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W.P. No.26167/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
24.09.2024	27.09.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 26167 OF 2024

AND

W.M.P. NOS. 28593 & 28595 OF 2024

Katta Bhavya Sree

.. Petitioner

- Vs -

1. The Government of Puducherry
Health Secretariat
Rep. by its Under Secretary to Government (Health II)
Health Department, Chief Secretariat
Puducherry 605 001.
2. Government of Puducherry
Directorate of Higher and Technical Education
Rep. by its Co-ordinator (Admission)
Centralized Admission committee (CENTAC)
Medical Admission
Kamarajar Manimandapam Campus
Puducherry 605 008.
3. The Director
Directorate of Health & Family Welfare Services
Puducherry.



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4. Indira Gandhi Medical College & Research Institute
(Government College)
Kathirkamam, Puducherry 605 009.
5. National Medical Commission
Pocket-14, Sector-8, Dwarka Phase-1
New Delhi 110 077.
6. Karri Ganga Raju .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records from the 1st respondent relating to the proceedings dated 28.08.2024 bearing Reference No.Nil relating to the Seat Matrix for MBBS course for the year 2024-2025 in the 4th respondent College read with the Round 1 Draft Allotment List for UG-NEET-MEDICAL/DENTAL/BAMS AYURVEDA/BVSC. & AH (NATIONAL SS & NRI) – (2024-2025) bearing ref. No.Nil issued by the 2nd respondent insofar as it does not provide reservation of one seat to OBC candidate for Yanam Region in the 4th respondent college diverting the seat to MBC to accommodate the 6th respondent as illegal, arbitrary, unconstitutional, without jurisdiction and to consequently direct the respondent Nos.1 to 5 to accommodate the petitioner in MBBS seat starting from academic year 2024-2025 in the 4th respondent college



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and regularize the same and treat her on par with the students who were allotted/admitted for the academic year 2023-2024.

For Petitioner : Mr. N.G.R.Prasad, for
M/s.Row & Reddy

For Respondents : Mr. J.Kumanan, AGP (P)
for RR-1 to 4
Mrs.Shubharanjani Ananth for
R-5
No Appearance for R-6

ORDER

The proceedings of the 1st respondent dated 28.08.2024 in and by which no seat has been allotted to Other Backward Community (for short 'OBC') in the 4th respondent college inspite of the fact that 11% is provided for reservation for OBC category for the year 2024-2025, but erroneously the seat was diverted to MBC candidate, though one seat had been given to MBC candidate last year, which has been done with a mala fide intention and to illegally accommodate the 6th respondent, thus depriving the petitioner of a MBBS seat in the 4th respondent college, which has been assailed by filing the present writ petition.



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2. It is the case of the petitioner that she was born in Yanam, which is included within the Union Territory of Puducherry. It is the further case of the petitioner that the medical education in Puducherry region is under the control of the 1st respondent and the 2nd respondent is the counselling authority. The 4th respondent college is a Government college in which 4 seats are earmarked for the residents of Yanam region.

3. It is the further case of the petitioner that the 1st round of counselling was published on 23.08.2024 in which the petitioner figured in rank No.557 and the 6th respondent was allotted rank No.883. The seat matrix was thereafter published by the 4th respondent on 28.8.2024 in which the 1st respondent provided 2 seats for General Category, 1 seat for MBC and 1 seat for students belonging to Scheduled Caste. Despite the 11% reservation provided for OBC, no seat has been earmarked for the OBC community. In order to avert any possible diversion of seat, the petitioner preferred a representation dated 27.08.2024, but the same was ignored while publishing the seat matrix on 28.8.2024.



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4. It is the further averment of the petitioner that even during the year 2023-2024, the 1st respondent had earmarked 1 seat for MBC and, therefore, for the year 2024-2025, the 1st respondent ought to have earmarked the seat for OBC category. The action of the 1st respondent in not providing seat to OBC category repeatedly is illegal and is directly an attack on equality enshrined under Article 14 of the Constitution. It is the further averment of the petitioner that atleast on rotation basis, the 1st respondent, while allotted seat to MBC in the previous year, ought to have allotted the seat for OBC community in the year 2024-2025.

5. It is the further averment of the petitioner that out of 29% reservation provided to Backward Community, division was made by the 1st respondent within the 29%, by allotting 11% to OBC candidates and 18% to MBC candidates. For the year 2024-2024, while the 1 seat, which was meant for Backward Community was allotted to the candidate belonging to MBC, for the academic year 2024-2025, the 1st respondent ought to have allotted the said seat to OBC candidate, on rotation basis, which alone would fulfil the equality clause, thereby providing seats both to OBC and MBC candidates. However, without



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following the same, providing of 11% reservation to OBC candidates would become meaningless as all the years, the share of the seat would be given to MBC candidates and the reservation for OBC candidates would only remain on paper.

