

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR. A.J.DESAI
&
THE HONOURABLE MR.JUSTICE V.G.ARUN

Friday, the 25th day of August 2023 / 3rd Bhadra, 1945
WA NO. 1507 OF 2023

AGAINST JUDGMENT DATED 18.08.2023 IN WP(C) 24471/2023 OF THIS COURT

APPELLANT/PETITIONER:

NEHA NIZAR, AGED 19 YEARS, D/O NIZARHAMSA, NEDUVELIL,
CHANGANACHERY.P.O, KOTTAYAM - 686101.

BY ADVS. M/S.P.A.MOHAMMED SHAH, RENOY VINCENT,FATHIMA AFEEDA P.,
ADITH KRISHNAN.U., SHAHIR SHOWKATH ALI, ABEE SHEJIRIK FASLA N.K.,
CHELSON CHEMBARATHY, SHILU SEBASTIAN & MUHAMED JUNAID V.

RESPONDENTS/RESPONDENTS:

1. UNION OF INDIA, MINISTRY OF HEALTH AND FAMILY WELFARE, NIRMAN BHAWAN, NEW DELHI- 110011. REPRESENTED BY ITS SECRETARY.
2. THE SECRETARY ,MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT, GROUND FLOOR, ANTYODAYA BHAVAN, ROOM NO. 637, A-WING, SHASTRI BHAWAN, NEW DELHI 110001.
3. MEDICAL COUNSELLING COMMITTEE,NIRMAN BHAWAN, RAJPATH AREA, CENTRAL SECRETARIAT, NEW DELHI, PIN - 110001.REPRESENTED BY DIRECTOR GENERAL OF HEALTH SERVICES.
4. NATIONAL TESTING AGENCY, DEPARTMENT OF HIGHER EDUCATION, C-20 1A/8, SECTOR 62,IITK OUTREACH CENTRE,NOIDA, UP - 201309.REPRESENTED BY ITS DIRECTOR GENERAL.
5. MEDICAL BOARD FOR DISABILITY (DESIGNATED DISABILITY CENTRE), THIRUVANANTHAPURAM MEDICAL COLLEGE, THIRUVANANTHAPURAM, KERALA - 695011 ,REPRESENTED BY ITS CHAIRMAN.
6. DISTRICT MEDICAL OFFICER ,MALAPPURAM,23QH+ C2F, CIVIL STATION Rd,UP HILL,MALAPPURAM,KERALA-676 505.
7. NATIONAL MEDICAL COMMISSION, (FORMERLY MEDICAL COUNCIL OF INDIA), POCKET – 14, SECTOR -8, DWARAKA PHASE – 1, NEW DEHI- 110077, REPRESENTED BY ITS CHAIRMAN (ADDL.-R7 IMPEADED AS PER ORDER DATED 31.07.2023 IN I.A.1/2023 IN WP(C) 24471/2023)
8. THE CONVENOR- NEET, CENTRAL BOARD OF SECONDARY EDUCATION, SIKSHA KENDRA, 2- COMMUNITY CENTRE, PREET VIHAR, NEW DELHI - 110 092. (ADDL.R8 IS IMPEADED AS PER ORDER DATED 31/07/2023 IN IA 1/23 IN WP(C) 24471/2023).

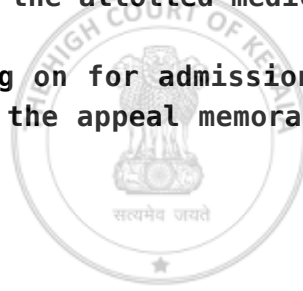
9.THE DISABILITY CERTIFICATION BOARD,
(DESIGNATED DISABILITY CERTIFICATION CENTRE - NEET),
MADRAS MEDICAL COLLEGE, PARK TOWN, CHENNAI - 600003,
REPRESENTED BY ITS CHAIRMAN.
(ADDL.R9 IS SUO MOTO IMPEADED AS PER ORDER
DATED 02.08.2023 IN WP(C)24471/2023).

BY GOVERNMENT PLEADER FOR R5 AND R6

ADV.SRI. TITUS MANI VETTOM FOR R7

Prayer for interim relief in the Writ Appeal stating that in the circumstances stated in the appeal memorandum, the High Court be pleased to direct Respondent No.2 to provisionally accept the application of the appellant for Counselling (Allotment process) for NEET-UG-2023 under the reservation allotted for OBC NCL/PwD category and the appellant may provisionally be admitted to the allotted medical college pending disposal of this Writ Appeal.

This Writ Appeal coming on for admission along with connected case on 25/08/2023 upon perusing the appeal memorandum, the court on the same day passed the following:



P.T.O.

A.J. Desai, C.J.

&

V.G. Arun, J.

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W.A.Nos.1507 & 1508 of 2023

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Dated this the 25th day of August 2023

ORDER

A.J. Desai, C.J.

Admit.

We have heard learned Advocates appearing for the respective parties. We have also gone through certain documents which are relevant for consideration at this stage and the judgment of the Hon'ble Apex Court in **Vikash Kumar v. Union Public Service Commission** reported in (2021) 5 SCC 370.

2. The petitioners, who are physically disabled, had taken the examination of the National Eligibility cum Entrance Test (NEET) for getting admission in a medical course. Along with the application, they had supplied disability certificates issued by the Ministry of Social Justice and Empowerment, Government of India and relying upon the same, they were permitted to take the

examination as a disabled person. However, subsequent thereto, by another certificate dated 15.06.2023, the Medical Board has opined that they are not eligible to pursue a medical course. However, comparing these two certificates similar disability is reported and, therefore, prima facie we are of the opinion that when the appellants were permitted to take examination on the basis of the same disability and have cleared the same, the authority may proceed further with the admission and grant such admission if they are found otherwise eligible as per the object and the provisions of the Rights of Persons with Disability Act, 2016.

The admission would be subject to the outcome of the writ appeals.

Sd/-
A.J. Desai
Chief Justice

Sd/-
V.G. Arun
Judge

vpv