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W.P.No.22171 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.22171 of 2023  
and WMP.No.21564 of 2023

S.Madhumitha

... Petitioner

Vs.

1.The Government of India  
Rep by its Secretary  
Ministry of Ayush  
EP(IM-2), Ayush Bhavan  
'B' Block, GPO Complex, INA  
New Delhi - 110 023.

2.All India Ayush Admissions Central  
Counselling Committee  
Rep. by its Chairman  
Ministry of Ayush  
Ayush Bhawab  
'B' Block, GPO Complex, INA  
New Delhi - 110 023.

3.National Testing Agency  
(Government Agency)  
Rep by its Chairman  
IITK Outreach Centre  
C-20, 1A/8, 'C' Block, Phase-2  
Industrial Area, Sector 62  
Noida, Uttar Pradesh - 201 309.



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

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for 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.230410070817, and her Roll No.3110320123, for NEET (UG)-2023 and consequently permit her to participate in the (UG) Counselling for BHMS-2023.

For Petitioner : Mr.K.Selvaraj

For Respondents : Mr.K.Subburanga Bharathi  
Central Government Standing Counsel  
for R1 & R2

Ms.Sunita Kumari for R3  
Mrs.M.Sneha for R4

### **ORDER**

The petitioner claims that she belongs to Nadar community, which is a Backward Community in Tamil Nadu, and in support of her claim, she had enclosed the community Certificate issued by the Zonal Deputy Tahsildar, Tenkasi dated 30.06.2023, and submits that it is a notified OBC community as per Central Government notification. The petitioner has attended her



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NEET (UG) 2023 Examination. However, when the petitioner applied through online for NEET (UG) Examination, 2023, the E-Centre personnel inadvertently filled the online application as if she belongs to the General Category, and this was omitted to be noted by her at the first instance. The petitioner has scored 126 out of 720, and for OBC category, the cut off mark is 107. The petitioner is now seeking for an admission in UG BHMS Course. She 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.

3.Mr.K.Subburanga Bharathi, learned CGSC takes notice for the respondents



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1 and 2, Mrs.Sunitha Kumari, the learned standing counsel takes notice for the third respondent and Mrs.M.Sneha, learned counsel takes notice for the fourth 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 MBBS (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 her 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 herself. A sheer lapse in care on her part is likely to spoil her 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 she be called for counselling.



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6. The petitioner now aspiring for admission in UG BHMS Course.

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 her 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 her, the same is required to be communicated to such authority who are entrusted with the responsibility of conducting counselling, so as to enable the petitioner to participate in UG BHMS Counselling as well. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Speaking order / Non-speaking order  
ds



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