



W.P.No.29587 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.10.2023

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.29587 of 2023
and WMP No.29219 of 2023

M/s. Asan Memorial Association
Rep. by its General Secretary
Shyamala Jayaprakash
No.1, Anderson Road,
'Cochin House',
Chennai-600 006

... Petitioner

Vs

- 1.State of Tamil Nadu,
Rep. by its Principal Secretary,
Health and Family Department,
Secretariat, Fort St. George,
Chennai-600 003.
- 2.The Directorate of Medical Education and Research, Tamil Nadu,
Rep. by the Director of Medical Education and Research,
No.162, E.V.R. Periyar High Road,
Kilpauk, Chennai-600 010
- 3.The Selection Committee
(Directorate of Medical Education and Research)
No.162, E.V.R. Periyar High Road,
Kilpauk, Chennai-600 010



W.P.No.29587 of 2023

4. The Director General of Health Service,
Ministry of Health and Family Welfare,
Government of India, New Delhi – 695 121.

5. National Medical Commission,
Packet – 4, Sector -8,
Dwaraka, Phase I,
New Delhi – 110 007.

(R4 and R5 suo motu impleaded vide this order)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the 2nd and 3rd Respondents to re-open the online portal for fresh registration of a second Stray Round for Academic year 2023-24 with respect to only the vacant seats as on date and consequently direct the 3rd Respondent to allot the vacant seats to such registered students following due process.

For Petitioner : Mr.A.R.Karunakaran

For Respondents : Mr.J.C.Durairaj
Additional Government Pleader – R1
Ms.M.Sneha – R2 & R3
Mr.V.Chandrasekaran
Senior Panel Counsel – R4
Ms.Shubaranjani Anand – R5

ORDER

The petitioner is a Minority Educational Institution which runs a Dental College and Hospital called Asan Memorial Dental College and Hospital in



W.P.No.29587 of 2023

Chengalpet, Tamil Nadu. The approved intake of the Institution, as on date, is

100 students per year.

2. Prospectus was issued by the Directorate of Medical Education and Research, Tamil Nadu/R2 and the Selection Committee (Directorate of Medical Education and Research)/R3 in respect of admissions for the academic year 2023-24 providing for four rounds of counselling, Round-I, Round-II, Mop-up round and Stray round.

3. The prospectus provided that students who registered for Round-I would be eligible to participate in Round-II as well as the Mop-up round for counselling. The portal was thereafter to be re-opened for fresh registration by students who can opt to participate in counselling in the Stray round for seats that remained unfilled after Rounds I, II and the Mop-up round.

4. In accordance therewith, a Notification was issued on the website of R2/R3 intimating aspirants that 'registrations, choice filling and locking' in respect of the Stray round would be conducted from 12.01 p.m. on 23.09.2023 till 5.00 p.m. on 25.09.2023.

5. Based on the registrations as provided aforesaid, new rank list and allotment list were to be generated and after accommodating the students who had registered for Stray round, results were to be announced on 26.09.2023.



W.P.No.29587 of 2023

However, contrary to what the prospectus provided, the portal was never opened for registration for the Stray round.

6. The petitioner association has thus been unable to fill the vacant seats yet available after filling in of candidates in Rounds I and II as well as the Mop-up round. This constitutes, apart from being greatly prejudicial to the interests of the petitioner association itself, a national waste, as all the unfilled seats would remain vacant.

7. Hence, this writ petition, where the petitioner seeks a mandamus directing R2 and R3 to open the portal for fresh registration for Stray round of counselling for academic year 2023-24 in line with the prospectus and for filling in seats that are vacant as on date.

8. Mr.Karunakaran, learned counsel appearing for the petitioner has drawn attention to the relevant clauses in the prospectus, particularly the definition of 'Registration & Choice locking' under clause-2 entitled 'Glossary of Terms' as per which, fresh registration was barred only for Round II. Thus, and as a consequence, fresh registration was to be permitted for the other rounds, including specifically the Mop-up round.

9. He also draws attention to the Notification issued by R3 in confirmation of the contents of the prospectus setting out the tentative schedule for Stray vacancy round of counselling for admission of MBBS/BDS degree



W.P.No.29587 of 2023

courses. That Notification provides for the registration choice filling and locking to be conducted in line with the prospectus between 23.09.2023 and 25.09.2023 (12.01 pm to 5.00 pm).

10. The 3rd respondent, represented by Ms.Sneha, has filed a memo dated 16.10.2023 reiterating that it has always been its intention to align with the prospectus. The memo concedes to the position that four rounds of online counselling have been completed on 30.09.2023. However, there is no explanation set out for why, in violation of the prospectus, registration, choice filling and locking was not permitted for new candidates in the Stray round.

11. The memo filed itself, at point-2, confirms the position that fresh registration was not permitted in Round-II. Thus, the allegation that the Stray round of counselling has been conducted without enabling fresh registrations, in violation of the prospectus, is admitted. This constitutes a gross violation of the prospectus issued.

12. Inter alia, R3 states in the memo that there are 17 MBBS seats and 206 BDS seats that are left vacant as on date for academic year 2023-24 and that it has written to the Medical Counselling Committee (MCC), Director General of Health Services (DGHS), New Delhi, repeatedly, seeking guidelines for the State to conduct further rounds. MCC and DGHS have been maintaining radio silence till date. The action of R3 in not opening the site for fresh



W.P.No.29587 of 2023

registration is clearly contrary to the prospectus and learned counsel who appears for the respondents would have no choice but to accede to this position.

13. The only difficulty now expressed is that having violated the prospectus and conducted the Stray round without accepting new registrations, it is only if DGHS and National Medical Commission (NMC) permit the conduct of another round, that the State can proceed with the same.

14. For this purpose and in light of the admitted violation as noted in the aforesaid paragraphs, the Director General of Health Service, Ministry of Health and Family Welfare, Government of India, New Delhi – 695 121 and National Medical Commission, Packet – 4, Sector -8, Dwaraka, Phase I, New Delhi – 110 007 are suo motu impleaded as R4 and R5 in this Writ Petition. Mr.V.Chandrasekaran, learned Senior Panel Counsel accepts notice for R4 and Ms.Shubaranjani Anand, learned counsel accepts notice for R5.

15. There is no explanation, let alone acceptable explanation, that is put forth by the respondents to justify the violation of the procedure set out under the State prospectus. In fact, the respondents would, in one voice, accede to the position that the prospectus does permit fresh registration and selection of choices by a candidate in the Stray round of counselling.

16. Mandamus is thus issued as prayed for, to all the respondents to ensure that the dictat in the prospectus enabling candidates to register for the



W.P.No.29587 of 2023

Stray round of counselling be given effect to and a stray round be held in accordance with the procedure as contemplated.

17. The respondents concerned must notify a fresh round of Stray counselling and the State must notify the available number of seats giving enough publicity, in order that those students who are desirous of applying, may do so. This would concurrently satisfy the requirement under the prospectus as well as ensure that seats in the State Colleges are duly filled in, which is in the interests of all stakeholders.

18. This writ petition is allowed in the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

16.10.2023

Index : Yes

Speaking Order

Neutral Citation: Yes

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Note: Registry is directed to make necessary amendments in the cause title.

To

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Rep. by its Principal Secretary,
Health and Family Department,
Secretariat, Fort St. George,
Chennai-600 003.



W.P.No.29587 of 2023

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3. The Selection Committee

(Directorate of Medical Education and Research)

No.162, E.V.R. Periyar High Road,

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