



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.11.2023

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.30251 of 2023

and WMP.Nos.29848 & 29850 of 2023

Kona Jaya Satya Lakshmi

...Petitioner

Vs.

- 1 The Government of Puducherry,
Health Secretariat
Rep. by Its Secretary to Government (Health),
Health Department,
Chief Secretariat, Puducherry.
- 2 Government of Puducherry,
Directorate of Higher and Technical Education,
rep. by Its Additional Co-Ordinator,
Centralised Admission Committee(CENTAC),
Medical Admission
Kamararajar Manimandapam Campus,
Puducherry – 605 008.
- 3 The Director, Directorate of Health And Family Welfare Services,
Puducherry.
- 4 Indira Gandhi Medical College & Research Institute
(Government College)
Kathirkamam
Puducherry, 605009.



5 National Medical Commission,
Pocket -14, Sector -8, Dwarka Phase-1
New Delhi - 110077.

6 Mohammed Faham V.T

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records from the 1st respondent relating to the proceedings dt. 14.09.2023 bearing reference no.27209/Health/H5/2023-24 and quash the same insofar as it does not provide reservation of 13 seats to the Economically Weaker Section by earmarking on seat to Yanam or Mahe as it was done in the proceedings dt. 22.11.2021, diverting the seat to BCM to accommodate the 6th Respondent as illegal, arbitrary, unconstitutional, without jurisdiction and to consequently direct the Respondents 1 to 5 to accommodate the petitioner in MBBS seat starting from academic year 2023-2024 in the 4th Respondent college and regularize the same and treat her on par with the students who were allotted/admitted for the academic year 2023-2024.

For Petitioner : Mr.K.Srinivasamurthy
For M/s.Row and Reddy

For Respondents : Mr.AR.L.Sundaresan (R1 to R4)
Additional Solicitor General of India assisted by
Mr.S.Raveekumar
Government Pleader (Pondy)
Ms.Shubaranjani (R5)
Mr.L.Swaminathan (R6)

ORDER

The petitioner is an aspirant for the MBBS Course commencing Academic Year (AY) 2023-2024 and had written the NEET Examinations for Under Graduates (UG) in 2023. She had secured 583 out of 600 marks in the SSLC examinations and 278 out of 700 marks in the NEET UG Examinations. Her case



is premised upon the availability of a reservation seat in the Economically Weaker Section (EWS) category and to buttress her case, she sets out the sequence of events from 2021-2022 onwards as follows:

- (i) In the seat matrix for MBBS for AY 2021-22 dated 22.11.2021, one seat had been reserved for EWS quota for Mahe.
- (ii) The seat matrix for AY 2022-23 dated 15.11.2022 made it clear that that seat earmarked for EWS for Mahe in AY 2021-22 would be earmarked for the Backward Class Muslim (BCM) category in AY 2022-23, clarifying specifically that such earmarking was to be on rotational basis, alternating between EWS and BCM categories every year.
- (iii) According to the petitioner, this stipulation made it clear that horizontal reservation of one seat would be alternatively given for EWS and BCM categories every year on rotation basis, commencing from 2021-22 onwards.
- (iv) Thus, in AY 2023-24, it was the turn of the EWS category for earmarking of the seat, instead of which, the authorities have proceeded to earmark the same seat again for BCM category, thereby accommodating R6.



2. The argument of Mr.K.Srinivasamurthy, learned counsel for the petitioner revolves almost wholly around the above alleged distortion of the seat allocation as narrated in the preceding paragraphs. That apart, he would argue that it has been the ambition of the petitioner to pursue medical studies. She comes from an economically compromised background, and thus, her candidature must be preferred.

3. He would also urge that there is only one Government Hospital in Yanam and thus having a trained doctor in Yanam would benefit not just the petitioner individually, but the entire District itself. To be noted, that the petitioner, though based in Yanam, aspires for the seat allocated to Mahe on the basis that there is no candidate from Mahe who has applied seeking horizontal reservation of EWS.

