



WEB COPY



W.P. No.22164 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 26.07.2023

Pronounced on : 27.07.2023

CORAM: JUSTICE N.SESHASAYEE

W.P. No.22164 of 2023 and
W.M.P. Nos.21558 & 21559 of 2023

Dr.G.Kanya

... Petitioner

Vs.

1.State of Tamil Nadu

Represented by its Principal Secretary
Health and Family (MCA-1) Department
Fort St. George, Chennai - 600 009

2.The Director of Medical Education

Directorate of Medical Education
Kilpauk, Chennai - 600 010

3.The Selection Committee

Represented by its Secretary
Directorate of Medical Education
162, Periyar E.V.R. High Road, 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 permit petitioner's son,



W.P. No.22164 of 2023

Mr. Shanmuga Priyan G.K. to be financially supported for his MBBS/BDS Degree Course in self-financing medical/dental colleges in Tamil Nadu affiliated to the Tamil Nadu Dr.M.G.R. Medical University by his blood relative Mrs. Prema Sundarapandi and consequently direct the respondents to include the petitioner's son, Mr. Shanmuga Priyan G.K.'s name in the Non Resident Indian (NRI) Quota list prepared for the counselling for admission to MBBS/BDS Degree Courses in self-financing medical/dental colleges in Tamil Nadu affiliated to the Tamil Nadu Dr.M.G.R. Medical University being conducted by the 3rd respondent in light of the prospectus for admission to MBBS/BDS Courses under Management Quota including minority/NRI Seats in self-financing medical/dental colleges in Tamil Nadu affiliated to the Tamil Nadu Dr.M.G.R. Medical University 2023-2024 session.

For Petitioner : Mr. E. Manoharan

For Respondents : Mr. M. Bindran, AGP for R1 & R2
Mrs. M. Sneha for R3

ORDER

This petition is preferred for issuance of a writ of mandamus directing the respondents, more particularly, the third respondent to permit petitioner's son Shanmuga Priyan G.K. for competing for the NRI quota list prepared for counselling for admission to medical course to any of the colleges affiliated



W.P. No.22164 of 2023

to Tamil Nadu Dr.M.G.R. Medical University in terms of the prospectus for NRI seats within the management quota for the academic year 2023-2024 session.

2.1 Petitioner's son Shanmuga Priyan has passed his qualifying exam in +2 in this academic year. He had participated in the NEET (UG) Exam, 2023, and has scored 239 marks. He intends to apply for NRI quota to be sponsored by mother's sibling's husband Mr.Arumugam Sundarapandi, who is a resident of Brunei. According to petitioner's son, when he registered himself for counselling, he uploaded all the documents required under clause 10 (viii) of the Prospectus for Management Quota including minority and NRI Seats *inter alia* in self-financing medical colleges. However, on 19.07.2023, when the third respondent released the list of students to be considered for the NRI quota, the petitioner's son name did not figure in it. Indeed, while the official registration for counselling closed on 12.07.2023, by a later notification, the portal was again opened for couple of days to conclude by 1.00 p.m. On 21.07.2023, to enable those candidates who might have made some silly errors in their online registration for counselling for the NRI quota.



W.P. No.22164 of 2023

2.2 In this backdrop, on finding that the list did not show his name, Shanmughapriyan sent an e-mail dated 19.07.2023 to the third respondent, and sought clarity as to why his name was omitted in the list of NRI candidates released by the third respondent. On 22.07.2023, he also sent a relationship certificate to indicate his relationship to his NRI sponsor, a document which is required to be uploaded during the online registration. There was no response to the same. Therefore, on 24.07.2023, Shanmughapriyan visited the third respondent office personally and his enquiry revealed that authorities did not approve Dr.Arumugam Sundarapandi as a blood relative to fall within the definition.

2.3 Now substituting his sponsor with candidate's mother's aunt Prema Sundrapandi, this petition was filed, which in effect will require the third respondent to open the portal specially for Shanmughapriyan.

3. The third respondent has filed the counter and the core contention therein is that after the closure of the web portal for online registration for counselling on 21.07.2023, it may be inappropriate to open it, especially when the petitioner is at fault.



W.P. No. 22164 of 2023

WEB COPY

4.1 The arguments were advanced along the lines indicated above. In the course of the argument, the learned standing counsel for the third respondent brought to the notice of this court that the third respondent has scheduled for first round of counselling for medical courses. It provides two critical information. It says, (a) that the registration, payment and choice of filling and locking would take place between 25.07.2023 and 31.07.2023; and (b) that the process for allotment of seats in terms of the schedule will be on 01.08.2023 and 02.08.2023, and the result would be published on 03.08.2023.

4.2 According to the learned counsel for the third respondent, after the closure of the registration for counselling on 21.07.2023, as was extended by a subsequent notification, the web portal will be opened only for those candidates whose names figure in the provisional list, and these provisional-listed candidates will now require to fill up their choice of colleges between 25.07.2023 and 31.07.2023. The computerised processing and allotment of seats based on the marks scored and the candidate's rank will be done on 01.08.2023 and 02.08.2023.



W.P. No. 22164 of 2023

WEB COPY

4.3 So far as the petitioner is concerned, argued the counsel, that the relationship certificate was rejected as it nowhere stated the relationship between the candidate and his NRI sponsor. Now that this portal cannot be reopened again, and the provisional list of NRI candidates does not contain his name.

