



WP(MD). No.21119 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 05/09/2024

CORAM

The Hon`ble Mr.Justice N.SATHISH KUMAR

WP(MD). No.21119 of 2024
and WMP(MD) No.17890 of 2024

Ishwarya. A

... Petitioner

Vs

1. National Testing Agency (Neet-Ug),
Represented by its the Senior Director,
First Floor, Nsic Mdbp Building,
Okhla Insudtrial Estate,
New Delhi - 110020.

2. The Principal Secretary to The State Government,
Department of Health and Family Welfare,
Secretariat,
Chennai.

3. Alagappa Model Higher Second,
Ary Schoo,, Represented by its
Secretary of School Committee,
Alagappapuram,
Karaikudi-3.

4. The Selection Committee,
Directorate of Medical Education and Research,
162, Periyar Evr High Road,
Kilpauk, Chennai..

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of



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India, praying this Court to issue a Writ of Mandamus directing the respondent No.1 and 4 to consider the petitioners Roll No.4126010002 under the 7.5 percentage reservation of medical seat in Virtue of the Tamil Nadu Admission to undergraduate courses in Medicine Dentistry Indian Medicine and Homeopathy on Preferential basis to students of Government Schools Act 2020 within the time stipulated by this Court.

For Petitioner : Mr.B.Saravanan
Senior counsel for
M/s.RM.Arun Swaminathan
For Respondents : Mr.T.Amjad Khan for R2
Government Advocate
Ms.M.Sneha for R5

ORDER

The writ petition has been filed for a mandamus for a direction to the respondents 1 and 4 to consider the petitioners Roll No.4126010002 under 7.5% preferential quota reservation in medical seats in the State of Tamil Nadu within the time stipulated by this Court.

2. The case of the petitioner in nutshell is as follows:

The petitioner pursued her studies from 6th to 11th standards in Government Girls Higher Secondary School. Thereafter she has been shifted to Karaikudi and joined in the third respondent school for +2. According to the petitioner, the third respondent is a Government aided



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school and getting aid from the State Government. The petitioner has also completed +2 by securing 522 marks and subsequently appeared in the National Eligibility cum Entrance Test. Accordingly, the petitioner, having secured 548 marks out of 720 in NEET conducted by the 1st respondent, had applied for medical counselling under 7.5% Government quota, which is reserved for students studied in the Government schools from 6th to 12th standards. According to the petitioner, since she studied in the Government Girls Higher Secondary School from 6th to 11th and 12th standard in the third respondent, she is eligible for 7.5% reservation.

3. It is the case of the petitioner that the 3rd respondent is not a private school, which has been clarified by the Special Commissioner and Secretary to Government vide letter dated 25.03.1988. Hence, the petitioner applied under 7.5% preferential quota. However, she has not been considered under the said quota and therefore, she is before this Court with this writ petition.

4. The learned senior counsel for the petitioner would submit that



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the third respondent school is originally under the management of Alagappa University. The proceedings of the Special Commissioner and Secretary to Government dated 25.03.1988, indicate that it is not a private school come under the Tamil Nadu Private School Regulations Act, 1973. Therefore, it is his contention that once the school is held to be not a private school and managed by the Committee constituted by the Government, the said school is also to be treated as Government school. It is his further contention that Section 2(d) of the Act 34 of 2020, defines Government Schools, which includes the Corporation Schools. According to him, the Corporation as per the dictionary meaning is, “*the body corporate established under any Central or State Act and include company*”. Therefore, according to him, since the Alagappa University is also established under the statute and the school is under the control of the Alagappa University and managed by the school committee nominated by the Government, the said school also comes within the definition of the school as per Section 2(d) of the said Act. Therefore, seeks a direction.

5. However, the learned counsel for the 4th respondent vehemently



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contended that the third respondent school is an aided school, which shall not come under the definition of Government schools. As per the Act 34 of 2020, the Government schools are the schools run by the Government or the Corporation or the Municipalities, Panchayat etc. and other schools managed by the Government and not the aided schools. It is her further contention that G.O.Ms.No.438 dated 29.10.2020, clearly defines the meaning of the Government schools. Therefore, the petitioner's contention cannot be accepted at this stage and it will unsettle the selection and the merit list. Therefore, prays for dismissal.

