



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM

THE HONOURABLE Mr. JUSTICE M.DHANDAPANI

WP.No.23828 of 2024
and WMP.No.23828 of 2024

Devadarshini Umapathy

...

Petitioner

Vs

1. The Nodal Officer
MBBS Admission-2024,
All India Institute of Medical Science (AIIMS)
Ansari Nagar, New Delhi-110029.

2. The Secretary,
Medical Counselling Committee,
Nirmal Bhavan, Tajpath Area,
Secretariat, New Delhi.

3. The Secretary,
Union of India,
Ministry of Home Affairs,
North Block, New Delhi-110 001.

4. The Secretary,
National Medical Commission,
Pocket-14, Sector-8, Dwaraka,
New Delhi-110 007.

....Respondents



WEB COPY

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 and 2 to treat the petitioner as a Foreign National in the application, counselling and seat allotment process and not on par with the Indian citizens in light of the Notification dated 04.03.2021 issued by the 3rd respondent.

For Petitioner : Mr.V.P.Raman

For Respondent : Mr.ARL.Sundaresan, ASG
Mr.K.Srinivasamurthy RR2 & 3
Mr. Shubharanjani Ananth R4
R1 - NDW

ORDER

This petition has been filed seeking a direction to the respondents 1 and 2 to treat the petitioner as a Foreign National in the application, counseling and seat allotment process and not on par with the Indian citizens in light of the Notification dated 04.03.2021 issued by the 3rd respondent.

2. It is the case of the petitioner that the petitioner is an OCI card holder who secured her OCI card on 12.07.2021. The petitioner had participated in NEET-UG 2024 and secured a very high score and wishes to pursue her MBBS in the first respondent Institution. The first respondent recently released its MBBS course prospectus for 2024 and the petitioner



WEB COPY

was taken by shock and surprise since the said prospectus did not consider OCI cardholders who secured their OCI cards post 04.03.2021 to be treated as Foreign Nationals in the light of the notification issued by the 3rd respondent dated 04.03.2021 and the dictum of the Hon'ble Supreme Court of India *in the case of Anushka Rengunthwar and others Vs. Union of India and others reported in (2023) 11 SCC 209*. While the 2024 prospectus for the PG courses of the first respondent contained a specific provision that OCI cardholders who secured OCI cards post 04.03.2021 are to be treated as Foreign Nationals and not on par with Indian citizen, however, the said provision has been omitted to be captured in the 2024 MBBS UG prospectus of the first respondent.

3. The parents of the petitioner have sent three representations through emails and letter dated 23.06.2024, 08.08.2024 and 25.07.2024 respectively to the first respondent to include the provision provided under the PG courses prospectus of the first respondent which provides that OCI cardholders who secured OCI cards post 04.03.2021 to be considered as Foreign Nationals in the UG prospectus as well. Though the email dated



WEB COPY

23.06.2024 and letter dated 25.07.2024 of the petitioner's parents did not evince any response but the recent email representation of the petitioner's father evinced a response where the first respondent categorically stated the statements provided in the PG prospectus are found in the UG prospectus as well and that the said two prospectus are the same. The petitioner aggrieved by the fact that even after multiple representations given by her parents there is no specific clarification in the 2024 MBBS UG prospectus of the first respondent clarifying that the OCI cardholders who secured their OCI cards post 04.03.2021.

4. The learned counsel for the petitioner submitted that the petitioner shall be treated as foreign national and he will pay the fees by way of US Dollors. Admittedly, he was issued OCI card by the Government of India. The first respondent has rightly interpreted the decision rendered by the Hon'ble Supreme Court and incorporated the prospectus in PG courses but omitted the same in UG prospectus.

5. The learned Additional Solicitor General appearing on behalf of



WEB COPY

the Medical counseling committee submitted that this Court may pass appropriate orders in terms of the decision rendered by the Hon'ble Supreme Court in the case of *Anushka Renguthwar and others Vs. Union of India and others* [2023 11 SCC 209].

6. Heard the learned counsel for the petitioner and the learned Additional Solicitor General appearing for the respondents and perused the materials available on record. Since no adverse order is being passed against the first respondent, notice to the first respondent is dispensed with. Considering the submission made by the learned Additional Solicitor General, this Court is inclined to dispose of the case.

7. The issue that arises in the present case is whether the petitioner can be treated as an Indian Citizen or Foreign National. The said issue fell for consideration before the Hon'ble Apex Court in the case of *Anushka Renguthwar and others Vs. Union of India and others* [2023 11 SCC 209] wherein the Apex Court held thus:

"67. Therefore, in the factual background of the issue involved, to sum up, it will have to be held that though the



WEB COPY

impugned Notification dated 04.03.2021 is based on a policy and in the exercise of the statutory power of a Sovereign state, the provisions as contained therein shall apply prospectively only to persons who are born in a foreign country subsequent to 04.03.2021 i.e. The date of the notification and who seek for a registration as OCI card holder from that date since at that juncture the parents would have a choice to either seek for citizenship by descent or to continue as a foreigner in the background of the subsisting policy of the Sovereign State.

.....

69. Hence, the notification being sustainable prospectively, we hereby declare that the impugned portion of the notification which provides for supersession of the Notification dated 11.04.2005, 05.01.2007 and 05.01.2009 and Clause 4(ii), its proviso and Explanation (1) thereto shall operate prospectively in respect of OCI cardholders who have secured the same subsequent to 04.03.2021."

8. The cutoff date has been fixed by the Government for NEET- UG courses in terms of the decision aforesaid decision, which makes it clear that the person who obtained OCI card or born in foreign country after 04.03.2021, he/she will be treated as foreign national. The first respondent have already issued a prospectus for NEET PG admission by incorporating the above, but



the said provision is conspicuously absent in the UG admission which has resulted in this confusion.

9. Admittedly, the Government of India has issued an OCI card on 12.07.2021 to the petitioner and by virtue of the notification dated 04.03.2021 the petitioner has to be considered as a foreign national having obtained the OCI card after 04.03.2021 and therefore, would be entitled to consideration of admission under the foreign national quota in the light of the judgment of the Hon'ble Supreme Court of India in the case of *Anushka Renguthwar and others Vs. Union of India and others* [2023 11 SCC 209].

10. In view of the above discussion, the first respondent is directed to treat the petitioner as Foreign National and consider her application in terms of the order passed by the Hon'ble Apex Court in the case of *Anushka Renguthwar and others Vs. Union of India and others* [2023 11 SCC 209]

11. With the above direction, the writ petition is disposed of.



WEB COPY

Consequently, connected miscellaneous petition is closed. No costs.

27.08.2024

rli

Note: issue order copy on 04.09.2024

Index: Yes/No

Internet: Yes/No

Speaking/Non speaking

To

1. The Nodal Officer
MBBS Admission-2024,
All India Institute of Medical Science (AIIMS)
Ansari Nagar, New Delhi-110029.

2. The Secretary,
Medical Counselling Committee,
Nirmal Bhavan, Tajpath Area,
Secretariat, New Delhi.

3. The Secretary,
Union of India,
Ministry of Home Affairs,
North Block, New Delhi-110 001.

4. The Secretary,
National Medical Commission,
Pocket-14, Sector-8, Dwaraka,
New Delhi-110 007.

8/10



WEB COPY





WEB COPY



M.DHANDAPANI, J.

Rli

WP.No.23828 of 2024

27.08.2024