

ITEM NO.6 Court 5 (Video Conferencing) SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 8/2022

THE CHRISTIAN MEDICAL COLLEGE VELLORE ASSOCIATION Petitioner(s)

VERSUS

THE STATE OF TAMIL NADU & ANR. Respondent(s)

(FOR ADMISSION and IA No.2057/2022-GRANT OF INTERIM RELIEF)

Date : 19-01-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s) Mr. Shyam Divan, Sr. Adv.
Mr. Krishna Srinivasan, Adv.
Mr. Sameer Parekh, Adv.
Mr. E.R. Kumar, Adv.
Ms. Geethi Ara, Adv.
Mr. Udayaditya Banerjee, Adv
Ms. Tanya Chaudhary, Adv
Ms. Swati Bhardwaj, Adv.
Mr. Raghav Bansal, Adv.
Mr. Paritosh Arora, Adv.
Ms. Nitika Pandey, Adv.
Ms. Disha Sachdeva, Adv.
Mr. Sudipto Sircar, Adv
Mr. Adith Deshmukh, Adv
M/S. Parekh & Co., AOR

For Respondent(s) Mr. Amit Anand Tiwari, AAG.
Dr. Joseph Aristotle S., AOR.
Ms. Mary Mitzy, Adv.
Ms. Devyani Gupta, Adv.

UPON hearing the counsel the Court made the following
O R D E R

This writ petition has been filed challenging the
communication/letter dated 29.12.2021 issued by the 2nd

respondent and for a direction to the respondents not to interfere with the admissions of the NEET qualified candidates to undergraduate and postgraduate courses in the petitioner-college for Academic Session 2021-2022. By the letter dated 29.12.2021, the 2nd respondent informed the petitioner that from the Academic Year 2021-2022, admissions to undergraduate and postgraduate courses will be undertaken purely on the basis of religion minority (Christian minority) as per NEET score by following 50:50 seat sharing.

Mr. Shyam Divan, learned senior counsel appearing for the petitioner submitted that the petitioner has been admitting only NEET qualified students. Students have been admitted in the petitioner-college on being recommended by the 2nd respondent after counselling. The petitioner follows a fair, reasonable and transparent method of selecting students belonging to the Christian community who have been sponsored by various churches after being accorded a geographical code. He stated that the students who have been sponsored by the churches from all over the country are given admissions after they go through the process of counselling and after they have qualified the NEET. This, according to him, would show that the admissions are made on the basis of merit. He further submitted that for the past three years, petitioner was permitted to admit students from its network of Protestant Churches/Christian organization in

undergraduate and postgraduate courses for 74% of the seats in the undergraduate course and 70% for postgraduate courses. He requested that the present practice may be continued for the Academic Year 2021-2022 as well. Mr. Divan referred to a judgment of the Madras High Court in *Madha Engineering College & Ors. vs. State of Tamil Nadu & Ors.* dated 12.07.2007, reported in 2007 (4) CTC 13 wherein Section 2(c)(iii) of the Tamil Nadu Admission in Professional Educational Institutions Act, 2006 ('the Act') was declared violative of Article 30 of the Constitution of India. Section 2(c)(iii) of the Act provides that 50% of the seats in each branch in minority unaided professional educational institutions shall be filled up by the Government.

We are informed that leave was granted by this Court in the appeal filed by the State of Tamil Nadu against the said judgment. On the basis of the judgment of Madras High Court in *Madha Engineering College* (supra) which has not been stayed by this Court, it is stated that there cannot be a seat sharing between the State of Tamil Nadu and the petitioner-college. Referring to the judgment of this Court in *Christian Medical College, Vellore Association vs. Union of India and Ors.*, reported in 2020 (8) SCC 705, Mr. Divan submitted that the issue that arose for consideration in that case relates to the permissibility of centralized examination system for admission to undergraduate and postgraduate courses.

Observations made in the said judgment regarding to the rights of the minority pertained to aided minority institutions and in the background of the law laid down by this Court in *T.M. A. Pai Foundation vs. State of Karnataka* reported in (2002) 8 SCC 481. Those observations will not be applicable to the petitioner-college, which is an unaided minority institution.

Mr. Amit Anand Tiwari, learned Additional Advocate General for the State of Tamil Nadu countered the submissions of Mr. Divan by arguing that the admissions to undergraduate and postgraduate courses are governed by Graduate Admission Regulations, 1997 and Post Graduate Regulations, 2017. He referred to the relevant provisions of the said Regulations to submit that admissions to the undergraduate as well as postgraduate courses should be only on the basis of merit in the NEET examination. He also relied upon the judgments of this Court in *Dar-Us-Salam Educational Trust vs Govt. Of A.P. and Ors.* reported in 1998 (5) SCC 358 and *Christian Medical College(supra)* to submit that it is well settled that Government regulation is permissible in admissions to minority institutions as well. The learned Additional Advocate General submitted on instructions that admissions to all the seats in the petitioner-college for PG courses shall be made only from Christian minority for the Academic Year 2021-2022 from the NEET merit list after conducting counseling. However, he submitted that the selection of

candidates from a particular sect of the Christian religion which has been the practice is contrary to law and would not be permitted after 2020-2021. He admitted that from the Academic Year 2018-2019, students who were nominated by the petitioner from a particular sect from Christian religion were being granted admission. The State realized that such of those students who were nominated by the petitioner-college are lower in merit than other students belonging to Christian minority who have secured higher marks in NEET.

In *Christian Medical College (supra)* this Court considered the points that are canvassed before us. On behalf of the petitioner, it was submitted that the system of examination which was being followed is transparent and is conducted on all India basis. Though, the primary issue that arose for consideration in that case pertains to the validity of a centralized examination system, i.e., NEET for admission to undergraduate and postgraduate courses, the other submissions relating to the rights of minority institutions under Article 30 of the Constitution of India to make admissions without interference by the State were also considered by this Court. The appeal filed against the judgment of the *Madha Engineering College (supra)* relating to sharing of seats at 50-50 is pending consideration of this Court. Though, Mr. Tiwari referred to Regulation 9 of the PG Regulations which provides for seat sharing between the State Government and the

institutions, we are not inclined to make any observation on this aspect of seat sharing for the present as the Appeal against the judgment of the High Court is pending consideration. After examining the submissions made on both sides, we are of the considered view that for the Academic Year 2021-2022, students belonging to Christian minority shall be allotted to all PG seats in the petitioner-college by the 2nd Respondent from the NEET merit list.

We make it clear that this order is passed in the peculiar facts and circumstances of this case which shall not be treated as a precedent. We have not expressed any view on the merits of the contentions raised by the petitioner as well the respondents.

As this matter requires to be decided early, list on 07.03.2022. Pleadings to be completed in the meanwhile.

(Geeta Ahuja)
Court Master

(Anand Prakash)
Court Master