



W.P.(MD) No.2111 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.2111 of 2022

and

W.M.P.(MD)Nos.1813, 1815, 1818, 1558 and 3861 of 2022

Aparajitha Bakshi

... Petitioner

-Vs-

1.State of Tamil Nadu,

Rep. by Secretary,

Director of Medical Education,

EVR, Periyar Salai, Kilpauk, Chennai.

2.Dr.MGR Medical University,

through its Vice Chancellor,

No.69, Anna Salai, Guindy,

Chennai.

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3.The Controller of Examinations,

Dr.M.G.R.Medical University,

No.69, Anna Salai, Guindy, Chennai.

4.The Dean / Principal,

IRT Perundurai Medical College,

Erode-638 053.

5.The District Vigilance Committee,

through its Head, the District Collector,

Collectorate Complex, Madurai.

6.The District Adi Dravida and Tribal Welfare Officer,

Adi Dravida and Tribal Welfare Office,

Collectorate Complex, Madurai.

7.The Tahsildar,

Madurai West Taluk Office,

23, Theni Road, Virattipathu,

Madurai-625 014.

8.The Tahsildar,

Madurai South Taluk Office,

Collector Office Building, Madurai-625 020.

... Respondents

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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the impugned proceedings in Na.Ka.No.12150/2021/Adi8, dated Nil.10.2021 signed on 11.10.2021 on the file of the 5th respondent and quash the same as arbitrary, unconstitutional and without jurisdiction.

For Petitioner : Mr.R.Murali
For R1, R4, R5 : Mr.V.Nirmal Kumar,
to R8 Government Advocate
For R2 & R3 : Mr.S.Ramesh

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

The proceedings of the 5th respondent, dated 11.10.2021, cancelling the Community Certificate issued in favour of the petitioner, is under challenge in this Writ Petition.

2.According to the petitioner, she is doing 4th year M.B.B.S., course in the 4th respondent College. Their ancestors were native of West Bengal and they belong to Nama-Sudra caste, which is notified as Scheduled Caste in West Bengal. Therefore, the father of the petitioner approached the revenue

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authorities concerned for issuance of Community Certificate and the same was issued by the Tahsildar, Madurai South. Based on the same, the petitioner appeared for NEET examination in the year 2017-2018, wherein, she scored 202 marks and called for counselling on 29.08.2017, which was a General counselling. According to the petitioner, though she applied under the category of Scheduled Caste, she appeared for counselling under the General category, since the marks obtained by her come within the zone of consideration under the General category. Therefore, she was issued with allotment order by the Selection Committee and she joined in the 4th respondent College.

3. When the matter stood thus, she was not permitted to appear for 3rd year examination on the ground that the Community Certificate issued to her was cancelled by the 5th respondent, which is impugned in this Writ Petition. This Court, by an interim order dated 29.03.2022, permitted the petitioner to appear for the examination and directed the 3rd respondent University not to publish the results until further orders. Pursuant to the same, the petitioner appeared for 3rd year examination.



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4. Though the cancellation of the Community Certificate is under challenge in this Writ Petition, the learned counsel appearing for the petitioner restricted the prayer to the extent that the 4th respondent College may be directed to grant permission to the petitioner to undergo Compulsory Rotatory Residential Internship (CRRI) and also issue Course Completion Certificate. He further submitted that the petitioner is ready to give an undertaking affidavit before the 4th respondent College stating that she will not claim the benefit of employment in Government Department based on the Community Certificate issued to her, subsequently, cancelled by the 5th respondent. He has also relied upon the decision of the Hon'ble Supreme Court of India in *State of Maharashtra Vs. Milind and others* reported in *2001 (1) SCC 4*.

5. The learned counsel for the respondents 2 and 3 strictly objected that the petitioner admitted in the course of M.B.B.S under the Scheduled Caste Community. Now, she cannot turn over by saying that on completion of the course, she will not seek any benefit under the Scheduled Caste Community, which is not permissible.

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6.Head the learned counsel on either side and perused the materials available on record carefully.

7.It is an admitted fact that the petitioner was originally admitted in the 4th respondent College under the category of Scheduled Caste Community. Subsequently, her Community Certificate was cancelled by the 5th respondent, which is challenged in this Writ Petition. Pursuant to the directions of this Court, she was permitted to write her 3rd year examination. Now, the learned counsel for the petitioner has restricted the prayer to the extent that the petitioner would be satisfied, if she is permitted to undergo CRRI and issued with Course Completion Certificate, by relying upon the decision of the Hon'ble Supreme Court of India referred to above and the relevant portion of the said decision is extracted hereunder:-

“39.Respondent No.1 joined the medical course for the year 1985-86. Almost 15 years have passed by now. We are told he has already completed the course and may be he is practicing as doctor. In this view and at this length of time it is for nobody's



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benefit to annul his Admission. Huge amount is spent on each candidates for completion of medical course. No doubt, one Scheduled Tribe candidate was deprived of joining medical course by the admission given to respondent No.1. If any action is taken against respondent No.1, it may lead depriving the service of a doctor to the society on whom public money has already been spent.

In these circumstances, this judgment shall not affect the degree obtained by him and his practicing as a doctor. But we make it clear that he cannot claim to belong to the Scheduled tribe covered by the Scheduled Tribes Order. In other words, he cannot take advantage of the Scheduled tribes Order any further or for other constitutional purpose. Having regard to the passage of time, in the given circumstances, including interim orders passed by this Court in SLP (C)No.16372/85 and other related affairs, we make it clear that the admissions and appointments that have become final, shall remain unaffected by this judgment.”

8.In the light of the aforesaid decision, we are of the view that the aforesaid judgment is squarely applicable to the present case on hand. Therefore, we direct the petitioner to file an undertaking affidavit before the 4th respondent College, stating that she will not claim any benefit of employment in



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Government Departments under the category of Scheduled Caste Community and on receipt of such undertaking affidavit, the 4th respondent College is directed to permit the petitioner to undergo for CRRI and also issue Course Completion Certificate to the petitioner on completion of the internship.

9. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] & [L.V.G., J.]
23.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

MYR

To

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State of Tamil Nadu,
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2. The Dean / Principal,
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