6. It is the further averment of the petitioner that insofar as 2% reservation provided to candidates belonging to EBC and BCM for which one seat is allotted for BC in Karaikal region, the single seat each year is allotted between EBC and BCM on rotation basis. However, when it comes to the case of OBC and MBC candidates, which also stands on similar footing, the said rotation basis is not followed, which has caused grave prejudice to the petitioner as inspite of the petitioner securing higher rank, due to the erroneous approach adopted by the 1st respondent, the petitioner has been deprived of a seat in the 4th respondent college. Therefore, the proceedings of the 1st respondent dated 28.8.2024 relating to seat matrix is unconstitutional, arbitrary and illegal and assailing the same the present writ petition has been filed.



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7. Learned counsel appearing for the petitioner, in his usual eloquence and inimitable style contended that the purpose of reservation is sought to be given a go-by by the act of the 1st respondent in not treating two groups of the Backward Community persons equally. It is the further submission of the learned counsel that when 11% reservation has been provided for OBC and 18% reservation has been provided for MBC, necessarily, the reservation provided should be allowed to achieve its goal. However, though 1 seat is provided for Backward Community in the 4th respondent college, however, the said seat is allotted to MBC alone, as has been done in the previous year as also in the current year to the detriment of OBC community, which exercise is in stark violation of equality enshrined under Article 14 and grossly creates inequality amongst equals.

8. It is the further submission of the learned counsel that for the year 2023-2024, the 1st respondent reserved one seat for MBC candidate in Yanam region, while that being so, as per rotation, the next year, viz., the current year 2024-2025, the said seat ought to have been provided for OBC, which would entail the petitioner to be allotted the said seat as she has secured rank No.557.



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However, the erroneous allotment of seat to MBC candidate notwithstanding the fact that the candidate has secured only Rank No.883 and that the seat in the preceding year was allotted to MBC candidate is a direct affront on the constitutional protection given to OBC with respect to equal status within the community.

9. It is the further submission of the learned counsel that though the petitioner had obtained Rank No.557 and the 6th respondent had obtained Rank No.883, however, the rank list, which was published on 23.8.2024, the 1st respondent published the seat matrix on 28.8.2024 and simultaneously published the 1st Round Draft allotment List on 30.08.2024, thereby accommodating the 6th respondent under MBC quota instead of provisioning the said seat for the petitioner under OBC quota. This act of the 1st respondent is illegal, arbitrary and mala fide and in violation of Article 14 of the Constitution. The said act has been perpetrated by the 1st respondent only to give benevolent consideration to the 6th respondent. Due to the mala fide act of the 1st respondent the petitioner has been deprived of her entitlement to the said seat under the 4th respondent, which has caused grave prejudice and irreparable loss.



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10. It is the further submission of the learned counsel that insofar as EBC and BCM categories, who are provided 2% reservation, on rotation basis, every year, one of the category is provided with the seat, which enjoins equality amongst the two categories and there are no heartburns in the said allotment. However, the said analogy of seat sharing every year is not being followed for MBC and OBC category, which is a clear infraction of Article 14 of the Constitution. Hence, the learned counsel submits that the writ petition deserves to be allowed with a direction to the 1st respondent to give admission to the petitioner in the 4th respondent college by following the system of rotation as the one seat for the current academic year would devolve on the OBC category.

11. Per contra, learned Addl. Government Pleader appearing for respondents 1 to 4 submits that as per the percentage allotted, General Quota is fixed at 40% and EWS is fixed at 10%. OBC is given 11% while MBC is given 18%. EBC and BCM categories are given 2%. It is the further submission of the learned Addl. Government Pleader that as per the fixation, while 75% of the seats are allotted for Puducherry, 18% goes to Karaikal and 3% and 4% to Yanam and



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Mahe respectively. It is the further submission of the learned Addl. Government Pleader that based on the percentage, on the total number of 131 seats under Government quota, the reservation percentage for Yanam for OBC category comes to 0.44 while that of MBC it comes to 0.72 and rounding off the same, while OBC category gets 0.5, MBC is rounded off to 1 and, thereby, the one seat is allotted to MBC category.

12. It is the further submission of the learned Addl. Government Pleader rounding the fraction percentage to the nearest for Yanam while OBC is not provided any seat, MBC is provided with 1 seat. It is the further submission of the learned Addl. Government Pleader that in respect of EWS category in Yanam region, which is given 10%, it works out to 0.40 and, therefore, no seat is allotted to EWS category in Yanam region. Likewise rounding off on the basis of the percentage of reservation with regard to Puducherry and Karaikal, OBC is provided with 11 seats for Puducherry and 3 seats for Karaikal.