4. According to the petitioner, had the allocation been done properly, the reservation should have been in favour of Mahe and in the absence of a suitable candidate in Mahe to claim that seat, it would have automatically been available to the next qualified candidate in the general list relating to the entirety of the Union Territory of Puducherry. In such an event and as she comes next in the list (candidate No.13), she would automatically have been entitled to the seat.



5. Mr.AR.L.Sundaresan, learned Additional Solicitor General of India appearing for Mr.S.Raveekumar, learned Government Pleader (Pondy) fairly accedes to the aforesaid position, that the petitioner, is the 13th candidate on the centralized list of candidates, and would have been entitled to the reservation seat, assuming that her argument in regard to seat reservation were to be accepted.

6. On facts, there is no dispute on this position. However, the respondents put forth several arguments to counter the submissions of the petitioner on the merits of the matter. Firstly, they point out that the seat matrix is part of the prospectus which has been available to the petitioner as early as on 14.09.2023. The petitioner has participated in the first and second rounds of counselling. She has not raised any dispute thus far.

7. It is only on finding that she has been unsuccessful when the final list of candidates was issued that the petitioner has chosen to approach this Court. Her prayer is thus belated and she must not be allowed to upset the apple cart at this late juncture.

8. Secondly, they would argue that it is a policy of the Union Territory of Puducherry to have reserved the seat for the second time for BCM category (in AY 2023-24) and the intervention of the Court is not warranted in such a situation.



The seat matrix has been duly approved by the Lieutenant Governor of Puducherry and no case has been made out for any intervention. The petitioner is bound by the prospectus and cannot raise a dispute at this belated juncture.

9. As far as the argument on ambition is concerned, the respondents point out that every candidate who appears for the NEET fosters an ambition to pursue medicine and hence acceding to the prayer of the petitioner is bound to disturb the entire merit list quite apart from disturbing other candidates, that too, some who might have secured marks far in excess of what this petitioner has secured.

10. The petitioner has secured a seat in the government quota for dental studies. Assuming that her prayer in the present writ petition is accepted, that seat would remain unfilled. The respondents also point out that the right of the petitioner for a seat invoking Article 15(6)(b) of the Constitution of India is not an indefeasible right and is subject to the proper procedure as well as the legally established parameters in that regard. For these reasons, the respondents pray for dismissal of the Writ Petition.

11. The respondents rely upon a decision of a Writ Court in W.P.No.24861 of 2019 dated 27.08.2019 (*A.Prabhakara Reddy V. Government of Puducherry and others*), wherein the challenge was to a Notification issued on 20.08.2019. The



petitioners therein sought a direction forbearing the authorities from converting 4 EWS quota seats into general category seats and further for continuing mop-up counselling for those seats.

12. This Court applied the decision of a Division Bench in the case of *Federation of Puducherry Parents - Students Affected by Region wise Reservation V. Government of Puducherry and others* (2010 (5) CTS 385) as well as other decisions to decide against those petitioners.

13. Mr. L.Swaminathan, who appears for R6, the candidate who, according to the petitioner, would be displaced if this writ petition were to be allowed, submits that R6 is a far more meritorious candidate than the petitioner having secured 379 marks out of 720, as against the petitioner's 278/720. He submits that the BCM reservation was instituted in 2017 prior to the EWS category, and thus there was no infirmity in the policy of the government in prioritising BCM over EWS, two years in a row. Apart from the decision in the case of *A.Prabhakar Reddy* relied upon by the official respondents, he also relies upon the decision in the case of *Federation of Puducherry Parents - Students Affected by Region wise Reservation* (supra)

14. I have heard the detailed submissions of all sides. This Writ Petition has been instituted on 16.10.2023 and the prayer is for a Writ of Certiorarified



Mandamus challenging proceedings dated 14.09.2023 which is a seat matrix for admission for UG medical courses in Puducherry. The thrust of the challenge is for the reason that the impugned seat matrix does not provide for reservation of 13 seats of EWS including earmarking one seat to Yanam or Mahe following the rotational procedure as indicated in the previous years.

