

W.A(MD)No.235 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	27.03.2025
Pronounced on	13.08.2025

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.A(MD)No.235 of 2024
and
CMP(MD)No.2013 of 2024

Medical Services Recruitment Board
Rep. by its Member Secretary,
7th Floor, DMS Building,
359, Anna Salai,
Teynampet,
Chennai-600 006.

... Appellant

vs.

1. Dr.P.Palavesakumar

2. The State of Tamil Nadu,
Rep. by its Principal Secretary,
Health and Family Welfare Department,
Fort St. George, Secretariat,
Chennai-600 009.

3. The Director of Indian Medicine and Homoeopathy,
Arignar Anna Hospital Complex,
Arumbakkam,
Chennai.



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4. Joint Director of CBI (South),
College Road,
Suba Road Avenue,
Thousand Lights,
Chennai-600 006.

5. Dr.C.Mariyappan,
Government Rural Siddha Dispensary,
Periyathanda,
Salem.

... Respondents

PRAYER : Writ Appeal filed under Clause 15 of the Letters
Patent, against the order dated 03.02.2023 made in W.P(MD)No.2048
of 2020.

For Appellant	: Mr.A.Ajmal Khan Additional Advocate General-I, assisted by Mr.V.Ramesh, Standing Counsel
For R1	: Dr.A.E.Chelliah, Senior Counsel for M/s.A.D.Ganeshamoorthi
For R2 & R3	: Mr.M.Sarangan Additional Government Pleader
For R4	: Mr.M.Karunanithi
For R5	: No appearance

JUDGMENT

(Judgment of the Court was made by **J.NISHA BANU, J.**)

This intra-court appeal is directed against the order dated
03.02.2023 made in W.P(MD)No.2048 of 2020.



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WEB COPY2. The 1st respondent is the writ petitioner. He possessed MD (Siddha) degree. He is a Scheduled Caste candidate and also differently abled. He applied for the post of Assistant Medical Officer (Siddha) in response to a Notification dated 02.08.2017 issued by the appellant / Medical Services Recruitment Board, Chennai. He obtained 57 out of 100 marks in the written examination. However, he was not selected. Challenging the provisional selection list, he filed W.P(MD)No.21528 of 2017. However, at the time of final hearing of the case, he restricted his relief. The said writ petition was disposed of on 20.08.2019 with a direction to the respondents therein to consider his claim subject to availability of vacancy. The appellant rejected the writ petitioner's request by holding that the selection was properly done. Questioning the rejection order dated 21.11.2019 as well as the provisional selection list, the 1st respondent filed the writ petition, contending that the appellant wilfully omitted the scheduled caste meritorious candidates in the general turn in order to accommodate the candidates of other categories in the general turn. If at least first three meritorious SC candidates are accommodated in the general

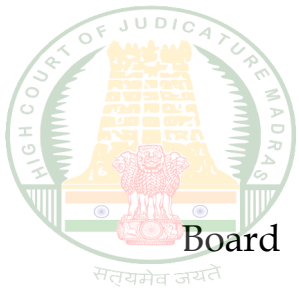


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turn, the 1st respondent's right would have been protected. Further,

the appellant made a false statement in the earlier writ petition W.P(MD)No.21528 of 2017 that no single meritorious SC candidate is available to include them in the general turn. Therefore, the 1st respondent contended that rule of reservation was not followed in strict sense. The Writ Court agreeing with the contentions of the 1st respondent, allowed the writ petition by impugned order, directing the appellant to appoint the 1st respondent as Assistant Medical Officer (Siddha) against the existing general vacancy. Challenging the said order, the Medical Services Recruitment Board has filed this appeal.

3. The learned Additional Advocate General appearing for the appellant would submit that the appellant Board has issued a Notification for recruitment of 101 vacant posts of Assistant Medical Officer (Siddha) vide MRB Notification dated 02.08.2017. Pursuant thereto, competitive examination was conducted on 08.10.2017 and the marks scored by the candidates who appeared in the written examination, were published in the Medical Services Recruitment



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Board website on 09.10.2017. He would further submit that 200

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candidates in the order of communal rotation following the rule of reservation as ordered in G.O(Ms)No.55, Personnel and Administrative Reforms (S) Department dated 08.04.2010, G.O.No.13, Welfare of Differently Abled Persons (DAP.3.2) Department, dated 02.03.2016 and G.O(Ms)No.21, Welfare of Differently Abled Persons (DAP 3.2) Department, dated 30.05.2017, were called for to attend the certificate verification. As far as the post of Assistant Medical Officer (Siddha) is concerned, candidates with only locomotor disability of 40% to 70% in the lower limb alone are eligible to be considered under the reservation for differently abled persons vide G.O.Ms.No.13, Welfare of Differently Abled Persons (DAP 3.2) Department, dated 02.03.2016.

