



THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD)No.11409 of 2018

and

W.M.P (MD)No.10403 of 2018

WEB COPY

K.Vasanth

... Petitioner

Vs.

1.The Director of Medical Education,
Kilpauk,
Chennai - 10.

2.The Registrar,
Tamil Nadu Dr.M.G.R.Medical University,
Guindy,
Chennai - 2.

3.The Dean,
Vellammal Medical College and Hospital,
Madurai.

4.The Secretary to the Government,
Health Department,
Chennai

... Respondents

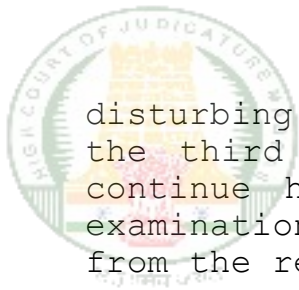
(R - 4 suo motu impleaded vide order dated 30.09.2020)

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, restraining the respondents from in any manner disturbing or discontinuing the petitioner's pursuit of studies in the third respondent College so as to permit the petitioner to continue his studies in the third respondent College and attend examinations, declaration of results etc., without any hindrance from the respondents.

For Petitioner	: Mr.V.Vijay Shankar
For R - 1	: Mr.A.Karthik Government Advocate.
For R - 2	: Mr.S.Ramesh Standing Counsel
For R - 3	: Mr.L.Shaji Chellan Standing Counsel

ORDER

The petitioner has filed the present Writ Petition to issue a Writ of Mandamus, restraining the respondents from in any manner
<https://hcservices.ecourts.gov.in/hcservices/>



disturbing or discontinuing the petitioner's pursuit of studies in the third respondent College, so as to permit the petitioner to continue his studies in the third respondent College and attend examinations, declaration of results etc., without any hindrance from the respondents.

WEB COPY

2. According to the petitioner, he belongs to the Konda Reddis Community, which is classified as Scheduled Tribe and in the year 1975, the Tahsildar concerned has issued a community certificate to the petitioner's father. In the year 2013, the petitioner's father had made an application before the Revenue Divisional Officer for the issuance of community certificate to the petitioner. Since, no action was taken, the petitioner's father had filed a Writ Petition in W.P.No.4327 of 2014 and the Division Bench of this Court, by order dated 14.02.2014, directed the respondent therein to consider the application of the petitioner, dated 03.07.2015, seeking community certificate to his son and pass orders on merits, within a period of three months. However, no steps have been taken by the Revenue Divisional Officer to issue community certificate to the petitioner. In the mean time, the petitioner filed another Writ Petition in W.P.No.17047 of 2015, directing the second respondent therein to consider the petitioner's application No.422717, dated 24.05.2015, for admission to the MBBS course for the academic year 2015-2016 under the Scheduled Tribe category. This Court by order dated 16.06.2015, passed an interim direction, directing the second respondent therein to consider the claim of the petitioner for admission to MBBS/BDS course for the academic year 2015-2016 under the Schedule Tribe category subject to the result of the main Writ Petition. Pursuant to the interim direction, the petitioner was selected to the MBBS course and allotted to the third respondent College. While so, by order dated 27.04.2018, the Revenue Divisional Officer had rejected the petitioner's father application for issuance of community certificate to the petitioner. Hence, the petitioner's father preferred an appeal before the District Collector and the same is pending. Since the petitioner has undergone third year MBBS course in the third respondent College, the petitioner has filed the present Writ Petition on apprehension that the respondents will take steps to discontinue the petitioner's studies in the third respondent college.

3. When the matter came up for admission, this Court by order dated 30.05.2018, granted an order of interim injunction and the same is still in force.

4. When the matter came up for hearing on 15.09.2020, the learned counsel appearing for the petitioner has filed an additional affidavit, dated 07.09.2020, stating that the Revenue Divisional Officer had issued the community certificate to the petitioner on 31.05.2019, recommending the petitioner as Konda Reddis community. He has submitted that in view of the pendency of the writ petition, he was not able to produce the community certificate.

<https://hccservicescourts.gov.in/hccservices>



5. Subsequently, when the matter came up for hearing on 28.09.2020, the learned counsel appearing for the petitioner submitted that the petitioner has produced the Community Certificate before the third respondent College.

6. It is seen from the records that for the past two years, the respondents have not chosen to file counter-affidavit despite several opportunities granted by this Court on 17.08.2020, 21.08.2020 and 15.09.2020.

7. The learned Government Advocate appearing for the first respondent submitted that he has sent communication to the first respondent, but so far no counter-affidavit has been filed and further seeks an adjournment on 15.09.2020.

8. The learned counsel appearing for the second respondent / University submitted that the prayer sought for in the Writ Petition is only against the third respondent.

9. The learned counsel appearing for the third respondent / College submitted that in view of the interim injunction granted by this Court, the third respondent is not responsible for securing the certificate of the petitioner. Therefore, they have not chosen to file the counter-affidavit in the Writ Petition.

10. Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the first respondent, the learned Standing Counsel appearing for the second respondent and the learned Standing Counsel appearing for the third respondent.

11. In view of the above submissions of the learned counsels appearing on behalf of the respondents, this Court is constrained to dispose of the Writ Petition, based on the materials available on record, the contention of the petitioner as well as the additional affidavit of the petitioner.

12. On perusal of the materials available on record, it is seen that the writ petitioner was selected in the MBBS course and allotted to the third respondent College in the year 2015. The petitioner's father had made an application before the Revenue Divisional Officer for granting Konda Reddis community certificate to the petitioner, which is classified as Scheduled Tribe. The said application was rejected by the authority concerned. Challenging the same, the petitioner had preferred an appeal before the District Collector. At this stage, the petitioner on apprehension has filed the present writ petition for the above said prayer.

13. Admittedly, at the time of admission, this Court by order dated 30.05.2018 had granted interim injunction and the same is still in force. Though the learned counsel entered appearance for the respondents and after serving notice on 06.06.2018, the



respondents have not chosen to file petition either to vacate the interim order or filing counter-affidavit. Further, despite opportunities granted to the respondents on 17.08.2020 and 21.08.2020 for filing counter-affidavit, no counter-affidavit has been filed by any of the respondents.

WEB COPY

14. Now, the petitioner has completed 4-1/2 years MBBS course and he is doing House Surgeon in the third respondent College. As per the prospectus, the petitioner has to produce the relevant Community Certificate under the category which he opted for. Since there was a delay in issuing the community certificate by the concerned authorities, as per the interim direction of this Court, the writ petitioner was admitted in the respondent College under the quota of scheduled tribe category without producing the community certificate and he has been continuing his studies. The respondents have also not insisted upon the petitioner for production of the Community Certificate as per the terms and conditions of the prospectus. The respondents have not taken serious effort to file counter affidavit in the Writ Petition.

15. Though the petitioner has submitted that he had obtained Community Certificate on 31.05.2019, after a lapse of more than one year, he has not produced the same before the third respondent College till 15.09.2020 and subsequently, he has produced the said Community Certificate before the third respondent College.

16. It is well settled law by the Hon'ble Supreme Court in the matter relating to Community Certificate that if the petitioner has produced the said certificate before the College, based on the said Community Certificate, the College has to forward to the State Level Committee for scrutinizing the said certificate issued by the revenue authority.

17. In these matters, particularly, the matters relating to the admission of the students in the Medical College, the authorities concerned shall file their counter-affidavit in a time bound manner, but in the present case on hand, as admitted by the writ petitioner that though the petitioner has obtained the Community Certificate on 31.05.2019 due to the interim injunction granted by this Court as well as pendency of the Writ Petition, he could not submit the said Community Certificate till 15.09.2020 and subsequently, he has produced the said Community Certificate before the third respondent College. On the other hand, it is a bounden duty for the respondents to be more vigilant and file their counter affidavits before this Court even at the stage of rejection order passed by the Revenue Divisional Officer or at the stage of final order passed by the District Collector, but the respondents have failed to do the same. The said inaction on the part of the respondents in not filing the counter-affidavit is highly deprecated by this Court especially, several opportunities given by this Court

<https://hccservices.gov.in/hccservices/>



18. This Court *suo-motu* impleads the Secretary to the Government, Health Department, Chennai as fourth respondent in the Writ Petition.

19. Considering the facts and circumstances of the case and taking into consideration the submissions made by either side, the following order is passed:

(i). Since the writ petitioner has produced the Community Certificate before the third respondent College, the third respondent college has to forward the same to the State Level Scrutinizing Committee for verification.

(ii). It is open to the Secretary to the Government, Health Department, Chennai to initiate action against the respondents 1 and 3 for non filing of the counter-affidavit.

(iii). The respondents 1 and 3 are directed to pay a sum of Rs.3,000/- to the Chief Minister's Relief Fund, COVID - 19, within a period of two weeks from the date of receipt of a copy of this order.

20. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note:- In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

Ps

To

1.The Director of Medical Education,
Kilpauk, Chennai - 10.

2.The Registrar,
Tamil Nadu Dr.M.G.R.Medical University,
Guindy, Chennai - 2.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The Dean,
Vellammal Medical College and Hospital,
Madurai.

4.The Secretary to the Government,
Health Department, Chennai.

WEB COPY

+1 CC to M/s.SPL GP(SR-18461[F] dated 30/09/2020)

+1 CC to M/s.V. KARTHIKEYAN, Advocate (SR-18586[F] dated 30/09/2020

+1 CC to M/s.S. RAMESH, Advocate (SR-18835[F] dated 01/10/2020)

+1 CC to M/s.MARIAPPA MURALI, Advocate (SR-18839[F] dated
01/10/2020)

W.P. (MD) No.11409 of 2018
30.09.2020

SS(CO)
KB(14.10.2020) 6P 9C