15. I first deal with the argument on maintainability. Undoubtedly, the petitioner is belated in approaching the Court. Seeing as the seat matrix has been issued on 14.09.2023, it was incumbent upon the petitioner to have been vigilant, noted the absence of reservation seat for EWS category in Yanam/Mahe and approached this Court in a timely fashion.

16. The argument of the petitioner is that she believed that she would be successful even without such reservation, but found only when the merit list was issued that she has not been so successful and hence this Writ Petition at the belated stage. This Court is of the view that since her application is itself premised on the availability of reservation in EWS quota, it was incumbent upon her to have come to Court at the first possible instance. Thus, there is some merit in the argument of the respondents that the petitioner must be non-suited on this ground.



17. This is also for the reason that she is bound by the prospectus which provides for a reservation only for BCM and not for EWS quota for Mahe this year. Having accepted the prospectus expressly by participating in two rounds of counselling, this Court would not normally come to her rescue at this belated juncture. The conclusions as aforesaid are not fatal to this writ petition, but are to be read along with my conclusions at paragraphs 35 to 42 of this order.

18. Secondly, the respondents take umbrage under the policy of the Union Territory. According to them, the impugned seat matrix reflects the policy of the Union Territory of Puducherry and cannot be interfered with by the Court. To test this argument, I compare the policies for three academic years in seriatim, AY 2021-22, 2022-23 and 2023-24.

19. It is an admitted position that for the three years in question, there is no change in the total number of seats, Government quota, 15% of All India Quota (AIQ) and NRI quota, which remain constant, the total number of seats being 180, Government quota being 131, AIQ, 27 and NRI, 22 seats. Though we are concerned with the allocation of seats for EWS and BCM categories, for the sake of completion, I extract the entirety of the seat matrices for 2021-22, 2022-23 and 2023-24 as below:



WEB COPY

W.P. No.30251



No.27209/Health/HS/2021-22
GOVERNMENT OF PUDUCHERRY
HEALTH SECRETARIAT
&&&&&

To
The Co-ordinator (Admn.), CENTAC,
Pondicherry Engineering College Campus,
Pillaichavady, Puducherry.

Puducherry, dated 22.11.2021

Sir,

Sub: Health Secretariat – Seat Matrix for conduct of counseling by CENTAC for admission of students in 1st year MBBS course in Indira Gandhi Medical College & Research Institute, Puducherry, for the academic year 2021-22 – Communicated – Reg.

The seat-matrix to be followed by CENTAC for conduct of counseling for admission of students in first year MBBS course in Indira Gandhi Medical College & Research Institute, Puducherry, for the academic year 2021-22, is furnished hereunder:

Total No. of seats : 180
Government quota : 131
All India quota (15%) : 27
NRI quota : 22

Regions	Total seats	Vertical reservation									Horizontal reservation			
		General	EWS	OB C	MB C	SC 16	ST .5	EB C	BC M	B T	P H	F F	EX M	M S
		40	10	11	18	%	%	2	2%	.5	5	4	1%	P
		%	%	%	%			%		%	%	%		1



														%
<i>Puducherry</i> 75%	98	39	10	11	17	16	00	02	02	01	05	04	01	01
<i>Karaikal</i> 18%	24	10	02	03	04	04	00	00	01	00	01	01	00	00
<i>Yanam</i> 3%	04	02	00	00	01	01	00	00	00	00	00	00	00	00
<i>TOTAL</i>	126	51	12	44	22	21	00	02	03	01	06	05	01	01

Note: ST/BT- Rotation basis every year.

BCM/EBC – Rotation basis every year (Karaikal region).

**RESERVATION OF SEAT MATRIX IN RESPECT OF MAHE REGION AS PER
G.O.Ms.No.7/SES/2017, dated 03.07.2017**

Regions	Total seats	Vertical reservation										Horizontal reservation		
		Gen 40 %	EW S 10 %	OB C 16 %	MB C 7%	SC 16 %	ST .5 %	BC M 10 %	BT .5 %	P H 5 %	F F 4 %	EX M 1%	M SP 1 %	
Male 4%	05	02	01	01	00	00	01	00	00	00	00	00	00	

2.This has the approval of the Hon'ble Lieutenant Governor.

