

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 11.02.2021

PRONOUNCED ON : 01.04.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P(MD)No.1180 of 2021

Shakila Banu

... Petitioner

Vs

1.The Principal Secretary to
Hon'ble Chief Minster,
Government of Tamil Nadu,
Secretariat,
Fort St George,
Chennai – 600 009.

2.The Secretary to the Government,
Department of Health and Family Welfare Department,
Secretariat, Fort St George,
Chennai – 600 009.

3.The Director,
Department of Medical Education,
No.156, Poonamallee Highway,
New Bhoopathi Nagar,
Chetpet, Chenani.

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus directing the respondents herein to consider the petitioner's representation dated 10.12.2020 and take necessary action within the time stipulated by this Court.

For Petitioner : Mr.K.P.Ramesh

For Respondents: Mr.M.Sricharan Ragarajan,
Additional Advocate General,
assisted by Mr.K.P.Krishnadoss,
Special Government Pleader

ORDER

The case of the petitioner is that her daughter Sabhana studied 7th to 12th standard in the Government Higher Secondary School at Ariyoor in Tamil medium and she has secured 539 marks out of 600 marks in 12th standard and has been given Karamaraj Award for being the best student for the academic year 2018-2019.

2.The petitioner's daughter appeared in the National Eligibility cum Entrance Test [NEET] during the academic year 2018-2019 and secured 203 marks in the test. However, she could not secure sufficient

marks in order to get admission to medical courses and hence, she appeared once again in NEET in the following year 2019-2020 and she appeared to have secured 425 marks improving her performance considerably from the last year.

3.The petitioner's daughter joined in the Government Higher Secondary School in 7th standard and upto 6th standard she studied in a private school being admitted against the quota reserved for Right to Children Free and Compulsory Education Act, 2009 and during her studies in the private school the Government paid the requisite fees, since the petitioner had come under the Below Poverty Line in terms of the said RTE Act.

4.When applications were made available online for the purpose of seeking admission in the medical courses in the State of Tamil Nadu after issuance of G.O.Ms.No.438, Health and Family Welfare (MCA.1) Department dated 29.10.2020, wherein 7.5% reservation was provided for students studied in Government schools in the State of

Tamil Nadu, in coloumn 10 of the application form, no specific provision was made for indicating the students studied in a private school under RTE Act. According to the petitioner that, the benefits contemplated under Act 24 of 2020 would also include the students studied in the private institutions against the quota reserved for children admitted under RTE Act. That being the position, the fact of non-providing of a specific coloumn covering the students like the petitioner's daughter herein to enable them to indicate their status in order to claim 7.5% preferential reservation in admission to Medical college, has resulted in depriving the petitioner's daughter of her right to be conferred with the benefit contemplated in the Act 24 of 2020.

5. According to the petitioner that there were only two coloumns “ Whether studied from 6th to 12th standards in Tamil Nadu” and “whether studied from 6th to 12th standard in Tamil Nadu Government School”. Unfortunately, the authorities who were in charge of the admission, did not include the category of the petitioner's daughter though her claim falls well within the four corners of the reservation

contemplated in the Act 24 of 2020.

6. Notice was ordered and the learned Additional Advocate General entered appearance on behalf of the respondents.

7. Mr. M. Sricharan Rangarajan learned Additional Advocate General appearing for the respondents submitted that the facts as stated above are correct and the same are not to be controverted. According to him in the column where the student was directed to fill whether the student studied 6th to 12th standard in Government School, the petitioner's daughter entered "as no". As a result, she was not considered against 7.5% quota of preferential admission. According to the learned Additional Advocate General, if only she had approached the counselling authority promptly and immediately, her name could have been included for extension of 7.5% preferential admission merit list. The selection committee would have also been appraised of the *lacuna* and it would have rectified the mistake.

8.In the above circumstances, the learned Additional Advocate General would submit that the petitioner's daughter attended the counselling on 08.01.2021 and as no MBBS seat was available during her turn, she had been waitlisted for Government Medical Colleges and Self Financing Medical Colleges. According to him that the counselling for both MBBS/BDS for the academic year 2020-2021 had been completed and all the seats in Government Colleges and Government Quota seats in self-financing medical colleges have been filled up.

