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W.P.No.25236 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.25236 of 2024
and W.M.P.No.27562 of 2024**

Devadarsini Umapathy
Petitioner

...

Vs.

1. The Medical Counselling Committee,
Rep.by its Secretary,
Nirmal Bhavan, Rajpath Area,
Secretariat, New Delhi-110 002.

2.All India Institute of Medical Sciences (AIIMS),
Rep.by its Nodal Officer (MBBS Admission-2024),
Ansari Nagar, New Delhi-110 029.

3.Union of India,
Rep.by its Secretary,
To the Government of India,
Ministry of Home Affairs,
North Block, New Delhi-110 001.

4.The National Medical Commission,
Rep.by its Secretary,
Pocket No.14, Sector-8, Dwaraka,
New Delhi-110 007.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to refrain from considering OCI Card holders who obtained their OCI cards prior to 04.03.2021 as Foreign Nationals and that only OCI's who obtained OCI cards post 04.03.2021 to be considered under Foreign National Seat Quota along side Foreign Nationals.

For Petitioner : Mr.V.P.Raman

For Respondents : Mr.AR.L.Sundaresan
Additional Advocate General
assisted by
Mr.K.Srinivasamurthy
for R1 and R3
Ms.Shubaranjani Ananth
for R4

O R D E R

This Writ Petition has been filed seeking for a direction to the respondents 1 and 2 to refrain from considering the OCI Card holders who obtained their OCI cards prior to 04.03.2021 as Foreign Nationals and to consider the OCI cardholders who obtained OCI cards post 04.03.2021 under Foreign National Seat Quota along side Foreign Nationals.



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2. The learned counsel appearing for the petitioner submits that the petitioner is an Overseas Citizen of India and secured OCI Card on 12.07.2021. She participated in NEET-UG 2024 and secured high score and wishes to pursue her MBBS in the second respondent Institution. She filed W.P.No.23828 of 2024 seeking a direction to the respondents 1 and 2 to consider her as Foreign National, in the light of the dictum laid down by the Hon'ble Supreme Court of India in W.P.(C).No.891 of 2021 and the Notification issued by the third respondent dated 04.03.2021. While so, the first respondent issued a Notice dated 21.08.2024, wherein, it encapsulated the eligibility criteria for Foreign National Seat Quota that all OCI candidates irrespective of their date on which they secured their OCI Cards be eligible for Foreign National Seat Quota along side the Foreign Nationals and it is in contravention to the dictum of the Hon'ble Supreme Court of India in W.P.(C).No.891 of 2021. Hence, the petitioner has sent two representations vide e-mail dated 24.08.2024 and 25.08.2024 to the first respondent requesting to clarify that only OCI cardholders who obtained



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their OCI cards post 04.03.2021 are eligible for the Foreign National Quota along side Foreign Nationals. However, there is no response from the first respondent. Hence, the present writ petition has been filed.

3. Heard the learned counsel appearing for the petitioner, the learned Additional Solicitor General assisted by the learned Special Government Pleader appearing for the respondents 1 and 3 and the learned counsel appearing for the respondent No.4.

4. The grievance of the petitioner is that the first respondent has issued a notice dated 21.08.2024, encapsulating the eligibility criteria for Foreign National Seat Quota that all OCI candidates irrespective of the date on which they secured OCI cards be eligible for Foreign National Seat Quota along side Foreign Nationals, though the Hon'ble Supreme Court of India has held in W.P.(C).No.891 of 2021 [(2023) 11 SCC 209] that the OCI cardholders who obtained their OCI Cards prior to 04.03.2021 are to be treated on par with Indian Nationals and the OCI card holders who have



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obtained their OCI cards post 04.03.2021 are to be treated as Foreign Nationals in light of the Notification dated 04.03.2021 issued by the third respondent and she has made a representation before the first respondent, namely, Medical Counselling Committee, represented by its Secretary, Nirmal Bhavan, Rajpath Area, Secretariat, New Delhi, to clarify that only OCI cardholders who obtained their OCI cards post 04.03.2021 are eligible for the Foreign National Quota along side Foreign Nationals and since it has not been considered, the petitioner is before this Court. However, this Court cannot exercise its jurisdiction beyond the scope of power available under Article 226 of the Constitution of India and if at all the petitioner is having grievance over the notice dated 21.08.2024 issued by the first respondent, she has to approach the concerned Forum for redressal of her grievance. Hence, liberty is granted to the petitioner to challenge the notice dated 21.08.2024 issued by the first respondent before the High Court of Delhi.



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5. Accordingly, this Writ Petition is closed. There shall be no order as to costs. Connected miscellaneous petition is also closed.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb



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To

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M.DHANDAPANI, J.

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