Yours faithfully,

(A.PUNITHAMARY)

UNDER SECRETARY TO GOVERNMENT (HEALTH)

2022-23

**No.27209/Health/HS/2022-23
GOVERNMENT OF PUDUCHERRY**



HEALTH SECRETARIAT
&&&&&

WEB COPY

To
The Co-ordinator (Admn.), CENTAC,
Pondicherry Engineering College Campus,
Pillaichavady, Puducherry.

Puducherry, dated 15.11.2022

Sir,

Sub: Health Secretariat – Admission of students in 1st year MBBS course in Indira Gandhi Medical College & Research Institute, Puducherry – Seat matrix for conduct of counseling by CENTAC for the academic year 2022-23 – Sponsoring of students – Reg.

The Seat-Matrix to be followed by CENTAC for conduct of counseling for admission of students in first year MBBS course in Indira Gandhi Medical College & Research Institute, Puducherry for the academic year 2022-23, is furnished hereunder:

Total No. of seats : 180

Government quota : 131

All India quota (15%) : 27

NRI quota : 22

Regions	Total seats	Vertical reservation									Horizontal reservation			
		General 40%	EWS 10%	OB 11%	MB 18%	SC 16%	ST 5%	EB 2%	BC 2%	B T 5%	P H 5%	F F 4%	EX M 1%	M S P 1%
Puduc	98	39	10	11	17	16	01	02	02	00	0	0	01	0



herry (75%)							*				5	4		1
Karai kal (18%)	24	10	02	03	05	03	00	00 **	00	00	0 1	0 1	00	0 0
Yana m (3%)	04	02	00	00	01	01	00	00	00	00	0 0	0 0	00	0 0
TOTAL (A)	12 6	51	12	44	23	20	01	03	02	00	0 6	0 5	01	0 1

Reservation in respect of Mahe region as per G.O.Ms.No.7/SES/2017, dated 3/7/2017

Region	Total seats	Vertical reservation									Horizontal reservation			
		Gen 40%	E W S 10 %	OB C 16 %	MB C 7%	SC 16 %	ST 0.5 %	EB C 0 %	BC M 10 %	BT 0.5 %	P H 5 %	F F 4 %	EX M 1%	M S P 1 %
Ma he (4 %)	05	02	00	01	00	01	00	00	01* **	00	0 0	0 0	00	0 0
Total (B)	05	02	00	01	00	01	00	00	01	00	0 0	0 0	00	0 0
Grand Total (A) + (B)	13 1	53** **	12	15	23	21	01	03	03	00	0 6	0 5	01	0 1



* Last year one seat was earmarked for BT. This year, the same seat is earmarked to ST on rotation basis.

** Last year one seat was earmarked for BCM. This year, the same seat is earmarked to EBC on rotation basis.

*** 10% reservation for EWS works out to 13 seats. Last year one seat was earmarked for EWS in Mahe region. This year, the seat is earmarked to BCM on rotation basis.

**** Though 40% of total seats of 131 works out to 52.4, it is rounded to 53 so as to arrive the total of 131.

2.This has the approval of the Hon'ble Lieutenant Governor.

Yours faithfully,

(P.EJOMALE)

UNDER SECRETARY TO GOVT. (HEALTH)

2023-24

No. 27209/Health/HS/2023-24
GOVERNMENT OF PUDUCHERRY
HEALTH SECRETARIAT
&&&&

Puducherry, dated 14.09.2023

To
The Co-ordinator (Admn.),
CENTAC,
Puducherry.

Sub: Health Secretariat - Admission of students in 1s year MBBS course in Indira Gandhi Medical College & Research Institute, Puducherry - Seat matrix for conduct of counselling by CENTAC for the academic year 2023-24 - Revised Seat Matrix furnished - Reg.

