



W.P.No.33778 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.11.2023

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.33778 of 2023
and WMP No.33620 and 33622 of 2023

1. S.Yuvaraj
2. S.Akshaya
3. P.Yugabharathi
4. S.Kishore
5. N.Sanjai
6. K.Gnanasmitha
7. B.Siva Surya
8. R.V.Deepthi
9. Saili
- 10.Siva Sneka

... Petitioners

Vs

1. National Commission for Indian System
of Medicine represented by its Chairman
61-65, Institutional Area,
Janakpuri “D” Block, New Delhi – 110 058.
2. National Commission for Homeopathy,
represented by its Chairperson,
61-65, Institutional Area,
Janakpuri “D” Block, New Delhi – 110 058.



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3. The Director of Indian Medicine and Homeopathy,
Arignar Anna Government Hospital of
Indian Medicine Campus,
Arumbakkam, Chennai – 600 016.

4. Selection Committee,
Directorate of Indian Medicine and Homeopathy,
Arignar Anna Government Hospital of
Indian Medicine Campus,
Arumbakkam, Chennai – 600 016.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing respondents 3 and 4 to forthwith issue allotment orders to the petitioners herein for admission to AYUSH courses for the academic year 2023-2024 under management quota.

For Petitioner : Mr.Kandhan Duraisami

For Respondents : Mr.V.K.Vellaya Raj
for M/sVK Raj Law Chambers - R1
Mr.Rajesh Vivekanandan
Deputy Solicitor General – R2
Mr.M.Rajendran
Additional Government Pleader – R3 and R4

ORDER

WMP No.33620 of 2023 filed seeking permission to file a single Writ
Petition is ordered.



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2. Mr.V.K.Vellaya Raj, learned counsel accepts notice for National Commission for Indian System of Medicine (NCISM)/R1, Mr.Rajesh Vivekanandan, learned Deputy Solicitor General accepts notice for National Commission for Homeopathy/R2 and Mr.M.Rajendran, learned Additional Government Pleader accepts notice for the Director and Selection Committee, Directorate of Indian Medicine and Homeopathy/R3 and R4. They are armed with instructions to enable final disposal of this matter, even at the stage of admission.

3. The petitioners, numbering 10 individuals have sought a mandamus directing R3 and R4 to issue forthwith allotment orders to the petitioners for admission to Ayush courses for the academic year 2023-24 under management quota.

4. It is the submission of Mr.Kandhan, learned counsel for the petitioners that the petitioners had participated in the National Eligibility-cum-Entrance Test conducted by the National Testing Agency on 07.05.2023. It is also an admitted position that these petitioners did make any register or application as a precursor to participation in the various rounds of counselling held thus far for admission to the courses conducted by the respondents.

5. While this is so, they claim to have seen certain news items published on various dates from 24.11.2023 that students who have obtained sufficient



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marks in the NEET examination can attend the walk-in interview for admission to Siddha, Unani, Homeopathy, Ayurvedha courses, as there are more than 300 seats unfilled.

6. Based upon this, they claim to have visited colleges and state that they were directed to make applications to the official respondents. However, admittedly, no applications have been made thus far. The present Writ Petition is premised solely on the position that there are vacant seats that are available for admission and claiming eligibility for the same.

7. Written instructions of the Secretary, Selection Committee dated 29.11.2023 have been circulated and the points that emanate therefrom are as follows:

(i) In respect of Bachelor of Naturopathy and Yogic Science (BNYS) course, first phase of counselling was scheduled from 11th to 14th September, 2023 and the second phase, i.e., Movement-cum-wait list, counselling was held on 10.10.2023.

(ii) As regards Bachelor of Siddha, Ayurveda, Homeopathy and Unani (BSMS, BAMS, BHMS and BUMS) Courses, G.O.(D) No.924, Health and Family Welfare (IMI-1) Department dated 27.07.2023 was issued calling for applications.



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(iii) The first phase of counselling was scheduled from 26.10.2023 to 29.10.2023 and 31.10.2023 to 02.11.2023. The Movement – cum- wait list counselling was held on 15.11.2023.

8. Admittedly, these petitioners have not participated in any of the processes thus far. At paragraph 3 of the written instructions, it is stated that vacancies are still existing in the self-financing medical colleges, for which purpose, it was proposed to conduct walk-in counselling for the existing vacancies under seats surrendered to Government by self-financing medical colleges as well as management quota seats.

9. Walk-in counselling was held for BNYS Course on 24.11.2023 and 25.11.2023 and for AYUSH Course on 21.11.2023. Even thereafter, admittedly, there are some vacancies in the medical colleges.

10. In the above circumstances, I see no avenue to issue mandamus to the respondents directing them to issue allotment orders to the students. Admittedly, the petitioners have not even applied/registered for the counselling at the first instance. Notifications have been issued calling for applications as well as intimating the date for the conduct of first and second phases of counselling as well as walk-in counselling. The petitioners have not responded to any of the same.



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11. Learned counsel for the petitioners relies on a decision of the writ Court in the case of *Nandha Ayurveda Medical College and Hospital V. the Director of Indian Medicine and Homeopathy and others* (W.P.Nos.693 of 2022 etc. batch order dated 13.05.2022).

12. That decision relates to allotments made in the context of seats that had lapsed, which is an entirely different situation. No analogy can be drawn between the facts of that case and the present case, since in the present case, the prayer would have to be decided in the context of the events that have transpired thus far.

13. In the written instructions it is finally stated that the cut-off date for admission into ISM colleges and submission of details of the admitted students on NCISM portal is 30.11.2023. This date has been fixed by the NCISM. If at all such date is extended, one more walk-in counselling would be called for.

14. Bearing in mind the fact that 302 seats are left unfilled, it would be appropriate for R3 and R4 to seek directions from R1 and R2 for extension of date and conduct of one more round of walk-in counselling. If at all such a round is conducted, then the petitioners are at liberty to participate in the round, subject to all other required parameters having been fulfilled by them.

15. Though Mr.Kandhan would submit that one student hails from a rural area, the circumstances pointed out are not so extenuating, so as to issue a



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direction as prayed for to the respondents. Evidently, directing the respondents to conduct a round of walk-in counselling even beyond the dates specified by NCISM would be beyond the ken of this Court, particularly in light of the admitted facts in this matter and would open the pandora's box for consideration of such wide and unfettered prayers.

16. This Writ Petition stands dismissed. No costs. Connected Miscellaneous Petitions are closed.

30.11.2023

Index : Yes / No

Speaking order

Neutral citations: Yes

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DR.ANITA SUMANTH,J.

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4. Selection Committee,
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