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WP.No.24667 of 2024

In the High Court of Judicature at Madras

Dated : 28.08.2024

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.24667 of 2024

J.Nandhinee

...Petitioner

Vs

1. The National Medical Commission,
Block P, Sector 8,
Dwarka phase 1,
New Delhi – 110 077.

2. National Board of Examination,
Represented by executive director medical enclave,
Ansari Nagar, Mahatma Gandhi Marg,
New Delhi – 110 077.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st respondent to process the eligibility application ID No.R.15012/017587/2022-Regn dated 28.03.2022 of the petitioner without insisting English marks for standard 11th and 12th and consequently direct the 1st respondent to issue the eligibility certificate so as to enable the petitioner to apply for the FMG exams conducted by the 2nd respondent.

For Petitioner : Mr.K.V.Sanjeevkumar



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For Respondents : Ms.Shubaranjani Anath for R1

ORDER

This writ petition has been filed by the petitioner, seeking for the issuance of a Writ of Mandamus to direct the respondent to process the eligibility application ID No.R.15012/017587/2022-Regn, dated 28.03.2022 of the petitioner without insisting English Marks for standard 11th and 12th consequently direct the 1st respondent to issue eligibility certificate so as to enable the petitioner to apply for the FMG Examinations conducted by the 2nd respondent.

2. Since no adverse order has been passed against the second respondent, notice to the second respondent is dispensed with.

3. According to the petitioner, that due to her father's avocation in Malaysia in 2003, her family was shifted to Malaysia in the year 2004, where, she completed Primary 3 (i.e. equivalent to 3rd standard) between 2004-2005 at Maz International School, Petaling Jaya, Malaysia, thereafter, she completed Primary 6 between 2007-2008 and thereafter Form-I equivalent to standard 7 in the same school between 2008-2009 and also



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Form 5 (i.e. 11th standard) in the same school.
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4. It is stated that that after studying Form-5 (11th standard), she appeared for IGCSE Pearson Edexcel O' levels between 2012-2013 and Cambridge International Examinations GCE AS & A levels (12th standard) between 2013-2014 at Taylor's College Subang Jaya, Subang Jaya, Malaysia. According to the petitioner, till Form-5 (11th standard), she had English as a separate subject but in Cambridge International Examinations GCE A' Levels, there were no separate subject in English. But the medium of instruction was in English. As the school has imparted the entire course in English, the Secondary education, there is no separate subject of English. Thereafter completing the school education, she joined BS Biology during the year 2015-2016 at DMSFI college, Philippines and she also cleared National Medical Admission Test and joined MD medicine at Davao Medical School Foundation Inc., Davao city, Philippines during the year 2016-2021.

5. It is further stated that the National Medical Admission Test which is as equal to the National Eligibility Test conducted by the National Board



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of examination, the 2nd respondent herein, is known for the standard of education in medicine and surgery. The institution DMSFI Davao city Philippines offers a four years rigorous program in medicine and surgery including one-year internship. The medium of education is strictly in English based on the syllabus. In addition to qualifying all the examinations conducted I have complete a mandatory one year internship and following which, any MBBS degree is issued.

6. It is stated that any citizen of India who has obtained medical qualification from recognised college outside the country can become a registered medical practitioner in India only upon appearing for Foreign Medical graduate Examination (FMGE) which is conducted twice a year by the 2nd respondent. The application form for the Foreign Medical Graduate Examination involves submission of eligibility certificate issued by the 1st respondent and Foreign Medical Graduate Examination, Accordingly, the petitioner applied to the 1st respondent with all the required documents for the eligibility certificate in the year 2021. However, the 1st respondent rejected the application and declined to issue eligibility certificate on the ground that the petitioner did not have English as a subject in her higher



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secondary education. However, again, the petitioner applied for eligibility certificate to appear for FMG examination. As there was no response forthcoming, the petitioner has come forward with the present Writ Petition.

7. The learned counsel for the petitioner submits that though the petitioner has been continuously communicating with the respondents 1 and 2 every year till July 2024 seeking eligibility certificate enabling the petitioner to apply for FMG examination conducted by the second respondent, however, till date the respondents have neither issue the eligibility certificate nor permitted the petitioner to appear for FMG examination. Accordingly, he prayed for passing appropriate orders.

8. Heard the learned counsel appearing for the first respondent and perused the materials placed on record.

9. Admittedly, the petitioner has already applied before the 1st respondent with all the requisite documents for the eligibility certificate in the year 2021. However, the 1st respondent rejected the said application and declined to issue eligibility certificate on the ground that the petitioner did



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not have English as a subject in her higher secondary education. When such being the case, without challenging the rejection order passed by the first respondent, filing another application seeking the very same relief before the first respondent is wholly unsustainable. Hence, the prayer sought for by the petitioner cannot be acceded to.

10. With the above observation, this writ petition is dismissed. No costs. However, liberty is granted to the petitioner to workout her remedy in the manner known to law.

28.8.2024

Index : Yes (or) No
Neutral Citation : Yes (or) No

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