9.Therefore, the learned Additional Advocate General has though sympathised with the claim of the petitioner's daughter has submitted that nothing could be done on the date when the matter was heard by this Court in view of the completion of the entire medical admission process for the present academic year.

10.The learned Counsel for the petitioner would reiterate the above facts and highlighted the irreparable mistake committed by the authorities at the helm of affairs. Although the learned Additional

Advocate General expressed his empathy and sympathy for the petitioner's case, yet at the end of the day the entire admission process had already come to an end and that the commencement of the academic calendar for the present year.

11. This Court in consideration of the above narrative finds that a candidate, who was admittedly deserving to be extended the benefit of preferential right to the extent of 7.5% in terms of the Act 24 of 2020 but, had been denied the said benefit, unjustly snatching away the valuable opportunity of the candidate gaining admission in the Government Medical College. The authorities, who had been in charge of the formatting the application, have unfortunately not foreseen the plight of the candidates like the petitioner's daughter herein, who had studied in private schools under RTE Act, upto certain level and the remaining part of the education in the Government Schools and that she was arbitrarily prevented from indicating her category in the application form for the purpose of availing the benefit of the reservation. In the absence of any specific column for such of the students the very

valuable right of the petitioner's daughter for being considered against 7.5% reservation had been cruelly denied to her.

12.The dream and hope of the student to become a medical professional could not be allowed to be nipped in the bud in the face of fault of the authorities for not having clearly framed or formulated the application form to enable the student like petitioner's daughter to indicate their status as to the fact that they had studied in private school under RTE Act and they continued their remaining part of their school education in the Government Schools, thereby qualified to be extended with the benefit of 7.5% reservation. The authorities had been grossly negligent or oblivious of or to the class of the students like petitioner's daughter herein, which unfortunately resulted in shattering the dream and hope of the budding student to pursue her career in medical profession. No amount of consolation from the State authorities could compensate the loss suffered by the petitioner's daughter at the crucial stage of higher educational pursuits.

13. In the said circumstances, this Court is of the considered view that only plausible reparation the State authorities can come forward is to make amends for their inadvertent omission in not formatting the application form providing a column for the category of students like the petitioner's daughter, enabling them to indicate their eligibility for the concessional reservation. In the instant case, the Government is under moral and legal obligation to consider the petitioner's daughter's admission on priority basis in the following academic year by extending the benefit of 7.5% reservation under Act 24 of 2020. In case it is still possible to accommodate the petitioner's daughter for this academic year against any left over vacancy due to the candidates non-joining the course, the authorities are directed to explore the possibilities and consider the claim of the petitioner's daughter by extending the benefit of 7.5% reservation without any further delay.

14. In case for the present year it is not possible, in view of the closure of the admission process, the respondents are directed to reserve a seat for the petitioner's daughter in her category namely Backward

