since the admissions to the MBBS course for the academic year 2016-17 and 2017-18 under the NEET All India rank holders merit list were already over and the duration of the course has also come to an end and that the first respondent/writ petitioner has also joined in other course during the pendency of these writ appeals, the legal issues raised by the appellant have become academic.

3. The learned counsel appearing for the first respondent/writ petitioner also has not controverted the submission made by the learned Additional Solicitor General appearing for the appellant.

4. In view of the fact that the prayer sought for by the first respondent



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does not survive as on date and she has also joined some other course during the pendency of the matter before this Court, without expressing any opinion, these writ appeals are disposed of leaving all the legal issues open. Consequently, C.M.P.Nos.15099, 15206 of 2019 & 12027 of 2020 are closed. There shall be no order as to costs.

(D.K.K.,J.) (P.B.B,J.)

12.09.2023

Index : yes/no

Neutral citation : yes/no

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To

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3. The Secretary

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4. The Director General of Health Services

Ministry of Health and Family Welfare

Government of India, Nirman Bhavan

New Delhi

5. The Secretary to Government of Tamil Nadu

Higher Education Department

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6. The Secretary to Union of India

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