4. Learned Additional Advocate General would further submit that after completion of the certificate verification, 101 candidates were provisionally selected in the order of communal rotation as specified in G.O(Ms)No.55 and sponsored to the Director of Indian Medicine and Homoeopathy, Chennai, for issuing



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appointment orders, which includes 4 differently abled persons (4% Reservation) in the order of merit and as per the reservation. The 1st respondent stood in the 6th place in the differently abled quota and consequently stood at 143rd rank as per the rule of reservation and communal roster. He has scored 57 out of 100 marks, whereas the last candidate considered under the differently abled quota has scored 59 marks (i.e., 97th candidate in the Provisional Selection List). The reservation for differently abled candidates has been fitted in the turn and in the order of the communal rotation in their respective community only. He would also submit that total number of 8 differently abled candidates (i.e., 4% reservation in 200 point roster) were called for certificate verification in the order of merit, in which, the 1st respondent ranked at 6th position. However, first four persons in the differently abled quota as per 4% reservation alone were provisionally selected and sponsored to the appointing authority to issue appointment orders and the 1st respondent had not reached the zone of selection in the order of merit among the differently abled candidates. Thus, the learned Additional Advocate General would submit that the selection was done as per Section 27(e) of Tamil Nadu



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Government Servants (Conditions of Service) Act 2016, which is on

one to one basis in the overall of 200 point communal roster. The overall rank of the 1st respondent is 746 and his rank in SC category is 143, whereas, the rank of the last person selected in SC category was 109.

5. Learned Additional Advocate General would further submit that as per the direction issued by this Court in W.P(MD)No. 21528 of 2017 dated 20.08.2019, the appellant before issuing the orders rejecting the request of the 1st respondent on 21.11.2019, had considered various factors governing the recruitment procedure and rule of reservation. The method of recruitment for selection to the post of Assistant Medical Officer (Siddha) was purely based on the competitive examination and the rule of reservation was scrupulously followed by providing both vertical and horizontal reservation ordered in various Government Orders issued from time to time. The Medical Services Recruitment Board does not conduct oral interview for any post and all the selection is purely based on the marks obtained in the competitive examination only. Hence the contention



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of the 1st respondent that the appellant had not followed the rule of reservation is erroneous. Even in the earlier round of litigation in W.P(MD)No.21528/2017, the 1st respondent was served with a copy of the community wise selection (as per 200 point roster) through his counsel, but despite the same, the 1st respondent is harping on the contention that rule of reservation was not followed which is arbitrary.

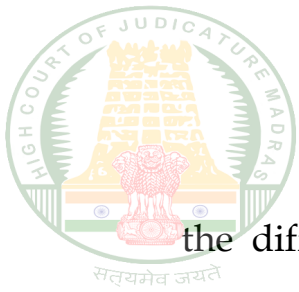
6. Adding further, learned Additional Advocate General would state that previously the vacancies pertaining to reservation for differently abled persons were not earmarked and only they were considered in the order of merit irrespective of community. However, now as per the amendment to Section 27 of Tamil Nadu Government Servants (Conditions of Service) Act 2016, the turns in 25, 37, 71 and 97 (4% reservation) have been earmarked for differently abled persons. As per the earmarked vacancies also, the turn 136 in 200 point roster is reserved for Scheduled Caste category pertaining to differently abled person. Thus, the learned Additional Advocate General would state that even as per the earmarked vacancies, the 1st



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respondent had not reached the zone of selection for 101 vacancies and stands at sixth position only among the differently abled candidates.