Ref: This Secretariat's letter of even No. dated 07.09.2023



In continuation to this Secretariat's letter cited above, I am to forward herewith a Revised Seat Matrix to be followed by CENTAC for conduct of counseling for admission of students in first year MBBS course in Indira Gandhi Medical College & Research Institute, Puducherry for the academic year 2023-24, is furnished hereunder:

MBBS
Indira Gandhi Medical College & Research Institute
(Government College)

Total No. of seats	Government quota	All India quota (15%)	NRI quota
180	131	27	22

Regions	Total seats	Vertical Reservation									Horizontal Reservation				
		General 40%	EW 10%	OB 11%	MB 18%	sc 16%	EB 2%	BC 2%	ST 0.5%	BT 0.5%	Govt. Schools 10%	P 5%	F 4%	EX 1%	MS 1%
Puducherry (75%)	98	39	10	11	18	15	02	02	00	01*	09	05	04	01	01
Karaikal (18%)	24	10	02	03	04	04	00	01*	00	00	02	01	01	01	00
Yanam (3%)	04	02	00	00	01	01	00	00	00	00	01	00	00	00	00
TOTAL	126	51	12	14	23	20	02	03	00	01	12	06	05	02	01

Reservation in respect of Mahe region as per G.O.Ms.No.7/SES/2017 dated 3/7/2017

Region	Total seat	Vertical Reservation	Horizontal Reservation
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	s	Gen 40%	EW S 10%	OB C 16%	MBC 7%	SC 16%	EBC 0%	BCM 10%	ST 0.5%	BT 0.5%	Govt. Schools 10%	PH 5%	FF 4%	EX M 1%	MS P 1%
Mahe 4%	05	02	00	01	00	01	00	01	00	00	01	00	00	00	00
TO TAL	05	02	00	01	00	01	00	01	00	00	01	00	00	00	00

* Last year one seat was earmarked for ST, this year, the same seat is earmarked to BT on rotation basis.

** Last year one seat was earmarked for EBC, this year, the same seat is earmarked to BCM on rotation basis in Karaikal region.

2. This has the approval of the Hon'ble Lieutenant Governor.

Yours faithfully,

(K.CANDANE @ SIVARADJANE)

UNDER SECRETARY TO GOVT. (HEALTH)

20. For AY 2021-22, while all other relevant numbers remained constant, one seat was allotted to Mahe region under EWS category taking the total number of EWS seats to 13 in that year. The next year, i.e., AY 2022-23, in seat matrix dated 15.11.2022, the seat that was allocated to EWS Mahe region was instead allotted to BCM category. The footnotes indicate the allocations that have been made in respect of various categories and the language used makes it clear that such allocations are to be made on rotation basis, alternating from year to year.

21. The footnote (***) relevant to the present matter is highlighted in bold and states as follows:



**** Last year one seat was earmarked for BCM. This year, the same seat is earmarked to EBC on rotation basis.**

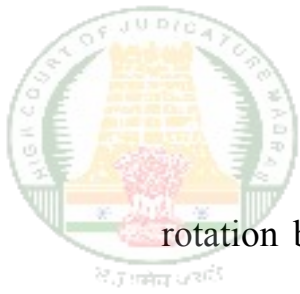
***** 10% reservation for EWS works out to 13 seats. Last year one seat was earmarked for EWS in Mahe region. This year, the seat is earmarked to BCM on rotation basis.**

****** Though 40% of total seats of 131 works out to 52.4, it is rounded to 53 so as to arrive the total of 131.**

22. Going by this, the next year i.e., 2023-24, which is the year in question, the 10% reservation for EWS has to be maintained by the Union Territory of Puducherry. Thus and in rotation, as has been clearly stated by the Union Territory of Puducherry in the previous year, there should have been a seat allotted to EWS category to Mahe.

23. This has not been done and this is the quarrel of the petitioner which, in my considered view, is a legitimate quarrel. In fact, the double (**) foot note for AY 2022-23 relates to again an alternate distribution qua BCM and EWS. In the seat matrix for 2021-22, one seat had been earmarked for BCM and that seat on rotation basis had been earmarked to EBC in the seat matrix for AY 2022-23 (see double ** foot note in seat matrix dated 15.11.2022 above).

