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W.P.No.23726 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.10.2025

PRONOUNCED ON : 27.10.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.23726 of 2023
and W.M.P.Nos.23236, 23237 & 23238 of 2023

Dr.Agasthiya.A,
Working as Assistant Surgeon
(General) in Arasamangalam,
Primary Health Center (PHC), Villupuram,
No.6, TN Palayam Road,
Seliamedu, Bahour Commune,
Puducherry – 607 402.

... Petitioner

Vs.

1. The Government of Tamil Nadu
Rep. by the Secretary to Health
& Family Welfare,
Chief Secretariat,
Namakkal Kavingar Maaligai,
4th Floor, Fort St. George,
Chennai – 600 009.

2. The Director of Public Health
and Preventive Medicine,
Chennai – 600 006.
No.359, Annasalai, DMS Complex,
Teynampet, Chennai – 600 006.



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3. The Selection Committee,
The Director of Medical Education,
No.156, Poonamallee High Road,
New Bupathy Nagar,
Chetpet, Chennai – 600 031.

4. The National Medical Commission,
Rep. by its Director,
Pocket-14, Sector-8,
Dwarka Phase – 1,
New Delhi – 110 077.

5. Dr.S.Kannan
Application No.23PG104674

6. Dr.Shenbaga Devi
Application No.23PG108348
Since address of the 5th and 6th respondents
is not known the 3rd respondent may represent
them also as representing capacity as per 16 of
the Madras High Court Writ Rules

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to impugned i) clause 5(b) & (c) of Prospectus issued by the 3rd respondent whereby fixing residence/domicile and place of study of MBBS including Internship Training as Eligibility Criteria for getting admission to post Graduate Decree/Diploma Courses for 2023-24 session and subsequent ii) clarification Note vide Notification Ref.No.154/SCSII(1)/2023-1 dated 07.07.2023 issued by the 3rd respondent and iii) consequential Provisional Rank List dated 27.07.2023 published by the 3rd respondent insofar as Rank List published for inservice candidates alone and quash the same as highly illegal, unlawful, arbitrary, discriminative, unreasonable and unconstitutional



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and violative of Article 14, 15 & 19 of Constitution of India and consequently direct the respondent to allot post Graduate Seat to the petitioner in any one of the Government Medical Colleges or Government seat in any one of self financing Medical Colleges for the session 2023-2024 under OC category based on the marks secured by the petitioner in NEET-PG 2023 by awarding incentive marks as per G.O.(Ms)No.86 dated 06.03.2019 issued by Health and Family Welfare (MCA-1) Department.

For Petitioner	: Mr.Prakash Adiapadam
For Respondents	
For R1 & R2	: Mr.K.Tippu Sulthan Government Advocate
For R3	: Mrs.M.Sneha Standing Counsel
For R4	: Ms.Shubharanjani Ananth

ORDER

This petition has been filed challenging the prospectus issued by the third respondent insofar as its clause 5(b) & (c), thereby fixing residence/domicile and place of study of MBBS including internship training as eligibility criteria for getting admission to post graduate degree/diploma course for the academic year 2023-2024 sessions and the clarification note dated 07.07.2023 issued by the third respondent and consequential provisional rank list dated 27.07.2023 published by the third respondent insofar as the rank list published for in-service candidates alone.



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2. The petitioner is a resident of Puducherry and she had completed her medical degree in the year 2016 in Indira Gandhi Medical College and Research Institute, Puducherry. Thereafter she was appointed as Assistant Surgeon (General) in Arasamangalam Primary Health Centre, Villupuram, by way of direct recruitment under unresearved category based on her merit. After completion of five years and four months service, she had appeared for the National Eligibility cum Entrance Examination-Post Graduate (hereinafter referred to as “NEET-PG), 2023 conducted by National Board of Examinations in Medical Science for the academic year 2023-2024 and secured 404 marks out of 800 marks. She had applied for admission to PG degree under Open Category in Tamil Nadu Government Medical Colleges and Government seats in Self Financing Medical Colleges 2023-2024 sessions conducted by the third respondent.