7. Contending further, learned Additional Advocate General would state that reservation as per Section 27(e) of Tamil Nadu Government Servants (Conditions of Service) Act 2016, has been followed. 200 point roster as per Schedule-V of Section 27 has been followed. It is the first selection for the post of Assistant Medical Officer (Siddha) in Tamil Nadu Medical Service, notified by the Medical Services Recruitment Board, and hence first rotation followed i.e., commencing from 1" rotation turn has been followed. Total number of 2095 candidates have successfully cleared the examination, where candidates from other categories secured minimum 35% of marks out of 100 marks, while SC candidates scored minimum 30% marks. He would further state that as per G.O.Ms.No.21, Welfare of Differently Abled persons (DAP-3.2) Department, dated 30.05.2017, there was no vertical reservation among the differently abled persons belonging to various communal categories. Hence, merit list among



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the differently abled persons was drawn and first four candidates were selected and fitted in their respective communities. The first four differently abled candidates were fixed in the Turn ID 17-MBC & DNC (226th rank), Turn ID 54-BC(337th rank), Turn ID 83-MBC & DNC (620th rank) and Turn ID 97-BC (646th rank). The 1st respondent stood at 746 in overall rank and 6th rank among the differently abled persons and hence, he was not considered for selection to the post of Assistant Medical Officer (Siddha). The Government have earmarked the reservation for differently abled persons in turn basis. Accordingly, 25th post is reserved to GT, 37th post is reserved to MBC & DNC, 71st post is reserved to GT(Women), 97th post is reserved to BC and only 136th post is earmarked for SC category. However, the present selection is for 101 vacancies and therefore, the 1st respondent could not be considered for selection.

8. He would further state that fitment of candidates in the 200 point communal roster earmarked for various communities as per G.O.Ms.No.55 needs to be carried out as per the overall ranking at each and every turn reserved in the order of merit only. Therefore,



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the contention of the 1st respondent that no candidate belonging to scheduled caste community has been selected under the general turn is not feasible for consideration and the appellant has meticulously followed the 200 point communal roster while publishing the provisional selection list and no candidate's rank has been overlooked. However, the Writ Court has not adverted to those aspects in proper perspective and has erroneously allowed the writ petition. Thus, he would pray for setting aside the impugned order.

9. The learned Senior Counsel appearing for the 1st respondent/writ petitioner would contend that the appellant ought to have considered the outstanding candidates of every community to the general turn instead of considering them in their own communal turn. The outstanding and top rank holders in SC community have not been considered for the general turn and they are placed in SC communal turn, which is a violation of Articles 16 and 335 of the Constitution of India. If at least the first three meritorious candidates in the SC turn who are eligible and liable to be accommodated in the general turn, are accommodated, three other SC candidates in the

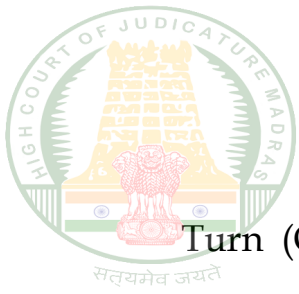


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communal rank namely, 16, 17 and 18 would have been accommodated and thereby their right would have been protected.

He would further contend that in the earlier writ petition W.P(MD)No.21528 of 2017, the appellant stated a wrong averment that there was no single meritorious SC candidate to be included in the general turn, whereas, Serial Nos.6, 12 and 16 in the provisional selection list are the top rank holders with 79.50, 78.00 and 76.50 marks respectively, belonging to SC community and they have to be accommodated in the general turn, but were accommodated in the SC turn. Such approach adopted by the appellant was only to accommodate the persons belonging to other categories in the general turn, by avoiding SC & ST meritorious candidates, which is nothing but malafide and colourable exercise of power.

10. Learned Senior Counsel would further submit that 4 seats were earmarked for disability candidates, in which, all the 4 seats were filled up by 2 MBC and 2 BC candidates, whereas no scheduled caste disability person was considered which would clearly show that the rule of reservation was not properly implemented. The General



