



W.P.No.28289 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.28289 of 2023
and W.M.P.No.27809 of 2023

Dr.K.Anukshethra

.. Petitioner

VS

The Selection Committee
Directorate of Medical Education,
162, Periyar EVR High Road,
Kilpauk, Chennai – 600 010.

.. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondent to forthwith permit the petitioner to participate in the 3rd round of State Counselling for PG Courses 2023 from 26.09.2023 to 06.10.2023 under Linguistic Minority Category by considering and passing necessary orders on the representation of the petitioner dated 21.09.2023.

For Petitioner : Mr.K.Selvaraj

For Respondent : Ms.M.Sneha



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ORDER

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The petitioner is an aspirant for P.G. Course having passed M.B.B.S in May, 2022. She has written the NEET PG examination in 2023, having applied under the OBC category. The petitioner had submitted an online application for PG Medical Counselling under Management Quota. The application of the petitioner was admittedly incomplete as the linguistic minority certificate, in which quota she seeks admission was not enclosed along with the application. Also admittedly, the application for issuance of linguistic minority certificate has been filed by her only in the first week of July, 2023, as confirmed by learned counsel, just a few days before the application for PG Counselling was uploaded.

2. Based on her application, the Tahsildar, Tirupur South, issued a certificate on 28.08.2023 certifying that she belongs to Hindu Boyar religion. A request was thus sent to the respondent on 21.09.2023 enclosing the online application as well as the certificate and requesting the respondent / the Selection Committee, Directorate of Medical Education to permit her to participate in the ensuing counselling under Telugu Minority Community (linguistic minority). Having received no response, the



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present writ petition has been filed seeking a mandamus directing the respondent to permit her to participate in the third round of the counselling for P.G. Courses from 26.09.2023 to 06.10.2023. As on date, when the matter is listed for hearing, there are only two days to go for conclusion of this stage of counselling.

3. In support of the writ petition, Mr.K.Selvaraj, who appears for the petitioner would urge that a lenient view be taken in the matter seeing as the petitioner had made an inadvertent mistake by not enclosing the requisite certificate. He draws attention to the fact that the Director General of Health Services has issued instructions recently to the effect that the third round of counselling be re-done by reducing the eligibility mark to Zero and that the State has also, in compliance thereof, issued necessary directions. Thus according to him, seeing as the third round of counselling is to be re-done anyway, there would be no harm in permitting the petitioner to participate as well.

4. That apart, reliance is placed on the judgment of three Judges of the Hon'ble Supreme Court in *Dolly Chhanda v Chairman, JEE and others* (2005) 9 SCC 779, wherein reference is made to an earlier judgment of the Apex Court in *Charles K.Skaria*



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v Dr.C.Mathew 1980 (2) SCC 752. These judgments are relied on for the proposition that notwithstanding that the necessary certification might be obtained later, the fact that the candidate possessed necessary qualification was not in dispute even at the time when the application was filed and hence the requirement of a certificate was a mere formality.

5. Per contra, Ms.M.Sneha, who appears for the respondent would oppose the writ petition on all fronts. She would submit that two rounds of counselling are over and thus it is too late in the day for the petitioner to approach this Court seeking relief. She would point out that merit list has been prepared containing the list of meritorious candidates and the order of candidates would be unnecessarily and needlessly be disturbed if the candidature of this petitioner is inserted therein. Incidentally, she points out that it was for the petitioner to have exercised due diligence in ensuring that all mandatory documents were available in time as the prospectus is categoric on the documents to accompany the application.

6. She would also point out that in similar cases, the consistent stand of the Courts has been that all necessary



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annexures to the application must be filed at the relevant point in time, without delay or compromise. In response, learned counsel for the petitioner would only repeat his entreaty to the effect that the representation of the petitioner may be considered sympathetically.

7. Heard the rival contentions. The admitted position that weighs with the Court is that the very application filed by the petitioner contains several contradictions with the facts that are now put forth. The application is placed at pages 27 and 28 of the typed-set. At column 5(c), the mother tongue of the petitioner is stated to be 'Tamil' and not 'Telugu' as averred at paragraph 3 of the writ affidavit. Then again, at column 14(c) under the head 'Claim for Linguistic Minority', the petitioner has categorically averred 'No'.

8. These factors militate against the claim of the petitioner in this writ petition. The cases relied upon by the petitioner are premised upon the position that the candidates in those cases admittedly possessed the requisite qualifications and the certificates were only a formality. However, even the primary facts are in dispute in this case, and this dispute arises from the



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documents of the petitioner, being her application and the writ affidavit. In such circumstances, the question of issuing mandamus does not arise. In these circumstances, I also find nothing to be gained by issuing a direction to the respondent to consider the application as the discrepancies in facts would preclude a decision favorable to the petitioner. One cannot, as the petitioner counsel urges, assume that the fields in the application form have been filled in mechanically and without application of mind.

9. This writ petition is dismissed. However, and as the respondent counsel states that there may be opportunities available to the petitioner to participate in the mop-up / stray vacancy counselling, the petitioner may well explore such opportunities. No costs. Connected miscellaneous petition is closed.

03.10.2023

Index:Yes
Neutral Citation:Yes
ssm

To

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DR. ANITA SUMANTH,J.

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