3. On 22.07.2023, the third respondent had published provisional rank list for the PG degree/diploma courses and the petitioner's name was not found in the rank list. As per G.O.(Ms)No.86 dated 06.03.2019, the petitioner is entitled for 5% of service incentive



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marks. Therefore, totally she secured 505 marks. But the selection list contained the names of the candidates who had scored lesser than the petitioner. On enquiry, the petitioner was informed that as per Clause 5 (b) & (c) of the prospectus of the year 2023-2024, only the candidates, who are natives of Tamil Nadu and who have undergone MBBS/BDS Course including internship period either in the State of Tamil Nadu or outside Tamil Nadu are eligible to apply for government quota PG seats along with nativity certificate in government and self financing institutions. Since, the petitioner had studied MBBS course in Indira Gandhi Medical College and Research Institute, Puducherry, the candidature of the petitioner was not considered for the PG degree. The petitioner also pointed out that some of the candidates who completed their medical under graduate degree in Puducherry have gotten selected under the Tamil Nadu service quota. In fact, in all previous years, there was not such clause in the prospectus and only in the academic year 2023-2024, such clause has been inserted by fixing residence and place of study as criteria. Hence, the petitioner filed the present writ petition with the above prayer.



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4. The learned counsel appearing for the petitioner submitted that it is in clear violation of Article 14 of the Constitution of India. It is also contrary to the dictum laid down by the Hon'ble Supreme Court of India in several cases. He further submitted that in order to apply in the Open Category, it is not necessary that the candidate should be a resident of Tamil Nadu and even a non-resident of Tamil Nadu can compete under the Open Category. The nativity should be looked into only when the candidate claims reservation under a particular category.

4.1 In this regard, the learned counsel appearing for the petitioner relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Dr. Tanvi Behl Vs. Shrey goel & ors., in Civil Appeal No.9289 of 2019** dated 29.01.2025, which held as follows:-

“31. We are all domiciled in the territory of India. We are all residents of India. Our common bond as citizens and residents of one country gives us the right not only to choose our residence anywhere in India, but also gives us the right to carry on trade & business or a profession anywhere in India. It also gives us the right to seek admission in educational institutions across India. The benefit of 'reservation' in educational institutions including medical colleges to those who reside in a particular State



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can be given to a certain degree only in MBBS courses, for which we have assigned reasons in the preceding paragraphs. But considering the importance of specialists doctors' in PG Medical Course, reservation at the higher level on the basis of 'residence' would be violative of Article 14 of the Constitution of India. This has been explained with pronounced clarity both in Jagadish Saran and Pradeep Jain. If such a reservation is permitted then it would be an invasion on the fundamental rights of several students, who are being treated unequally simply for the reasons that they belong to a different State in the Union! This would be a violation of the equality Clause in Article 14 of the Constitution and would amount to a denial of equality before the law.

32. The law laid down in Jagadish Saran and Pradeep Jain has been followed by this Court in a number of decisions including the Constitution Bench decision in Saurabh Chaudri. We may also refer here judgments such as Magan Mehrotra and Ors. v. Union of India (UOI) and Ors. (2003) 11 SCC 186, Nikhil Himthani v. State of Uttarakhand and Ors. (2013) 10 SCC 237, Vishal Goyal and Ors. v. State of Karnataka and Ors. (2014) 11 SCC 456 and Neil Aurelio Nunes (OBC Reservation) and Ors. v. Union of India and Ors. (2022) 4 SCC 1, which have all followed Pradeep Jain. Thus, residence-based reservations are not permissible in PG medical courses.



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33. *Having made the above determination that residence-based reservation is impermissible in PG Medical courses, the State quota seats, apart from a reasonable number of institution-based reservations, have to be filled strictly on the basis of merit in the All- India examination. Thus, out of 64 seats which were to be filled by the State in its quota 32 could have been filled on the basis of institutional preference, and these are valid. But the other 32 seats earmarked as U.T. Chandigarh pool were wrongly filled on the basis of residence, and we uphold the findings of the High Court on this crucial aspect.”*

Thus it is clear that resident based reservation are not permissible in post graduate medical course.

4.2. He also relied upon the judgment of the Hon'ble Supreme Court of India reported in **(2013) 10 SCC 237** in the case of ***Nikhil Himthani Vs. State of Uttarakhand & ors.***, which held as follows :-

“11. The Constitution Bench of this Court has held in Saurabh Chaudri and Ors. v. Union of India and Ors. (supra) that giving institutional preference is a matter of State Policy which can be invalidated only in the event of it being violative of Article 14 of the Constitution. Hence, the question that we have to decide in this writ petition is



whether clauses 1, 2 and 3 of the Eligibility Criteria in the information bulletin are ultra vires Article 14 of the Constitution of India.

