



W.P.(MD)No.24933 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.10.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.24933 of 2024

and

W.M.P.(MD)No.21220, 21221 and 21225 of 2024

I.Jubil Timothy

... Petitioner

Vs.

- 1.The Union of India,
Represented by its Secretary,
Ministry of Education, 122-C,
Shastri Bhavan, New Delhi-110 001.
- 2.The National Medical Commission,
Represented by its Secretary,
Pocket-14, Sector-8, Dwarka,
New Delhi-110 077.
- 3.The Director,
Directorate of Medical Education and Research
College Road, Chennai-600 006.
- 4.The Additional Director,
Directorate of Medical Education and Research
College Road, Chennai-600 006.
- 5.The Secretary,
The Selection Committee,
Directorate of Medical Education and Research,
No.162, Periyar E.V.R.High Road,
Kilpauk, Chennai-600 010.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of rejection passed by the 5th respondent Selection Committee dated 18.10.2024 rejecting the petitioner's (Application No. 24UG818440) grievance dated 17.10.2024 requesting to allot him an MBBS seat in Round 3 of Tamilnadu State MBBS NEET UG 2024-25 Counselling as per the choices exercised by him namely, Government Medical College, Pudukottai and the Government Medical College, Cuddalore, quash the same, and further direct the respondents herein to allot the petitioner an MBBS seat in Round 3 of Tamilnadu State MBBS NEET UG 2024-25 counselling as per his choices of Government Medical College, Pudukkottai and the Government Medical College, Cuddalore.

For Petitioner	: Mr.Isaac Mohanlal Senior Counsel for M/s.Isaac Chambers
For R1	: Mr.Shiva Ranjini
For R3 & R4	: Mr.T.Amjad Khan Government Advocate
For R5	: Ms.M.Sneha

ORDER

Challenge has been made to the rejection order passed by the 5th respondent Selection Committee, dated 18.10.2024 rejecting the petitioner's (Application No. 24UG818440) grievance dated 17.10.2024 requesting to allot him an MBBS seat in Round 3 of Tamilnadu State MBBS NEET UG 2024-25



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Counselling and to direct the respondents herein to allot the petitioner an MBBS seat in the third Round of Tamilnadu State MBBS NEET UG 2024-25 counselling as per his choices of Government Medical College, Pudukkottai and the Government Medical College, Cuddalore.

2.Heard the learned counsel appearing on either side and perused the materials placed on record.

3.The petitioner is an aspirant of MBBS. He appeared for NEET Examination and secured 607 marks. He was allotted to Government quota in a private Medical College, namely, Swami Vivekanandha Medical College Hospital, Tiruchengode, in the first round of counselling and accordingly, he had paid necessary fees for academic as well as the hostel fee and classes have been commenced on and from 14.10.2024. In the second round of counselling, he has participated and he has not got any allotment. In the third round of counselling, due to his inadvertent mistake, he was provisionally allotted to the course of BDS. Hence, he made a representation before the fifth respondent to rectify the said mistake. However, the same was rejected. Hence, the petitioner has filed this writ petition.



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4. When this writ petition came up for admission, this Court had directed the fifth respondent to get instructions in this regard and also to find out the available vacancies for the MBBS course.

5. Pursuant to the above direction, the learned counsel for the fifth respondent, on instructions, submitted that all the seats have been allotted provisionally and the vacancy list will be finalized only at 05.00 p.m., on 23.10.2024.

6. Whereas, the learned Senior Counsel for the petitioner would submit that in the Vivekanandha Medical College itself, there are more than 10 vacancies. Out of that vacancies, in the third round of counselling, 8 vacancies have been filled by way of upgrading from other colleges. The marks obtained by the two candidates admitted in the said college, during the third round of counselling, are less than the marks scored by the petitioner.

7. The learned counsel for the fifth respondent would mainly submit that in the third round of counselling, if the petitioner opted for upgradation, then he should relinquish his seat allotted in the first or second round of counselling. According to the fifth respondent, once the petitioner locked for BDS course, he



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has to relinquish his seat already allotted to him in the course of MBBS during the first round of counselling. Much emphasis has been made to the general instructions issued to the candidates. For better appreciation, the said instructions is extracted hereunder:

“If opted for and upgraded in Rule 3, the candidate has to relinquish the seat from Round 1 or Round 2 and join the Round 3 allotted seat. He /She will not have any rights over the Round-1 or Round-2 seats.”

8.Perusal of the above instructions makes it very clear that only for upgradation of same course in different colleges, this provision is made.

9.In the case on hand, the petitioner want to upgrade in the same category i.e., MBBS category. However, while making his choice locking, instead of MBBS course, he locked BDS course due to inadvertence. No prudent man, having allotted for MBBS seat, will opt for other lower course. This is a common knowledge and that cannot be ignored altogether. The petitioner scored 607 marks in NEET Examination and he stood as a state topper in ISCE. Be that as it may, in the first counselling itself, he has been allotted in a Government seat in the Vivekananda College. Therefore, merely on the basis of



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some mistakes committed by the petitioner in anxiety while making his choice for upgradation, it cannot be stated that the same has been deliberately made to go for lower degree course, namely, BDS.

10. Further, this Court is of the view that the contention that the entire exercise has to be redone has no relevance at all. The petitioner's merit is above all other candidates allotted to the same college and the merit list will not be disturbed. The person committing an inadvertent error, which is common, particularly due to anxiety, that mistake cannot be put against him. In this regard, the Division Bench of the Karnataka High Court, in the case of **Lakshmi P Gowda vs. Nation National Board of Examinations in Medical Sciences** [W.P.No.12859 of 2023], has held as follows:

“16. It is not that the introduction of the petitioner into the merit list would open up the floodgates as the counseling depends not only on the number of candidates, but also on the cut off marks that may be fixed by the competent authority. The question of the petitioner being permitted participation would depend on the fact as to whether she has obtained the qualifying marks. Mere alteration of list will not prejudice any of the candidates found in the merit list. Sheer inadvertence should not be a ground to deny a candidate of an opportunity if she is otherwise duly entitled on merit, for it would be



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contrary to the very objective of the NEET process itself, that is, an opportunity to the best of the lot.”

11.It is also relevant to note that the provisional list has been issued on 17.10.2024. After issuing the provisional results, the candidates were called for to address their grievance as against the results on or before 10.00 a.m., on 18.10.2024. After noticing the mistake, the petitioner has made a representation on 17.10.2024 at 05.00 p.m., itself. Immediately, thereafter, he has moved a writ petition on the very next day itself. This Court has also granted permission to move the writ petition. Copies of the writ petition were also served on the fifth respondent. When the writ petition was pending before this court, without waiting for the orders of this court, the representation of the petitioner was rejected.

12.In the provisional list itself, it has been stated that the results are only provisional in nature and the candidates cannot claim the seats based on these results. Therefore, this Court is of the view that now, the fifth respondent cannot contend that since the provisional list has been announced, the entire things cannot be redone. In the method of selection, only merits has to take predominance.



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13. In such view of the matter, the petitioner is certainly entitled to allotment of the seat, which has been originally allotted in the first round of counselling. Accordingly, the fifth respondent is directed to issue orders in this regard allowing the petitioner to continue in the same college as per the allotment made in the first round of counselling. It is also stated that the petitioner is still in the same college and he has not been relieved from the college.

14. With the above observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

19.10.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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To

- 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,
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N.SATHISH KUMAR, J.

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