24. For the next year, i.e., the year in question, in seat matrix dated 14.09.2023, the Union Territory of Puducherry has correctly followed the rotation. The seat earmarked the previous year for BCM has been earmarked for EWS category on



rotation basis. This process ought to have been followed for the allocation qua EWs and BCM which has been omitted.

25. The question that arises for my consideration is as to whether the Court will agree that this is a mere matter of policy and would thus decline intervention. I do not think so. Policy is one which has to be founded on logic. It cannot be arbitrary or unilateral. Undoubtedly, the Court will refuse intervention in policy which reveals application of mind and which is shown to be consistent.

26. Fairness in policy making may be a relative yardstick as what is fair to one section of the population may not be acceptable to another. In framing policy, the State, or in the present case Union Territory, would undoubtedly have to take into account several considerations, interests, view-points, pulls and pressures of several competing quotas and achieve a balance as best as possible.

27. It is for this reason that one normally is reluctant to interfere in policy matters so long as it is demonstrated that the State is uniform and consistent in its approach, unless warranted otherwise by changed circumstances. In any event, the State cannot be seen to have acted in error or in an arbitrary fashion. In the present case, admittedly, there are no changed circumstances warranting departure from



the policy and procedure followed in the previous years as well as the stated intention.

28. The Court sought, and would have been prepared to accept a simple explanation for the non-adherence with the procedure followed in the previous years, had only there been such an explanation offered. However, the Union Territory of Puducherry has no explanation, let alone plausible explanation, to justify the omission of the rotation or applying the rotation for the present year.

29. Once the Union Territory of Puducherry has made a public announcement of a particular rotational policy to be followed, there must be some justification for deviating from the same. There is no such explanation or justification in the present case. The horizontal reservation for EWS category was brought into play with effect from 2019 and the reservation for BCM category with effect from 03.07.2017 under G.O.Ms.No.7/SWS/2017.

30. Learned counsel for R6, has submitted that the BCM reservation was in existence even prior to EWS reservation. However, this would have no bearing in deciding the petitioner's case, since, as in 2021-2022, when the rotational policy was announced, both BCM as well as EWS horizontal reservations were clearly available and are to be offered to the students. It is for this reason that the



respondents have adopted the logic of alternative reservation, giving preference for one reservation one year (EWS) and the other reservation (BCM) the next year.

31. While the above, as a policy, appeals, it must be followed scrupulously which has not been done in the present instance. The mere fact that a candidate has not challenged it at the very inception would not persuade this Court to validate the change in policy, if such change is not justified otherwise.

32. As far as the decision relied upon by the respondents in the case of *A.Prabhakara Reddy* (supra), I do not find any parallel between that decision and the present, as the facts as well as the arguments advanced by the parties are very different. Hence, this case is of no benefit to the respondents.

33. Article 15(6)(b) of the Constitution of India which has been referred to by the learned Additional Solicitor General of India reads as follows:

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

.....

(6) Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making,—

(a)

(b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to



their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category.

34. It is under this Article that the State has provided for a horizontal reservation for EWS category. The question in this Writ Petition is not so much as to whether such right is a defeasible or indefeasible right, and hence the argument articulated by the respondents would not support their case.

35. The issue raised is simply as to whether the manner in which the seat allocation has been made in the present year is correct, having regard to the procedure that was indicated two years ago and which has been followed for AY 2021-22 and 2022-23.

36. In the present case, there is no dispute that the seat allocation made, if aligned with the petitioner's submissions would not fall foul of the prescription under Article 15(6)(b) of the Constitution of India. It is the methodology which is called into question in this matter.

37. The case of R6 is to the effect that that candidate is far more meritorious than the petitioner, having secured admittedly higher marks. The question to be decided is as to whether the two horizontal reservations have been



applied/followed in an appropriate manner. I have, in the preceding paragraphs, tested the arguments advanced by the parties and I believe that this is a case where balance of convenience is what must be applied.