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Turn (Open Quota) candidate's last mark is 72.50, Most Backward Classes candidate's last mark is 72.50, Backward Classes candidate's last mark is 73, Backward classes Muslims candidate's last marks is 69.50, Scheduled Caste candidate's last mark is 72 and Scheduled caste Arunthathiyar's last mark is 73, whereas the appointed disability candidates were obtained only lesser marks and they could not be accommodated under general quota turn at 25th post. He would further submit that the Government of Tamilnadu have issued several G.Os as per the Central Act in order to protect the disability persons in public employment. As per G.O(Ms)No.20 dated 12.02.2008, scheduled caste disability candidates should be accommodated in turn Nos.2 and 26 on priority in 200 point roster. Accordingly, the appellant ought to have accommodated the 1st respondent in turn 2 or 26, but knowingly, the appellant placed the 1st respondent at turn No. 136, which was outside the zone of selection, whereas the BC and MBC disability candidates were considered in their own community roster and within the available 101 vacancies. Learned Senior Counsel would also submit that similar and connected writ petitions in W.P(MD)Nos.1934 and 2037 of 2020 were allowed and the



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petitioners therein have been appointed as Assistant Medical Officer(Siddha) and working as on today. Thus, he would pray for dismissal of the writ appeal.

11. Heard both sides.

12. The respondent/writ petitioner applied for the post of Assistant Medical Officer (Siddha) in response to the notification dated 02.08.2017 issued by Medical Services Recruitment Board, Chennai. He obtained 57/100 in the written examination. However, he was not selected. The crux of the respondent's contention is that the meritorious scheduled caste candidates instead of being appointed against open category vacancies, were appointed as against the reserved vacancies and that the very manner in which 200 point roster is adopted, itself will defeat the 4% reservation meant for differently abled candidates. As such, the appellant has erroneously applied the special reservation policy which is evident from the following particulars furnished by the appellant:



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S.No.	Name of the candidate	Communal Category	Marks obtained in the Competitive Examination
1	Dr.Mariappan.C	MBC	68.00 Marks
2	Dr.Sumithra S	BC	64.00 Marks
3	Dr.Eswari N	MBC	59.50 Marks
4	Dr.Balamurugan P	BC	59.00 Marks
5	Dr.Ramalingam	MBC	58.00 Marks
6	Dr.Palavesakumar P	SC	57.00 Marks
7	Dr.Sudha R	SC	56.00 Marks
8	Dr.Nithyanantham SS	BC	52.50 Marks

13. It is seen that out of 8 differently abled candidates, 3 of them belonged to MBC category, 3 of them belonged to BC category and only 2 of them belonged to SC category. The appellant has clubbed all the differently abled candidates in one slot. Since four posts had been earmarked for differently abled candidates, the appellant selected the first four meritorious candidates. It is not the manner in which the special reservation policy should have been applied. How the special reservation policy should be applied, has been explained in K.R.Shanthi vs. State of Tamil Nadu reported in (2012) 7 MLJ 241 in the following lines:



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"14.A perusal of the above judgments would keep at least two things beyond any pale of doubt. Firstly, the roster is not vacancy based, but the same is only post based. It identifies the number of posts earmarked for various categories under the vertical reservations and posts left behind for open quota as well as special reservations. Secondly, after so identifying the posts, it should be calculated as to how many vacancies are to be filled up under various categories in the current selection. If once the number of vacancies earmarked for each category in the current selection is identified by using the roster, thereafter the roster will have no further role to play in the matter of selection. After identifying the number of vacancies earmarked for various categories, the selection for each category has to be made purely based on merit following the method detailed below:

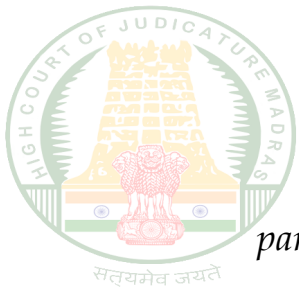
First Step:

(i) As against the number of vacancies identified for open quota, irrespective of caste, sex, physically challenged, etc. everyone should be allowed to compete based on merits.

(ii) The meritorious candidates should be first selected as against the above vacancies under open quota.

Second Step:

(iii) After completing the first step, moving on to the vertical reservation categories, selection has to be made for each category from amongst the remaining candidates belonging to the



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particular reserved category (vertical) based on merits.

Third Step:

(iv) After completing the second step, horizontal reservation which cuts across the vertical reservation has to be verified as to whether the required number of candidates who are otherwise entitled to be appointed under the horizontal reservation have been selected under the vertical reservation.

