



W.P.No.26168 of 2023
& WMP.No.25564 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2023

CORAM: JUSTICE N.SESHASAYEE

WP.No.26168 of 2023
& WMP.No.25564 of 2023

R.Aditya Rajeswar

...Petitioner

-Vs-

- 1.The Government of India,
Rep. by its Secretary,
Department of Health and Family Welfare,
Ministry of Health & 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 & Family Welfare,
Government of India,
Room No.348, 'A' Wing, Nirman Bhavan,
New Delhi – 110 011.
- 3.The Associate Dean for Graduate Medical
Education (ADGME),
Nirman Bhavan,
New Delhi – 110 001.
- 4.The National Medical Commission,
Rep. by its Chairperson,
Sector 8, Pocker 14, Phase -1,



W.P.No.26168 of 2023
& WMP.No.25564 of 2023

WEB COPY Dwarka,
New Delhi – 110 077.

5.The Senior Director, NEET (UG),
National Testing Agency,
C-20 I A/8, Sector 62,
IITK Outreach Centre,
Noida – 201 309.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, 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.230411538450, and Roll No.4109010422 for NEET (UG)-2023 and consequently permit the petitioner to participate in the (UG). Counselling for MBBS/BDS-2023.

For Petitioner : Mr.K.Selvaraj

For R1 to R3 : Mr.K.Srinivasamurthy, SPCCG

For R4 : Ms.Shubharanjani Ananth

For R5 : Ms.Sunita Kumari

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 he belongs to Hindu Thuluva Vellalar community, which is notified as 'Backward Community' as per the State



W.P.No.26168 of 2023
& WMP.No.25564 of 2023

WEB COM

Classification. 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 134 marks out of 720. The petitioner now says that the information provided in the online application has happened by mistake. He now claims that the community that he 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. He also added that the cut-off score for OBC is 107, whereas for the General Category, the cut off marks is 137, and that he has secured 134 marks. He now requires a correction of his community category from General category to OBC category in the NEET application form submitted by him, so as to enable him to participate in the Online Counselling NEET-UG -2023) All India Quota, in stray vacancy in 100% Deemed Universities.

2. Heard Mr.K.Srinivasamurthy, learned Senior Panel Counsel for Central Government for respondents 1 to 3, Ms.Shubharanjani Ananth,



W.P.No.26168 of 2023
& WMP.No.25564 of 2023

learned counsel for 4th respondent and Ms.Sunita Kumari, learned counsel for 5th respondent.

3. The learned counsel for the petitioner would submit that as per the data 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 also added that 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 counsel appearing for the respondents has drawn the attention of the Court to Clauses 10 and 11 of the Information Bulletin for Admission to Undergraduate Medical Courses, 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



W.P.No.26168 of 2023
& WMP.No.25564 of 2023

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.

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



W.P.No.26168 of 2023
& WMP.No.25564 of 2023

WEB COPY

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 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***



W.P.No.26168 of 2023
& WMP.No.25564 of 2023

WEB COPY *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 him 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.

05.09.2023

Index : Yes/No
Internet : Yes/No
Tsg/ds



W.P.No.26168 of 2023
& WMP.No.25564 of 2023

WEB COPY To

- 1.The Government of India,
Rep. by its Secretary,
Department of Health and Family Welfare,
Ministry of Health & 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 & Family Welfare,
Government of India,
Room No.348, 'A' Wing, Nirman Bhavan,
New Delhi – 110 011.
- 3.The Associate Dean for Graduate Medical
Education (ADGME),
Nirman Bhavan,
New Delhi – 110 001.
- 4.The National Medical Commission,
Rep. by its Chairperson,
Sector 8, Pocker 14, Phase -1,
Dwarka,
New Delhi – 110 077.
- 5.The Senior Director, NEET (UG),
National Testing Agency,
C-20 I A/8, Sector 62,
IITK Outreach Centre,
Noida – 201 309.



WEB COPY



W.P.No.26168 of 2023
& WMP.No.25564 of 2023

N.SESHASAYEE, J.,

Tsg

Order made in
W.P.No.26168 of 2023

05.09.2023