5. The learned counsel for the petitioner would reply that the petitioner's son name does find a place and he is ranked 8721, and therefore providing a vital information at this juncture, may not by itself, would interfere with the ongoing admission process or its procedure. After all, submitted the counsel, that the computerised process of allotment of seats would take place between 01.08.2023 and 02.08.2023.

6. The learned counsel for the third respondent would clarify that the rank list with the name of Shanmughapriyan now published is for the Management Quota, of which NRI quota is a part. In other words, while petitioner's son name does not figure in the 15% NRI quota within the Management Quota, it does figure outside the NRI quota but within the Management quota.



W.P. No. 22164 of 2023

WEB COPY

7. This court heard the rival submissions. This Court does not consider the scenario as inconsequential as is sought to be projected. To start with, the situation is not created by any fault of the respondent, more particularly the third respondent, but by the petitioner's son himself. Clause 10(viii) of the prospectus specifically require that a relationship of the candidate to his/her NRI sponsor should be uploaded during online registration for counselling. This is one of the documents required to be produced as per procedure. Admittedly it was not done, for the copy of the document originally uploaded refers to the name of a sponsor from Brunei, but not his relationship to the candidate, more particularly how he is related by blood to the candidate. And this sponsor is candidate's mother's sibling's husband. Even if a wide meaning is given to the expression '*blood relation*', still this court is at a loss to understand how come a husband of mother's siblings' who is from another family can be considered as a blood relation, since he need not be from the same stock, tracing to a common ancestor.

8. The candidate has realised it. He would now substitute the sponsor and requires to introduce another - his mother's aunt, as the sponsor, as she



W.P. No. 22164 of 2023

according to him, would fall within the definition of 'blood relation'. And this is the plea made in the affidavit.

9. If this is allowed to be corrected, then it is not just substituting one document with one critical information – the relationship certificate in the place of what is uploaded, but uploading afresh all the list of documents, since what were originally uploaded relate to the candidate's grandmother's sibling's husband, and what may have to be uploaded is that of mother's aunt. And, if the web portal is directed to be opened for no fault of the authorities, then it would amount to extending a preference to this candidate for a special treatment, among several other candidates, who are equally placed. Principally, this is unconscionable to the conscience of this Court.

10. This Court often witnesses candidates approaching it and make sympathetic pleas, but this Court is conscious that even as it deals with a candidate before it, it also owes an obligation to protect the interest of all the candidates who have played by the rule book and applied for counselling. This court is sympathetic to this candidate, but not at the expense of its duty to deal with the interest of all equally and fairly. Law is for the vigilant, but



W.P. No.22164 of 2023

WEB COPY

mere vigilance is not adequate unless the game is played as per rule of law.

11. This Court finds that the eligibility criteria for NRI student as provided in Clause 8 of the prospectus particularly defines who would be eligible for NRI quota. Clause 8(i) states that "the NRI financially supporting the candidates should either be the parent (Father or Mother) of the candidate or the spouse or the blood relatives of the candidates or legally declared as guardian of the candidate by the Court as per the provisions in "The Guardians and Wards Act 1890". The situation has arisen here partly due to the ambiguity in defining who should constitute the blood relative. The petitioner herein believed that her mother's sibling's husband i.e., her uncle will fall within the scope of blood relative and one of the reason why the situation has arisen could be attributed to that and that perhaps is the reason why the candidate had now chosen an alternate NRI financial supporter.

12. This time, the respondents more particularly, the second respondent come out with proper definition of who all will constitute a blood relative for it paves way for multiple interpretation which may lead to arbitrariness in considering the candidature under the NRI quota. There is also a possibility



W.P. No. 22164 of 2023

that it may pave way for other malpractices as well. The proper definition will ensure that there is certainty both in the mind of the candidate and also in the mind of the selectors. This would ensure that the game is played truly and fairly.

13. In *Consortium of Deemed Universities in Karnataka (Codeunik) and Another Vs Union of India and Others* [2017 SCC OnLine SC 2110], the Hon'ble Supreme Court has considered the issue and it is the time the second respondent framed its own guidelines by taking a cue from the ratio in the said decision. Indeed, the second respondent is now directed to do it.

14. As an adjunct to the above, it must also be said that a form for relationship certificate may be prescribed, for it will bring in certain element of uniformity across Board for all the candidates. In the present case, the Tahsildar who issued the certificate has provided all the particulars except the relationship which probably is the one reason why the petitioner's son may miss the bus under the NRI quota.

15. Turning to the merit of the case, this Court may have to tell this petitioner



W.P. No.22164 of 2023

that this Court may not be able to help her in directing the third respondent to reopen the portal for it would be unjust to break the rule in the middle of the game, more so, it may constitute a preferential treatment to the petitioner's son when he is required to replace all the data that he has already uploaded within Clause 10.

16. To conclude, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

27.07.2023

Asr/ds

To

- 1.State of Tamil Nadu
Represented by its Principal Secretary
Health and Family (MCA-1) Department
Fort St. George, Chennai - 600 009
- 2.The Director of Medical Education
Directorate of Medical Education
Kilpauk, Chennai - 600 010
- 3.The Selection Committee
Represented by its Secretary
Directorate of Medical Education
162, Periyar E.V.R. High Road, Kilpauk
Chennai - 600 010
- 4.The Government Pleader
High Court, Madras.



WEB COPY



W.P. No.22164 of 2023

N.SESHASAYEE, J.,

Asr/ds

~~Pre-delivery~~ order in
W.P. No.22164 of 2023

27.07.2023