13. It is the further submission of the learned Addl. Government Pleader that insofar as Karaikal region is concerned, the reservation percentage for EBC



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and BCM are 2% respectively and as per rotation methodology for EBC and BCM, which have equal distribution, though being two different categories, the seat is allotted on rotational basis every year. However, the reservation percentage to OBC and MBC being 11% and 18% respectively, the rotation basis as followed for EBC and BCM cannot be adopted for OBC and MBC respectively. Therefore, rotation is not adopted for OBC and MBC in respect of Yanam region and the candidates of Yanam region, on the basis of their merit are considered in the common pool of 75% quota earmarked for Union Territory of Puducherry as a whole, where all the four regions can compete. Since the petitioner has not secured enough marks to come within the zone of consideration compositely under the Union Territory of Puducherry, she has not been allotted with a seat.

14. It is the further submission of the learned Addl. Government Pleader that out of the four seats allotted for Yanam region, 2 is earmarked for General, while 1 seat is for MBC and 1 seat for SC and OBC is not provided with any seats, however, they could very well avail the seats earmarked for OBC under the 75% quota for UT of Puducherry, as held by the Division Bench of this Court in W.P. No.13130/2010.



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15. It is the further submission of the learned Addl. Government Pleader that the seat matrix has taken into consideration the vertical, horizontal and regional reservation for the regions of Karaikal, Mahe and Yanam and by rounding off the percentage the seat matrix is prepared, which is a policy decision based on the principles of reservation of the State and the Government is obliged to conform to the principles of reservation. Therefore, the grievance of the petitioner on the basis of her region cannot be considered, as her candidature would be considered under the 75% quota under the UT of Puducherry and since the petitioner has not obtained the requisite marks, her name has not been considered. Therefore, there is no error in the allotment and the said allotment does not require any interference at the hands of this Court.

16. On the above contentions and counter contentions, this Court heard the learned standing counsel appearing for the 5th respondent and perused the materials available on record as also the decisions relied upon.



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17. There is no quarrel with the fact that the seat matrix has been accepted and approved by the 1st respondent and based on the said approval, the seat sharing between the four regions, which is falling under the Union Territory of Puducherry is being split up. In the present case, this Court is concerned about the allocation of seat to Yanam region in which 2 seats are allotted to General Category, 1 seat is allotted to MBC and 1 seat is allotted to SC. However, it is the stand of the petitioner that though OBC for Yanam is provided with 11% reservation, yet no seat is provided to OBC under the regional quota, though MBC is provided with 1 seat as it is provided with 18 % reservation.

18. In this regard, the main plank of argument on behalf of the petitioner is that while EBC and BCM categories, which have been allotted with reservation of 2% each is provided one seat on rotation basis every year, however, similar pattern is not followed inspite of the fact that OBC is allotted 11% and MBC is allotted 18% reservation. However, it is countered by the respondents by submitting that on the basis of the reservation, while 0.44 of the seat is given to OBC, 00.72 of a seat is given to MBC and rounding off the same, OBC is provided



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only with 0.5, viz., $\frac{1}{2}$ a seat, while MBC is provided with 1 seat upon rounding and, therefore, the 11% quota for OBC provided for Yanam region would be made available under the 75% allowable under the reservation for UT of Puducherry.

19. Though contentions and counter contentions of varying magnitude had been advanced, yet it is to be pointed out that the allotment of seat on the basis of arithmetical computation by rounding off the same to the nearest full number, which gives OBC 0.5 seat, while it provides 1 seat to MBC, has not been questioned by the petitioner. Though it is the contention of the respondents that it is a policy decision and this Court cannot interfere with the said policy decision, however, this Court is not venturing into the said subject to test whether it is a policy decision, as the said allocation has not been questioned before this Court. Therefore, when the notification relating to seat matrix and allocation of seat has not been questioned, this Court cannot extend its extraordinary jurisdiction to look into the issue, when already the 6th respondent has been allotted with the said seat and is pursuing his education.



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20. The petitioner, to have his grievance ventilated, ought to have questioned the notification and the seat matrix, which alone would have given the necessary ammunition for this Court to test the legality of the said allocation. Though this Court can sympathise with the petitioner, as she has not been allotted with a region-wise allotment inspite of her securing a higher rank, however, in the absence of any challenge to the seat matrix and also the percentage ratio fixed, this Court finds no reason to go beyond the prayer and grant relief.

21. Be that as it may. A question of seminal importance also falls before this Court for consideration, though it is not the issue raised in the writ petition. However, as the petition has been laid under Article 226 of the Constitution, this Court, exercising its inherent and extraordinary jurisdiction deems it fit and proper to consider the said issue, which would have wider ramifications in the allotment of seats henceforth.

