



WEB COPY

W.A.Nos. 2848, 2786, 2849 to 2852



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.10.2024

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE P.B. BALAJI

W.A.Nos. 2848, 2786, 2849 to 2852 of 2024

and

CMP.Nos. 20439,20928, 20933, 20934, 20912 and 20930 of 2024

W.A.No. 2848 of 2024

1 The National Testing Agency
Rep. by its Senior Director First Floor
NSIC-MDBP Building Okhala Industrial Estate
New Delhi-110020

..Appellant

Vs

1 Shyam

2 National Medical Commission
Satarkta Bhawan G.P.O. Complex Block A
INA New Delhi-110023

3 The Medical Counseling Commi
ttee Allotment Process-Counselling
Directorate General of Health Service
Ministry of Health and Family Welfare
Government of India Nirman Bhavan

..Respondents



W.A.Nos. 2848, 2786, 2849 to 2852

Prayer in W.A.No. 2848 of 2024 : Writ Appeal is filed under Clause 15 of Letters Patent to set aside the common order passed by this Court in W.P.No. 24056 of 2024, dated 04.09.2024.

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For Appellant : Mr.AR.L. Sundaresan, Additional Solicitor
(in all Writ Appeals) General

For Respondents : Mr.K.Selvaraj
– For R1 in W.A.Nos.2849 to 2852/2024

Ms.Shubharanjani Ananth -
- For R2 in W.A.No. 2848/2024
- For R5 in W.A.No. 2850 to 2852 /2024

Mr.K.Srinivasamurthy – SPC
For R3 in W.A.No. 2848/2024, 2849,
For R2 in W.A.No. 2786/2024,
For R2& R4 in W.A.Nos.2850 to 2852/2024

COMMON JUDGMENT

(Order of the Court was made by the D.Krishnakumar, J)

Since all these writ appeals challenge the common order issued by the writ court, they were heard together, and a common judgment is passed.



2. These writ appeals have been filed against the order of the writ court, wherein the learned Single Judge directed the registry to place the matter before the Hon'ble Chief Justice for the constitution of an appropriate Bench to address the issue concerning the conflicting views taken by different Division Benches of this Court on the very same issue in WP(MD) No. 19051/2024, W.A. No. 2602 of 2023, and W.A. Nos. 1109 & 1110 of 2020. Although the learned Single Judge directed the authorities to consider the writ petitioner's case on sympathetic grounds, the court also instructed the registry to keep the writ petitions alive for the purpose of deciding the legal issue. However, the National Testing Agency has preferred the present writ appeals, challenging the directions issued by the learned Single Judge, particularly those mentioned in paragraph 8 of the impugned order.

3. Mr. AR.L. Sundaresan, the learned Additional Solicitor General appearing for the appellant, submitted that the writ court had rightly concluded that the relief sought by the writ petitioner could not be granted. However, in light of extraordinary circumstances, the court granted liberty to the writ petitioners/1st respondents herein to approach the authority concerned by



making a representation, and as a one-time measure, directed the respondent-authority to place the writ petitioners at the bottom of the OBC rank list.

Although the learned Single Judge issued positive directions in the concluding part of the order, it was clarified that the writ petitioners' placement at the bottom of the OBC rank list would be subject to the availability of admissions in colleges or Deemed Universities where such admissions could be obtained.

4. The learned Additional Solicitor General has further submitted that the said relief cannot be granted to the writ petitioners/1st respondents as several candidates are there in the queue waiting for their turn for admission in the medical colleges and the last date for selection of students in MBBS Course is on 24.10.2024. Therefore, it is highly impossible to implement the order of the writ court at this distance point of time, since similarly placed persons who committed mistake in applying under General category instead of OBC category and not approached the Court may also seek same relief. In view of the practical difficulty in implementing order of the writ court, the National Testing Agency has preferred these writ appeals.



5. Mr. Selvaraj, learned counsel appearing for the 1st respondent/writ petitioner, made an attempt before this Court and submitted that the writ petitioners approached the Court due to their own mistake in applying under the General category instead of the OBC category. He further pointed out that, on an earlier occasion, similarly placed individuals had approached the Court, and the authorities concerned, following the Court's directions, had complied with the order. Therefore, the learned Single Judge, on sympathetic grounds, issued directions, observing that no prejudice would be caused to the authorities if the writ petitioners' request were considered.

6. Heard both sides and perused the materials available on record.

7. Undisputedly, in the impugned order, the learned Single Judge concluded that, on merit, the writ petitioners are not entitled to relief unless the matter is decided by the appropriate Division Bench, as referred to by the learned Single Judge.

8. Although the writ court granted liberty to the 1st respondent/writ petitioners to seek remedy, we are not granting any relief to the 1st



respondent/writ petitioners on the merits of the case. Our consideration is limited to the possibility of granting a concession to the writ petitioners/1st respondent in these writ appeals for this academic year, pending the decision of the aforementioned writ petitions. We make it clear that the writ court has issued directions solely on the sympathetic grounds, therefore the authorities concerned shall consider the representations of the writ petitioners without being influenced any observations made by the writ court. Furthermore, the learned Additional Solicitor General undertakes before this Court that in case the respondent-authority acceded the request of the writ petitioners, the appellant /NTA will consider the writ petitioners for selection to the MBBS course for this academic year in the stray vacancies, subject to their eligibility.

9. In light of the above, we are inclined to issue the following order:

- i. The writ petitioners are directed to submit a copy of their representations dated 24.09.2024, already submitted to the appellant and the 2nd respondent, along with a copy of this judgment.
- ii. As the last date for the selection process is 24.10.2024, the 2nd respondent shall consider the said representations and pass orders on or before 22.10.2024, in accordance with the observations made in the preceding paragraphs of this judgment.
- iii. It is needless to say that the 2nd respondent, after getting instructions from the appellant, shall pass final orders on the representations submitted by the writ petitioners/1st respondents



herein.

- iv. We make it clear that the directions issued by this Court are solely for filling stray vacancies for this academic year and shall not serve as a precedent.

10. With the above directions, these writ appeals are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

(D.K.K., J.) (P.B.B., J.)
17.10.2024

Index: Yes / No

Internet: Yes

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Note : *Registry is directed to issue a copy of this order on 18.10.2024*

To

- 1 National Medical Commission
Satarkta Bhawan G.P.O. Complex,
Block A, INA, New Delhi-110023
- 2 The Medical Counseling Committee
Allotment Process-Counselling
Directorate General of Health Service,
Ministry of Health and Family Welfare,
Government of India,
Nirman Bhavan, Maulana Azad Road,
New Delhi.



3. Ministry of Health & Family Welfare,
3rd & 4th Floor, Indian Red Cross Society Building,
No.1, Red Cross Road, Sansad Marg Area,
New Delhi.
4. The Secretary,
Ministry of Ayush,
EP (IM-2) Ayush Bhavan,
B – Block, GPO Complex, INA,
New Delhi.
5. All India Ayush Admissions Central Counselling committee
Rep. by its Chairman,
Ministry of Ayush, Ayush Bhawan,
B – Block, GPO Complex, INA,
New Delhi.
6. The Associate Dean for Graduate Medical Education (ADGME)
Directorate General of Health Services ,
Nirman Bhavan, New Delhi.



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