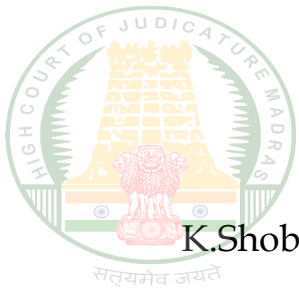
(v) On such verification, if it is found that sufficient number of candidates to satisfy the special reservation (horizontal reservation) have not been selected, then required corresponding number of special reservation candidates shall have to be taken and adjusted/accommodated as against social reservation categories by deleting the corresponding number of candidates therefrom.

(vi) Even while filling up the vacancies in the vertical reservation, if, sufficient number of candidates falling under the horizontal reservation have been appointed, then, there will be no more appointment exclusively under the horizontal reservation.

Caution:

(vii) At any rate, the candidates who were selected as against a post under open quota shall not be adjusted against the reserved quota under vertical reservations.'

14. K.R.Shanthi's case was upheld by the Hon'ble Apex Court in the decision reported in (2021) 4 SCC 686 (State of T.N. v.



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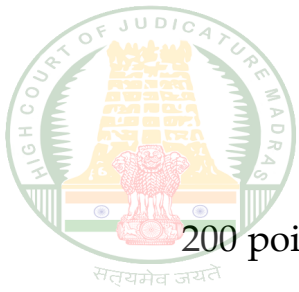
K.Shobana). The respondent was the meritorious differently abled

candidate under the SC category. However, 200 point roster has been adopted by sorting out the meritorious differently abled candidates of all communities instead of satisfying 4% reservation as per community-wise meritorious differently abled candidates. The 200 point roster is worked in the following manner:

"Point 25 – blind, Point 37 – Loco motor, Point 71-Deaf and, Point 97 – Autism, Point 124 – Blind, Point 136 – Loco motor, Point 167-Deaf and, & Point 197-Autism."

The respondent has disability in lower part of his left limb and therefore, he fulfills the statutory requirements. If the 200 point roster as framed vide G.O.Ms.No.21 dated 30.05.2017 is strictly applied, there is every possibility that during certain recruitment drives, even though differently abled candidates are available, they may not be selected because their turn would not have arrived. However, If K.R.Shanthi is applied, then, the statutory object would be fulfilled.

15. It is relevant to extract below the discussion and finding of the learned Judge regarding the distinction between the application of



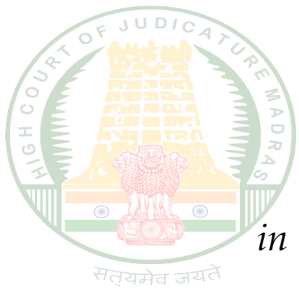
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200 point roster and K.R.Shanthi's case:

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"12.Now comes what I may colloquially call as anti-climax.

The Government of Tamil nadu is following 200 point roster (G.O Ms.No.55 P&AR Department dated 08.04.2010). G.O Ms.No.21 Welfare of Differently Abled Persons Department dated 30.05.2017 was issued so as to bring the provisions of Tamil nadu Act 14 of 2016 in line with the provisions of Central Act 49 of 2016. Schedule VI deals with reservation for persons with bench mark disabilities. The Schedule begins thus "the following turns indicated against the rotation shall be reserved for persons with bench mark disabilities". There are several vertical columns : 1)General Turn 2)General Turn Women 3)Backward Classes (other than BC Muslims) 4)Backward Classes (other than BC Muslims) Women 5)Backward Classes Muslims 6)Backward Classes Muslims Women 7)Most Backward Classes and Denotified Communities 8) Most Backward Classes and Denotified Communities Women 9)Scheduled Castes 10)Scheduled Castes Womenn 11)Scheduled Castes (Arunthathiyars on preferential basis) 12) Scheduled Castes (Arunthathiyars on preferential basis) Women 13)Scheduled Tribes 14)Scheduled Tribes Women. Rotation and turns have been mentioned for each social reservation category and for each disability. I gratefully acknowledge the assistance rendered by Shri.R.Parthiban, P.A (G) to District Collector, Madurai and Shri.A.Ramanathan, Assistant Director of Employment, Madurai



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in this regard. They demonstrated as to how the 200 point roster is worked in the first rotation. The reservation pans out as follows :

“Point 25 – blind, Point 37 – Loco motor, Point 71-Deaf and, Point 97 –Autism, Point 124 – Blind, Point 136 – Loco motor, Point 167-Deaf and, &Point 197-Autism.”

