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W.P.No.25618 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.25618 of 2023  
and WMP.No.25015 of 2023

B.Manjamma Devi

.... Petitioner

Vs

- 1.The Director General of Health Services  
Ministry of Health and Family Welfare  
Nirman Bhavan  
New Delhi - 110 011.
- 2.The National Testing Agency (Govt. Agency)  
First Floor, NSIC - MDBP Building  
Okhla Industrial Estate  
New Delhi - 110 020.
- 3.The National Medical Council  
Sector - 8, Pocket-14,  
Dwarka Phase - I  
New Delhi - 110 077.
- 4.Medical Counselling Committee  
Ministry of Health and Family Welfare  
Government of India  
New Delhi.

.... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 1<sup>st</sup> and 4<sup>th</sup> respondents to permit the petitioner to change the category of General category into OBC category in the NEET application form submitted to the 2nd respondent and enable the petitioner to participate the Online Counselling NEET-UG (MBBS/ BDS / B.Sc. (Nursing) -2023 ) All India Quota and the stray vacancy round of 100% Deemed Universities as per the fourth respondent schedule.

For Petitioner : Mr.V.Ramesh  
for Mr.M.Jothikumar

For Respondents : Mr.AR.L.Sundaresan  
Additional Solicitor General  
Assisted by Mr.K.Srinivasamurthy  
Senior Panel Counsel for R1 & R4

Ms.Sunita Kumari for R2

Ms.Shubaranjani Ananth for R3

### ORDER

The petitioner herein has participated in the NEET (UG) Programme for the academic year 2023, and made necessary application through online. The petitioner claims that she belongs to Telugupatty Chetty community, which is notified as 'Most Backward Community' as per the State Classification. However, when the petitioner applied for sitting in the NEET (UG)



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Examination, 2023, she inadvertently filled the online application as if she belongs to the General Category. The petitioner has scored 131 marks out of 720. The petitioner now says that the information provided in the online application has happened by mistake. She claims that she had enclosed her community certificate dated 28.01.2017 issued by the Zonal Deputy Tahsildar, Aminjikarai Taluk recognising her belonging to 'Telugupatti Chetty Community' which is a Most Backward class, and uploaded the same when she registered herself for NEET. She now claims that the community that she belonged to is categorised as 'Most Backward Class in Tamil Nadu, which is categorised as 'Other Backward Class (OBC)' as per the norms of the Central Government. She also added that the cut-off score for OBC is 136-107, whereas for the General Category, the cut off marks is 137., and that she has secured 131 marks. She now requires a correction of her community category from General category to OBC category in the NEET application form submitted by her, so as to enable her to participate in the Online Counselling NEET-UG (MBBS/ BDS / B.Sc. (Nursing) -2023) All India Quota, in stray vacancy in 100% Deemed Universities.

2. Heard Mr.AR.L.Sundaresan, learned Additional Solicitor General for



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respondents 1 and 4, Ms.Sunita Kumari, learned counsel for the second respondent and Ms.Shubharanjani Ananth, learned counsel for the third respondent.

3. The learned counsel for the petitioner would submit that as per the data the petitioner has collected, for the academic year, not all the seats of the All India quota were filled, and couple of hundreds of seats of the Central quota were not filled up as there were no takers. He provided the following details.

|                  |     |
|------------------|-----|
| <b>2020-2021</b> | 273 |
| <b>2021-2022</b> | 326 |
| <b>2022-2023</b> | 261 |

Relying on the authority of the Hon'ble Supreme Court in *Avni Prakash Vs National Testing Agency and Others* [(2023) 2 SC 286], the learned counsel submitted, rather than let it go un-utilised, petitioner's case may be considered if it does not breach the terms and conditions of applying for the medical course.

4. The learned Additional Solicitor General appearing for the respondents 1



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and 4 has drawn the attention of the Court to Clauses 10 and 11 of the Information Bulletin for Admission to Undergraduate Medical Courses issued by the second respondent, and on instructions, submitted that the details filled in the Online application was under the declaration given by the candidates and that it cannot be changed in terms of Clause -11.

5. This Court has invariably taken a view that those candidates who are not adequately careful in uploading all the relevant material which are necessary for making use of reserved-quota in the medical admission, may not be permitted to complete the same in the middle of the admission process, as it may affect the interest of the candidates who have participated in the admission process diligently, since to do it may amount to grant premium for lack of care and defaults. This Court has expressed its view that the Court should concern not only about the interest of the candidate before it, but also all those students who are not before it, and rule of equality needs to be balanced viz-a-vis all the students, and that no litigant is a preferred litigant for conferring him or her with any privilege which the scheme for admission for the medical course does not accommodate. This Court continues to hold the same view.



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6. It may even be true that not all the seats allotted for the All India quota might have been filled up in the earlier academic years. The issue is not about filling up any such seats that may fall vacant this year. It is all about directing the re-opening of the portal which was closed for uploading necessary document in the middle of the admission process, for one student now before this Court, and also the permissibility of issuing any such direction.

7. This Court considers that it may not be appropriate to do it, since it may amount to interfering with the admission process in the manner which the prospectus contemplates, and also disrupt the schedule that it provided. If the portal is directed to be opened for one student, then why not to other similarly placed students, who now might have reconciled to the fact that their negligence has cost them a seat this year. If a direction must be issued for re-opening the portal, it cannot be selectively done for one, but for all those students who are not adequately careful while uploading the data when they registered for counselling. Otherwise, some students would become favoured students, and it will upset the equality of opportunity of



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all the students who participate in the admission process as per the rule book, and also the transparency of the on-line admission process. And, it is also more likely to go against the ratio of the Hon'ble Supreme Court in ***Dar-Us-Slam Educational Trust and Others Vs Medical Council of India and Others*** [2017 SCC OnLine 2119] and ***Nihila P.P. Vs The Medical Counseling Committee (MCC) & Others*** [2021 SCC OnLine SC 3283].

8. With lot of sympathy for the petitioner, and wishes to her for the next academic year, and a suggestion to read the entire prospectus carefully before applying, this Court is constrained to dismiss this petition. 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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N.SESHASAYEE.J.,

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