22. In ***Federation of Puducherry Parents-Students Affected by Regionwise Reservation – Vs – Government of Puducherry & Ors. (2010 (5) CTC 385)***, the



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First Bench of this Court, considering the issue relating to regional reservation provided for Yanam, Mahe and Karaikal region, while gave its seal of approval, held as under :-

“27. It is brought to our notice that there are no Medical Colleges in Mahe and Yanam region and in the counter affidavit filed by the official respondents, they have justified the reason behind such reservation. We are convinced that the reason assigned for such regional reservation for the three regions of Mahe, Yanam and Karaikal has a rational behind it and it satisfies the object sought to be achieved by the classification, that is to uplift the area from its backwardness. Accordingly, we have no hesitation to hold that the regionwise reservation for Mahe, Yanam and Karaikal region is with a reasonable basis and there is no arbitrariness in such classification and accordingly such classification is held to be valid.”

23. The Division Bench, in the aforesaid decision, has upheld the region-wise classification and providing of percentage. The main ground which prevailed upon the Division Bench to arrive at the said finding was the fact that the said classification has been provided to uplift the area from its backwardness. Uplifting the area from its backwardness necessarily means



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uplifting the citizens in the said place to have a better standard of living and better intellectual intelligence by means of educating the masses in the locality. Therefore, education is the light, which alone would lift the masses and eradicate the backwardness amongst the people living in the said region.

24. Only with the aforesaid view in mind, reservation has been provided for in the said Yanam region in which the General Category is provided with 40%, the EWS with 10%, OBC with 11% and MBC with 18% in addition to reservation to other categories of persons. Though provision has been made for certain percentage of reservation to the various categories, yet, the regional reservation could not be effected to full use by the backward class people belonging to OBC, while MBC is benefitted by the said reservation, as one seat is provided to MBC while no seat is provided to OBC due to mathematical approximation falling out of the reservation.

25. However, it is to be pointed out that though 11% reservation is provided to Yanam region for OBC, yet, OBC category persons are not able to enjoy the fruits of the said reservation due to arithmetical approximation carried



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out by the 1st respondent due to which every time MBC category is provided with 1 seat to the exclusion of OBC. When it is the intention of the reservation policy to uplift the persons residing in the said places from backwardness, not providing of seats, inspite of the fact that reservation is provided to OBC not only defeats the purpose for which reservation has been granted, but there is a clear infraction of Article 14, as OBC is not provided with any seat in any of the counselling, while MBC category is provided with 1 seat.

26. Further, it is to be pointed out that ECB and BCM categories are provided with one seat on rotation basis every year, though the reservation is only 2% for the said category. However, OBC category persons, though provided with 11% for Yanam region, are not provided with any seat under the regional quota on rotation basis with MBC, which strikes very much against equality enshrined in the Constitution. There could be no quarrel with the fact that the seat allotted for the 6th respondent, belonging to MBC, is as per the policy prevailing, but the aforesaid discussion is made to point out the fallacy in the policy, as throughout, regionwise, in Yanam, the OBC candidates are not provided with any seat though the regionwise reservation provides for 11% and



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it is only the MBC category, which alone stands to benefit every year, due to mathematical approximation and the respondents have stressed across the Bar that OBC candidates have to avail their 11% quota under the 75% quota. If that is the case, there would arise no necessity for grant of 11% regionwise quota for Yanam as it would serve no purpose as the quota under the 75% would always entail the OBC category to have their reservation. Thus providing 11% as region-wise reservation to OBC category, in the absence of allotting any seat in the particular academic year or even through rotation, would only be a paper reservation and would be of no use to the OBC community persons residing in Yanam, thereby, the region-wise reservation for OBC in Yanam region would serve no purpose.

27. This Court is highlighting the aforesaid aspect only to point out that when reservation is granted to a particular community to redeem itself from backwardness, it should serve its purpose and it cannot be a paper reservation, thereby, derailing the concept of reservation. In Yanam region OBC is granted region-wise quota, yet the said remains only on paper and the OBC category of



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Yanam could not relish the fruits of the reservation granted to them under the region-wise quota.

28. Therefore, it becomes necessary, in the aforesaid scenario for this Court to impress upon the 1st respondent to revisit the reservation vis-a-vis grant of seat to particular community region-wise based on the region-wise reservation and arrive at a solution whereby the region-wise reservation achieves the purpose for which it has been granted.

29. Though this Court is not inclined to interfere with the allotment of seat to the 6th respondent, as it is within the framework of the reservation allotted to Yanam region as it is a policy decision of the Union, however, in view of the discussion made above, this Court deems it fit to direct the 1st respondent to revisit the reservation policy in respect of Yanam, Mahe and Karaikal region and to see to it that the reservation, which is granted to the respective communities, region-wise, is not a paper reservation, but is one in letter and spirit so that the object of uplifting the people of the said region from backwardness sees the light of the day and the object is achieved.



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30. This writ petition is dismissed with the aforesaid observation and directions. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

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M.DHANDAPANI, J.

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**PRE-DELIVERY ORDER IN
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