A simple arithmetic would show that the 4% reservation applicable to differently abled candidates is scientifically and perfectly fulfilled. Of course, the turns would vary for each rotation. I however face one conceptual difficulty. It is not in sync with what has been laid down by the Hon'ble Supreme Court. K.R.Shanthi “steps” are not marching in tune with the 200 point roster. K.R.Shanthi has been approved by the Hon'ble Apex Court also. As per K.R.Shanthi, to fulfil the needs of horizontal reservation, there might be elimination of the candidates figuring last in the list. If 200 point roster is applied as such, there is no need for elimination of the last candidate in the particular social category list. Because the turn is reserved exclusively for the differently abled candidate of the prescribed type. Secondly, K.R.Shanthi in ringing terms declares that the open category vacancies must be filled up purely on merit irrespective of the category to which candidates may belong. But in the 200 point roster, point-25 comes under “General Turn” category. It means that the post falling against the said vacancy (point-25) though meant to be filled purely on merit, stands reserved for a differently abled candidate coming under blind category.

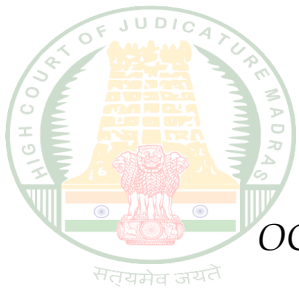


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13.Though first rotation fulfills 4% requirement, not all rotations yield a similar result. If the 200 point roster as framed vide G.O Ms. No.21 dated 30.05.2017 is strictly applied, there is every possibility that during certain recruitment drives, even though differently abled candidates are available, they may not be selected because their turn would not have arrived. These are the practical consequences that may ensue. If K.R.Shanthi is applied, then, the statutory object would be fulfilled. When a formula approved and upheld by the Hon'ble Supreme Court is holding the field, the 200 point roster cannot be allowed to be applied in a contra manner. Though the norms issued by the government contemplate that every department must have a roster register, the official respondents were not able to answer my question as to what was the present rotation. Since Section 33 of the Central Act contemplates identification of posts, the roster will have to be tailor made with reference to the particular post as far as the differently abled candidates are concerned.

14.Citing the aforesaid conceptual difficulties, I do not want to deny relief to the petitioner. The approach adopted for Dr.Mujithabai and Dr.Suganthi can be adopted for the petitioner also. It is true that many SC candidates have scored above the petitioner but they have not come to the court. There is a saying in Tamil "Only the crying child gets milk". Since the petitioner alone is before me, in view of my finding that as many as 12 meritorious SC candidates ought to have been appointed against



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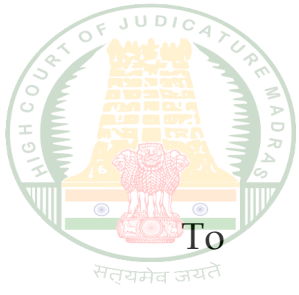
OC vacancies, I direct the respondents 1 to 3 to appoint the petitioner as Assistant Medical Officer (Siddha) against the existing general vacancy within a period of four weeks from the date of receipt of copy of this order. The order impugned in the writ petition is set aside.'

16. The learned Judge has elaborately dealt with the contentions of the appellant and has rightly directed appointment the respondent as Assistant Medical Officer (Siddha) against the existing general vacancy. We do not find any infirmity in the said order.

17. Accordingly, the Writ Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

[J.N.B, J.] [S.S.Y, J.]
13.08.2025

Index : Yes / No
Neutral Citation : Yes / No
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To
1. The Principal Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George, Secretariat,
Chennai-600 009.

2. The Director of Indian Medicine and Homoeopathy,
Arignar Anna Hospital Complex,
Arumbakkam,
Chennai.

3. Joint Director of CBI (South),
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4. Dr.C.Mariyappan,
Government Rural Siddha Dispensary,
Periyathanda,
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J.NISHA BANU, J.
AND
S.SRIMATHY, J.

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PRE-DELIVERY JUDGMENT MADE IN
W.A(MD)No.235 of 2024
DATED : 13.08.2025