



W.A.(MD) No.1723 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A.(MD)No.1723 of 2024
and
C.M.P.(MD) Nos.13249 and 13251 of 2024**

- 1.The Director,
Directorate of Medical Education and Research,
College Road,
Chennai - 600 006.
- 2.The Additional Director,
Directorate of Medical Education and Research,
College Road,
Chennai - 600 006.
- 3.The Secretary,
The Selection Committee,
Directorate of Medical Education and Research,
No.162, Periyar E.V.R.High Road,
Kilpauk,
Chennai - 600 010.

... Appellants

-VS-



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WEB COMM

- 1.Minor H.Madhav Krishna
Rep. by his father S.Harikrishnan
Harimadhavam, Tc 21/2072,
Mannadilane Ambalamukku,
Peroorkada Po,
Thiruvananthapuram - 695 005.
 - 2.The Union of India,
Represented by its Secretary,
Ministry of Health and Family Welfare,
Government of India,
New Delhi.
 - 3.The National Medical Commission,
Represented by its Secretary,
Pocket 14, Sector - 8, Dwarka,
New Delhi - 110 077.
 - 4.The Director,
Velammal Medical College Hospital and Research Institute,
Velammal Village,
Madurai – Tuticorin, Airport Mattuthavani Ring Road,
Chinthamani,
Madurai – 625 009.
 - 5.The Director,
Sree Mookambika Institute of Medical Sciences,
Padanilam, Kulasekharam,
Kanyakumari District - 629 161.
- ... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to allow this Writ Appeal by setting aside the order, dated 27.08.2024, passed in W.P.(MD)No. 20373 of 2024.



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For Appellant Nos.1 & 2 : Mr.S.R.A.Ramachandran
Additional Government Pleader

For Appellant No.3 : Mrs.M.Sneha
Standing Counsel

For Respondent No.1 : Mr.Isaac Mohanlal
Senior Counsel
for M/s.Isaac Chambers

For Respondent Nos.2 & 3 : Mr.K.Govindarajan
Deputy Solicitor General of India

JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

The appeal is by the Director of Medical Education and Research.

2. Challenge in this Writ Appeal is to the order of the Writ Court, where the Writ Court concluded that delay in production of the certificate cannot be a ground to refuse admission. The first respondent / writ petitioner applied under Non-Resident Indian (NRI) quota and was able to produce a certificate to the effect that his uncle is a Non-Resident Indian and he would support him.



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3. The Tahsildar, who issued a certificate, gave a relationship certificate on 01.07.2024, describing the relationship as Nephew, but the authorities insisted that the certificate should be the reverse and the relationship should be shown as uncle of the student. A delay occurred in obtaining a corrected certificate, because of which, the first respondent / writ petitioner was denied admission. When the first respondent / writ petitioner moved the Writ Court, the authorities did not make a claim that the first respondent / writ petitioner was not qualified. The only defence that was projected before the Writ Court was that the certificate of relationship was produced belatedly. Therefore, the Writ Court held that the delay in production of certificate cannot be made a ground to reject the claim of a candidate, who is otherwise qualified.

4. Before us, Mrs.M.Sneha, learned Standing Counsel appearing for the third appellant would submit that the first respondent / writ petitioner was not qualified to claim admission under the Non-Resident Indian quota. Inviting our attention to the qualifications prescribed, particularly, sub-clauses (i) and (j) of Clause 8 of the Prospectus, which reads as follows:-

"i) The seats under NRI quota should be utilized by



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the Bonafide NRI's only and for their children or wards. Therefore, the NRI financially supporting the candidates should either be the parent (Father or Mother) of the candidate or the spouse or the blood relatives of the candidates or legally declared as guardian of the candidate by the Court as per provisions in "The Guardians and Wards Act 1890".

j) For purpose of the above clause the term blood relative is defined as follows:-

i) Real brother and sister of father i.e. real uncle and real aunt

ii) Real brother and sister of mother i.e. real maternal uncle and maternal aunt

iii) Father and mother of father i.e. grandfather and grandmother.

iv) Father and mother of mother i.e. maternal grandfather and maternal grandmother.

v) First degree-paternal and maternal cousins.

vi) Such person should be NRI."

the learned counsel would submit that Non-Resident Indian applicant should be related to the sponsorer within the first degree.



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5. The affidavit filed by Mr.Ramesh Govindan Nair, the Non-Resident Indian, who sponsors the first respondent / writ petitioner shows that the first respondent / writ petitioner is his wife's cousin's son. Therefore, according to the learned counsel, the first respondent / writ petitioner will not qualify even for applying under the Non-Resident Indian quota.

6. Mr.Isaac Mohanlal, learned Senior Counsel appearing for the first respondent / writ petitioner would submit that this issue was never raised before the learned Single Judge.

7. We do not think that we can throw out the appeal on the ground that this question was not raised before the learned Single Judge. If it is shown that the first respondent / writ petitioner was not qualified to apply under the Non-Resident Indian quota, then, the disqualification goes to the root of the matter and therefore, the question can be raised even in the appeal, unless it depends on proof of further facts.



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8. The affidavit filed by the Non-Resident Indian namely, the sponsorer on 22.06.2024 itself shows that the student namely, the first respondent / writ petitioner does not qualify to apply under the Non-Resident Indian quota. Hence, the first respondent / writ petitioner cannot be granted a seat under the Non-Resident Indian quota. It is an unfortunate case where the student has also joined the Institution. Luckily, the disqualification has been discovered early, so that, he has not wasted many years in the Medical College.

9. We, therefore, allow the Writ Appeal and the order of the learned Single Judge is set aside. The rejection of the first respondent's / writ petitioner's candidature as a Non-Resident Indian is upheld, though for grounds different from the one stated in the order impugned in the Writ Petition. If the first respondent / writ petitioner is qualified in other categories, it will be open to him to seek a seat under the Management quota or any other quota available. No costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : No
Index : No
smn2

[R.S.M., J.] [L.V.G., J.]
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