12. Article 14 of the Constitution guarantees to every person equality before law and equal protection of laws. In Dr. Jagadish Saran and Ors. v. Union of India (1980) 2 SCC 768, Krishna Iyer J, writing the judgment on behalf of the three Judges referring to Article 14 of the Constitution held that equality of opportunity for every person in the country is the constitutional guarantee and therefore merit must be the test for selecting candidates, particularly in the higher levels of education like post-graduate medical courses, such as MD. In the language of Krishna Iyer, J.:

Flowing from the same stream of equalism is another limitation. The basic medical needs of a region or the preferential push justified for a handicapped group cannot prevail in the same measure all the highest scales of speciality where the best skill or talent, must be handpicked by selecting according to capability. At the level of Ph.d. M.D., or levels of higher proficiency, where international measure of talent is made, where losing one great scientist or technologist in-the-making is a national loss, the considerations we have expanded upon as important lose their potency. Here equality, measured by matching excellence, has more meaning and cannot be diluted much



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without grave risk....

13. Relying on the aforesaid reasons in Dr. Jagadish Saran and Ors. v. Union of India (supra) a three Judge Bench of this Court in Dr. Pradeep Jain's case (supra) held that excellence cannot be compromised by any other consideration for the purpose of admission to post-graduate medical courses such as MD/MS and the like because that would be detrimental to the interests of the nation and therefore reservation based on residential requirement in the State will affect the right to equality of opportunity under Article 14 of the Constitution but:

22.....a certain percentage of seats may in the present circumstances be reserved on the basis of institutional preference in the sense that a student who has passed MBBS course from a medical college or university, may be given preference for admission to the post-graduate course in the same medical college or university.

This view expressed in Dr. Pradeep Jain's case has been reiterated by another three Judge Bench of this Court in Magan Mehrotra and Ors. v. Union of India and Ors. (supra) after a reconsideration and independent examination.”

Hence, he prayed to allow this writ petition.



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5. The learned counsel appearing for the third respondent submitted that the petitioner, having been participated in the selection process and after the complete knowledge of the prospectus, cannot question the selection process and she is estopped as per the Rule of estoppel. Admittedly, the petitioner is a resident of Puducherry and she completed her under graduate degree in the Union Territory of Puducherry. Though she was appointed as Assistant Civil Surgeon in the Primary Health Centre, Villupuram, it doesn't give her any right for selection under the service quota. The prospectus is very clear in respect of eligibility criteria that the candidate should be a resident of India and should have undergone MBBS course including the entire Compulsory Rotatory Medical Internship in the State of Tamil Nadu. Therefore, she is not eligible for selection of post graduate degree under the service quota. In support of his contention he relied upon the judgment of the Hon'ble Full Bench of this Court reported in **1999(III) CTC 675** in the case of **Dr.R.Muralil Vs. Dr.R.Kamalakkannan and three others**, as follows :-

“6. We hold that writ petitioners having participated in the written test after fully knowing the terms and conditions of the prospectus are estopped from questioning



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the selection process. Respondents have not deviated from the same.”

Hence, he prayed for dismissal of this writ petition.

6. Heard the learned counsel appearing on either side and perused the material placed before this Court.

7. On perusal of the records, it is revealed that the impugned Clause 5(b)&(c) in the prospectus issued by the third respondent were not found in the earlier notification. The candidates who are non resident of Tamil Nadu were also given post graduate seats in the government seats in self financing institutions. It is relevant to extract the impugned Clause of prospectus issued by the third respondent for the year 2023-2024, as follows:-

“b) Candidates should be Citizens of India and should have undergone MBBS course including the entire Compulsory Rotatory Medical Internship(CRMI) period in the State of Tamil Nadu.

(c) The candidates who are claiming Nativity of Tamil Nadu should upload their Certificates of Nativity of Tamil Nadu issued by the competent authority of the revenue department of Tamil Nadu Government with official seal.



