



WEB COPY



W.P.No.21451 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.21451 of 2023
and WMP.No.20837 of 2023

S.Munusamy

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Petitioner

Vs.

1.The Secretary

Tamil Nadu Health and Family Welfare Department
Government of Tamil Nadu
Fort St.George, Chennai.

2.The Secretary

Directorate of Medical Education and Research
Selection Committee
Directorate of Medical Education
No.162, Periyar EVR High Road, Kilpauk
Chennai - 600 010.

3.The Secretary

National Medical Commission
Pocket-14, Sector-8, Dwaraka, Phase-1
New Delhi - 110 077.

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Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 28.06.2023 application under the 7.5% reservation scheme and consequently permit the petitioner to attend the counselling under 7.5% reservation scheme in 2023-24 UG Medical MBBS Admission conducted by the second respondent.

For Petitioner : Mr.N.Baskaran

For Respondents : Mr.V.Manoharan
Additional Government Pleader for R1
Ms.M.Sneha for R2
Ms.Shubharanjani Ananth for R3

ORDER

The petitioner, 63 years young, has an insatiable and incredible appetite for improving his academic graphline. He passed his PUC Examination in 1977 and proceeded to do his graduation in B.Sc.(Botany), and joined the Tamilnadu Police. Some time in 1990, he resigned his job, and qualified himself in Education, and became a teacher in a Government School. He is since superannuated.

2.The petitioner would now take the NEET Examination to prosecute



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medicine. He was successful in clearing the papers, and now he seeks accommodation within the quota reserved for the students of the Govt. School, under the 'Tamil Nadu Admission to Undergraduate Courses in Medicine, Dentistry, Indian Medicine and Homeopathy on preferential basis to students of Government Schools Act, 2020. (hereinafter would be referred to as Act). This year he has scored a healthy 408/720 (56.66%) in the NEET Exam.

3. The petitioner passed the NEET examination in the last academic year as well, but his candidature was not considered. Therefore, he was before this Court with W.P.No.8964 of 2022, where this Court passed an interim order to consider his case, but later, that petition itself came to be withdrawn. In this academic year, the petitioner finds himself in an identical position.

4. Heard both sides. Mrs.M.Sneha, the learned counsel for the 2nd respondent brought to the notice of the Court that there are two factors as to why the petitioner cannot aspire for a seat within 7.5% quota reserved for the students of the Govt. School under Act 34 of 2020:

(a) The qualifying examination as prescribed by the norm for joining



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the medical course in the current academic year is Higher Secondary, whereas the petitioner has only passed PUC in 1977. The norms have not provided the qualifying examination as the Higher Secondary or any equivalent qualification as a criterion. Therefore, unless the very rule prescribing the qualifying examination is challenged, or unless the Govt. chooses to modify the norm as desired by the petitioner he does not stand a chance.

(b) Secondly, for considering the case of the petitioner, de hors the first point stated above, he should be (a) from a weaker section, and (b) should have completed his schooling from 6th to 12th Standard in a Government School, which comes with a qualification that where students are from weaker section and have done their schooling from 6th standard to 8th standard either in a specified school under the the Right of Children to Free and Compulsory Education Act, 2009 (i.e Kendriya Vidyalaya or Sainik Schools) or in an unaided school.

(c) If it is further filtered for appreciating petitioner's eligibility, as on date, he has served, first as a policeman and then as a school teacher, and he can never be considered to be from the weaker



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section of the society. Secondly, he had completed PUC in Vivekananda College, which is an aided college. Thirdly, such students should have mandatorily done their schooling from 8th to 12th Standard only in Government Schools. None of these criteria are satisfied and the petitioner would not be entitled for an accommodation within 7.5% reserved quota under Act 34, 2020.

5. While this Court appreciates the petitioner's drive and motivation to pursue his education in MBBS medicine, but not one aspect which the learned counsel for the 2nd respondent has raised can be dismissed. While this Court salutes the efforts of the petitioner and his anxiety to prosecute his studies in medicine, it is helpless to help him as he developed his desire to do medicine several years too late.

6. The learned counsel for the petitioner would now submit that even if the petitioner is not considered within the ambit of Act 34 of 2023, he can easily be considered in the General Category.

7. This Court considers that it is too early for the petitioner to lose hope for



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he had scored the cut off mark for the General Category and he can be optimistic, subject however, to his ability to negotiate his PUC for a qualifying examination, and other norms.

8. The learned counsel for the 2nd respondent would hasten to reiterate that inasmuch as Higher Secondary is not equated to PUC, and, inasmuch as the Regulation does not stipulate that the qualifying examination is Higher Secondary or its equivalent, the 2nd respondent would be helpless.

9. Except recording its appreciation for petitioner's aspiration to do medicine at 63 years, there is precious little this court can do. The petition is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.07.2023

Index : Yes / No
Speaking order / Non-speaking order
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