6. I have considered the rival submissions and perused the materials available on record.

7. It is not in dispute that the petitioner studied in the Government Girls Higher Secondary school, Aranthangi, from standards 6 to 11 and her completion of standard 12 in the third respondent school, which is admittedly an aided school. The third respondent school is originally under the control of the Alagappa University, later as rightly pointed out by the learned senior counsel, as per the letter of the Special



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Commissioner and Secretary dated 25.03.1988, it is treated as a separate entity and a school committee has also been formed and the majority of the members are from the Alagappa University and some of the officials like Chief Educational Officer is also included as a member. However, the issue to be answered is as to whether the third respondent school is a Government school as defined under Section 2(d) of the Act or it is a private school.

8. In order to go into that issue, it is relevant to refer Section 2(d) of the Tamil Nadu Admission to Undergraduate Courses in Medicine, Dentistry, Indian Medicine and Homeopathy on Preferential basis to students of Government Schools Act, 2020, wherein, the Government schools are defined, which is extracted as under:

“(d) “Government Schools” mean and include Government schools, Corporation Schools, Municipal schools, panchayat union schools, Adi Dravidar and Tribal Welfare Schools, Kallar Reclamation Schools, Forest Department Schools and Other schools managed by Government departments.”



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9. A perusal of the above meaning assigned in the said Act makes it clear that the very approach of the Government is to provide benefit to the students, who have studied in Government schools coming under the said Act. Various nature of Government schools defined in the very provision makes it clear that when the schools exclusively run by the Government or the corporations, municipality, panchayat and Adi Dravidar and Tribal Welfare or the Kallar Reclamation, Forest Department, those schools are defined as Government schools, the word, 'Corporation schools' found in Section 2(d) cannot be construed to mean that the schools are run by the Corporation established. The very word 'corporation schools' gives a clear meaning that it comes under the control of the State Government and run by the Municipality. Therefore, students studying in that schools alone get the benefit under the preferential quota. It is not that every 'corporation or company' established should be presumed as 'Government' as submitted by the learned senior counsel.

10. Paragraph No.8 (ii) of G.O.Ms.No.438 dated 29.10.2020 further clarifies the position, which is extracted as under:



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“8. Based on the decision in para 6 above and the opinion of the Learned Advocate General of Tamil Nadu in para 7 above the State Legislative Assembly passed the Bill (LA Bill No.24 of 2020), to provide for preference in admission to undergraduate courses in Medicine, Dentistry, Indian Medicine and Homoeopathy for the students who studied in Government Schools and have qualified in NEET and has been sent for the approval of the Hon'ble Governor. Since the NEET-Under Graduate results have now been declared and the admission process has started, there is an urgency to decide on this issue and since the power to issue executive directions under Article 162 of the Constitution of India is co-extensive with legislative powers, pending decision of the Hon'ble Governor, the Government hereby has taken the following policy decisions and issue orders accordingly:-

(i) ...

(ii) The "Government schools mean and includes Panchayat Union Primary and Middle Schools, Adi-Dravidar Welfare Schools, Municipal / Corporation / Tribal Welfare Schools, Kallar reclamation BC/MBC/ Differently-Abled Welfare / Forest / Social Defence (Borstal Schools) Department Schools and Residential Access Schools. Further, children belonging to weaker section and disadvantaged group who have studied upto eighth standard in a specified category school or an unaided school, as per clause (c) of sub-section (1) of Section 12 of the Right of Children to Free and Compulsory Education Act, 2009 and studied all remaining standards up to Higher Secondary Course in the Government school shall be deemed to be 'Students studied in Government Schools'.



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11. The aforesaid G.O. clearly defines the Government schools.

Therefore, once the Government has clearly defined the nature of the school, every corporation established or the company established cannot be brought under the provisions. If such interpretation is given, the very object of the bill would be defeated. Hence, the petitioner having studied and completed her 12th standard in an aided school, merely because the school committee has been formed by the Government in the year 1988, it cannot be said that the said school is also directly run by the Government.

12. In such view of the matter, I do not find any merit in this writ petition. Accordingly, the writ petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

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NCC : Yes/No

Index : Yes/No

RR

TO

The Principal Secretary to The State Government,
Department of Health and Family Welfare,
Secretariat,

9/11



Chennai.

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N.SATHISH KUMAR,J

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**ORDER
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