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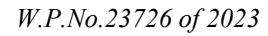
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Candidates are advised against dual nativity and if found anytime during admission or course of study, their allotment will be cancelled and appropriate legal action would be initiated by competent authorities. Candidates who are claiming community reservation of Tamil Nadu should upload both of their

i. Community certificate issued by competent authority of Revenue department of Tamil Nadu Government with official seal. And

ii. Community certificate of either of Parents issued by competent authority of Revenue department of Tamil Nadu Government with official seal.”

8. The Hon'ble Supreme Court of India in the case of ***Dr.Pradeep Jain & ors Vs. Union of India & ors.,*** reported in (1984) 3 ***SCC 657***, held that wholesale reservation made by some of the State Governments on the basis of domicile or residence requirement within the State or on the basis of institutional preference for students who have passed the qualifying examination held by the university or the State excluding all students not satisfying this requirement, regardless of merit, is to be unconstitutional and void as being in violation of Article 14 of the Constitution. It was further held that equality of opportunity cannot be made dependent upon where a citizen resides. The primary



9. Further, in the case of *Nikhil Himthani Vs. State of Madhya Pradesh & ors.*, reported in *(2013) 10 SCC 237* the Hon'ble Supreme Court of India held that no preference can be given to the candidates on the basis of domicile to compete for the institutional quota seats in the State if such candidates have done their MBBS course in colleges outside the State. Therefore, the Clause 5(b) & (c) in the prospectus issued by the third respondent dated 07.07.2023 are violative of Article 14 of the Constitution of India.

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and the candidature of the petitioner was not considered by the third respondent on the ground that the petitioner did not complete her under graduate course of MBBS within the State of Tamil Nadu. It is pertinent to note that though the petitioner had completed her under graduate degree in the Union Territory of Puducherry, she was selected and appointed as Assistant Civil Surgeon in the State of Tamil Nadu. She had written the NEET-PG examination 2023 and applied for the post graduate degree under the service quota. This version of eligibility criteria is newly introduced in the prospectus of the year 2023-2024 and it was not present in the previous years' prospectus. In fact, in the previous years, the persons who completed their under graduate degree at Puducherry have been selected for post graduate degree under the service quota in the State of Tamil Nadu.

11. As held by the Hon'ble Supreme Court of India in the case of *Dr.Tanvi Behl Vs. Shrey goel & ors.*, in *Civil Appeal No.9289 of 2019* dated 29.01.2025, the benefit of reservation in educational institutions including medical colleges, to those who reside in a particular State shall be given only to a certain extent. But considering the importance of the specialist doctors in post graduate medical course,



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reservation at the higher level on the basis of residence would be violative of Article 14 of the Constitution of India. Therefore, the residence based reservations is impermissible in post graduate medical courses and the State quota seats, apart from a reasonable number of institution-based reservations, have to be filled strictly on the basis of merit through the all India examination. Therefore, the impugned Clause 5(b)&(c) of the prospectus issued by the third respondent is illegal, arbitrary and it violates Article 14, 15 & 19 of the Constitution of India. In order to compete under open category, it is not necessary that the candidate should be a resident of the particular State and even nonresident of a particular State can competent under open category and the resident/domicile is must only if the candidate claims reservation under a particular category. Therefore, the impugned Clause 5(b) & (c) of the prospectus cannot be sustained and is liable to be declared as unconstitutional.

12. When the third respondent has all along permitted the students those who have studied MBBS course and undergone internship training in Puducherry and subsequently got an appointment in the State of Tamil Nadu under various category, to apply for post graduate



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admission under open category and allotting post graduate seats in government and self financing institution and a sudden insertion of such Clause viz., 5(b) & (c) in the prospectus is highly unreasonable.

13. In view of the above discussions, the Clause 5(b) & (c) of the Prospectus for getting admission to post Graduate Degree/Diploma Courses for 2023-2024 session and the clarification notification dated 07.07.2023 issued by the third respondent are hereby quashed. Since the entire admission process for the post graduate degree were already over, this Court is not inclined to quash the provisional rank list dated 27.07.2023. It is made clear that the case of the petitioner may be considered for current academic session 2025-2026.

14. Accordingly, the Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

27.10.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
rts



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G.K.ILANTHIRAIYAN. J.

rts

To

1. The Secretary to Health
& Family Welfare,
Government of Tamil Nadu
Chief Secretariat,
Namakkal Kavingar Maaligai,
4th Floor, Fort St. George,
Chennai – 600 009.
2. The Director of Public Health
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No.359, Annasalai, DMS Complex,
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