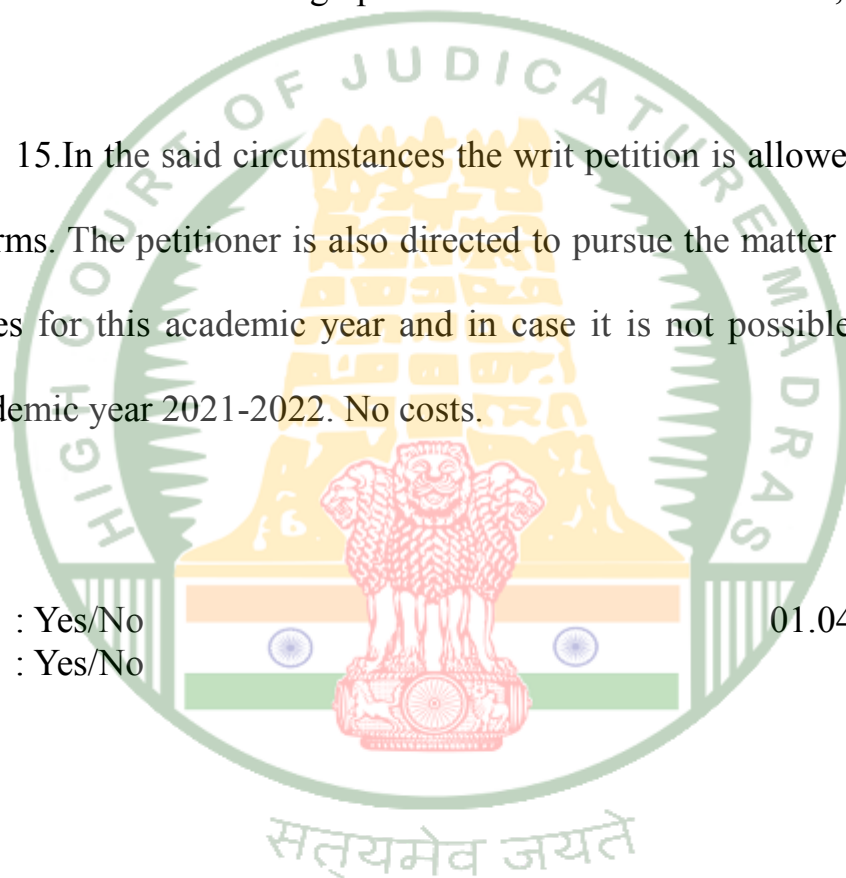
Muslim (BCM) and provide her admission for the next academic year on a priority basis in medical courses in terms of her overall standing in the merit list against the preferential admission category, if the petitioner's daughter is interested in taking up the course to be offered to her, still.

15.In the said circumstances the writ petition is allowed on the above terms. The petitioner is also directed to pursue the matter with the authorities for this academic year and in case it is not possible for the next academic year 2021-2022. No costs.

Index : Yes/No
Internet : Yes/No

01.04.2021

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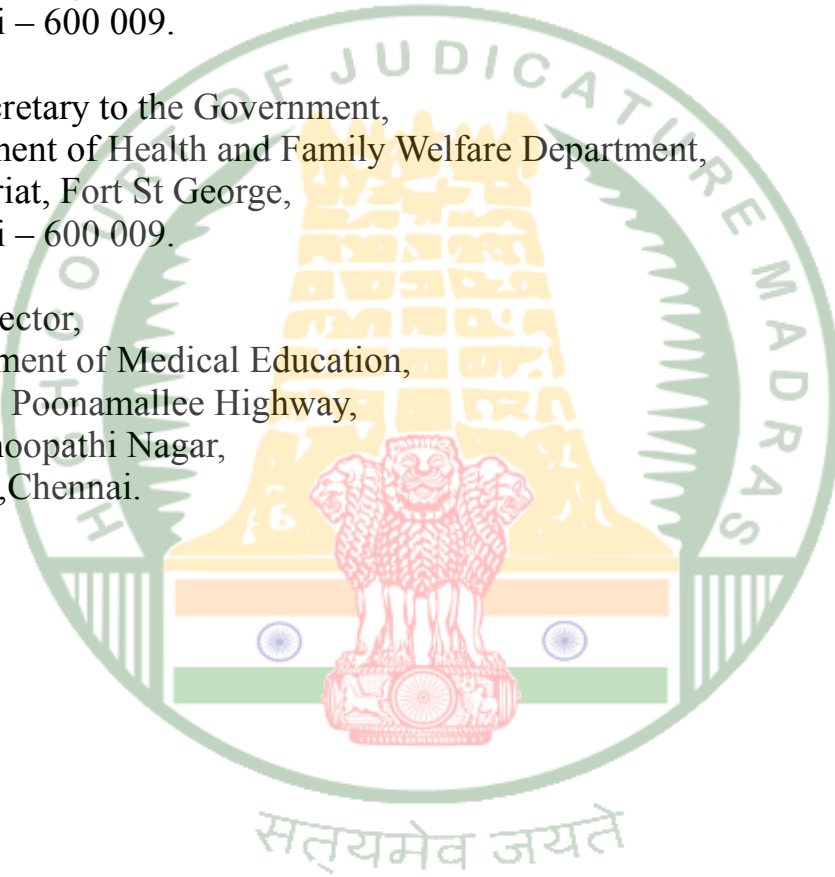
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To

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