38. Fortuitously, there is a factual aspect to the matter that comes to the aid of the Court, since the Court is not inclined to either brush away the case of the petitioner or upset the candidature of R6. At the hearing on 19.10.2023, the following order had been passed:

The case of the petitioner is for non-allotment of seat in EWS category. They rely on proceedings dated 22.11.2021, where, for academic year 2021 - 2022, the first respondent i.e., the Government of Puducherry, Health Secretariat, had allotted one seat under the EWS category for Mahe region.

2. In proceedings dated 15.11.2022 for academic year 2022 - 2023, a seat was diverted to B.C(Muslim) category on rotation basis. Following the same procedure for the present academic year, the reservation of seat should have been EWS Category in Mahe region. However, this has not been done, which prima facie, appears to be a flaw in the procedure followed.

3. If the proper procedure had been followed apart from R6, the candidate whose would be disturbed would also have to be heard. Let Mr.Tamilvanan, who appears for R1 to R4 intimate the contents of this order to those candidates as well and take steps to implead them.

4. One seat be reserved for this petitioner in R4 college based on the prima facie case as above.

5. List on 30.10.2023. As a consequence, the fate of all three candidates, i.e., the petitioner, R6 as well as candidate to be impleaded, will be decided on 30.10.2023.



39. As against this order, the Union Territory of Puducherry has filed a Writ Appeal in W.A.No.3168 of 2023. That Writ Appeal came to be closed on 09.11.2023, wherein the First Bench declined intervention with the reservation of the seat granted in favour of the petitioner. The matter was directed to be placed before me on 10.11.2023, the Division Bench stating that this Court may take the matter up if possible. It is pursuant to that order that this final order has been passed after detailed hearing of the parties.

40. The respondents have, pursuant to the interim order passed on 19.10.2023, issued a Notification on their website to the effect that that order has been complied with and a seat has been reserved. However and suddenly, it is now brought to my notice that that seat has been converted into a management quota (MQ) seat which is wholly impermissible.

41. The seat matrix which is impugned does not provide for MQ seats at all. Thus, the question of converting that seat into a MQ seat is wholly contrary to the prospectus and such a conversion cannot be done. Thus, there is, at the moment, a seat that is vacant though coming under MQ category. At this juncture, Mr.Sundaresam states that the conversion to MQ is of a seat from the NRI category as there were no takers for the NRI seat. Even this conversion is



impermissible as there is no provision for MQ under the seat matrix. Luckily, that seat is available to this petitioner without disturbing the seat occupied by R6.

42. In the circumstances as noticed above, I am of the considered view that the candidatures of both the petitioner as well as R6 must be preserved and this Writ Petition is thus disposed directing the respondents to accommodate the petitioner in the seat that was reserved for her on 19.10.2023. If at all the vacancy arises in a different category, my decision is that it is inconsequential and that the petitioner must be accommodated in that seat de hors that position. No costs. Connected Miscellaneous Petitions are closed.

15.11.2023

Index: Yes/No

Speaking order/Non Speaking Order

Neutral Citation: Yes/No

sl

To

- 1 The Government of Puducherry,
Health Secretariat
Rep. by Its Secretary to Government (Health),
Health Department,
Chief Secretariat, Puducherry.



- 2 Government of Puducherry,
Directorate of Higher and Technical Education,
rep. by Its Additional Co-Ordinator,
Centralised Admission Committee(CENTAC),
Medical Admission
Kamararajar Manimandapam Campus,
Puducherry – 605 008.
- 3 The Director, Directorate of Health And Family Welfare Services,
Puducherry.
- 4 Indira Gandhi Medical College & Research Institute
(Government College)
Kathirkamam
Puducherry, 605009.
- 5 National Medical Commission,
Pocket -14, Sector -8, Dwarka Phase-1
New Delhi - 110077.



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DR. ANITA SUMANTH, J.

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W.P. No.30251 of 2023
and WMP.Nos.29848 & 29850 of 2023

15.11.2023