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W.P.No.21913 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.21913 of 2023
and WMP.No.21258 of 2023

Minor B.Sabapathi,
Rep. by his father and Natural Guardian,
S.Boominathan

.... Petitioner

Vs

- 1.The Government of India
Rep by its Secretary
Department of Health and Family Welfare
Ministry of Health and Family Welfare
Room No.348, 'A' Wing, Nirman Bhavan
New Delhi - 110 011.
- 2.The Medical Counselling Committee (MCC)
Rep by its Chairman, D.G.H.S.
Ministry of Health and Family Welfare
Room No.348, 'A' Wing, Nirman Bhavan
New Delhi - 110 011.
- 3.The Associate Dean for Graduate Medical
Education (ADGME)
Directorate General of Health Services
Nirman Bhavan, New Delhi - 110 011.
- 4.The National Medical Commission
Rep by its Chairperson
Sector 8, Pocket 14, Phase-I
Dwarka, New Delhi - 110 077.



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5. The Selection Committee
Directorate of Medical Education
Kilpauk, Chennai - 600 010.

6. The Senior Director, NEET (UG)
National Testing Agency,
C-20 1A/8, Sector 62,
IITK Outreach Centre
Noida - 201309.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to forthwith change the category of the petitioner from "General" to 'OBC" (Other Backward Class) in the petitioner's application No.230410548666 and Roll No.4118020732 for NEET (UG)-2023 and consequently permit him to participate in the (UG), Counselling for MBBS/BDS-2023.

For Petitioner : Mr.K.Selvaraj

For Respondents : Mr.V.Ashok Kumar
Central Government Counsel for R1 to R3

Ms.M.Sneha for R5

Ms.Shubaranjini Ananth for R4

Ms.Sunita Kumari
Standing Counsel for NTA for R6



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ORDER

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The petitioner, a minor, has filed this petition through his next friend and father, says that he belongs to Yadhava 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 130 out of 720, and for OBC category the cut off mark is 107. The petitioner now says that the information provided in the online application has happened by mistake.

2.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.



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WEB CONTENT

3. Mr. V. Ashok Kumar, the learned CGC takes notice for the respondents 1 to 3. Mrs. Shubharanjani Ananth, the learned standing counsel takes notice for the 4th respondent. Mrs. Sneha, the learned counsel takes notice for the fifth respondent and Mrs. Sunitha Kumari, the learned Standing Counsel takes notice for the sixth respondent.

4. 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.

5. 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



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sympathy cannot vest the petitioner with any right that he be called for counselling.

6. This Court now directs that the first 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 examination for UG, 2023 as expeditiously as possible. And, in the eventuality of the first 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.

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

Note : Issue order copy on 24.07.2023



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To:
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Government of India
Department of Health and Family Welfare
Ministry of Health and Family Welfare
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New Delhi - 110 011.
- 2.The Chairman, D.G.H.S
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