

Press Release No.100

Date :30.10.2020

Press Release

This is to inform the people of Tamil Nadu that Hon'ble Governor has given his assent to the Bill titled "**Tamil Nadu Admission to Undergraduate Courses in Medicine, Dentistry, Indian Medicine and Homeopathy on preferential basis to the students of Government Schools Bill 2020**".

Further it may be noted that Hon'ble Governor sought legal opinion of Solicitor General of India through a letter dated 26.9.2020 and the opinion was received yesterday (29.10.2020). Copies of both the letters are enclosed herewith. As soon as the opinion received, Hon'ble Governor has given assent to the Bill.

Raj Bhavan, Chennai – 22

Date : 30.10.2020

Sd/-

Addl. Dir (P.R)

ANANDRAO V. PATIL, I.A.S.,
SECRETARY TO GOVERNOR



GOVERNOR'S SECRETARIAT,
RAJ BHAVAN,
CHENNAI-600 022.

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D.O. Letter No. 12 / SC / 2020, dated 26.09.2020

Respected Sir,

Sub: Medical Education - Providing horizontal reservation to students who have studied in Government schools from 6th to 12th Standard and passed in NEET qualifying examination in under-graduate medical admission - Bill passed in the Assembly - Opinion called for whether the Bill is in accordance with the Constitution of India - Regarding.

As directed by the Hon'ble Governor of Tamil Nadu, I seek your legal opinion on the Bill passed by the Government of Tamil Nadu in the Legislative Assembly and sent for the assent of the Hon'ble Governor of Tamil Nadu, providing 7.5% of seats, excluding the All India Quota, in the admission to all Under Graduate Medical Courses, namely, M.B.B.S., B.D.S., B.S.M.S., B.A.M.S., B.U.M.S., and B.H.M.S., on preferential basis to the students who have studied from sixth to twelfth standard in various Government schools run by the State Government department and passed in NEET qualifying examination from the academic year 2020-2021.

2. The Tamil Nadu Government is of the opinion that after the implementation of NEET exam, admissions secured by the students studied in Government Schools to Under Graduate Medical courses have become dismally poor. While 41% of the students study in Government schools, it is seen that hardly 0.14% secure admission to medical colleges and there was a steep fall in such students getting admissions in the Medical Colleges under the State Quota. To analyse and assess the reasons for such less number of Government school students getting admission in Under Graduate Medical Courses, the State Government constituted a Commission under the

Chairmanship of Hon'ble Justice P. Kalaiyaran, a retired judge of High Court of Madras.

3. The Commission had submitted its report on 8.6.2020. In view of cognitive gap created by socio economic factors such as caste, parental occupation, parental education, parental income, gender, etc., the said Commission concluded that the Government school students from a separate class and are in a disadvantageous position as compared to private school students and to bridge the gap made the following recommendations for the consideration of the Government to enable the students studied in the Govt. schools to get admission to UG medical courses :-

(i) Not less than 10% of seats in the admission to MBBS course on preferential basis to the students who studied from 6th to 12th standard in State Government Schools and qualified in the NEET Exam

(ii) A special enactment has to be made providing horizontal reservation and the reservation as per law in force is to be followed.

(iii) Reservation to Government school students in getting admission to MBBS course has to be reviewed by the State Government after a period of 5 years from the date of implementation.

(iv) Above reservation can be extended to all courses for which NEET has been prescribed as an eligibility criterion.

4. Accordingly, the Tamil Nadu Government prepared Bill namely, Tamil Nadu Admission to Undergraduate Courses in Medicine, Dentistry, Indian Medicine and Homeopathy on preferential basis to students of Government Schools Bill, 2020 and the Bill has been passed in the Legislative Assembly.

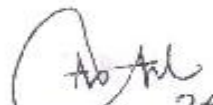
5. In view of the above, I am enclosing the following documents submitted by the Government of Tamil Nadu for your kind perusal:-

- (i) Copy of the said Bill
- (ii) Report of the Commission constituted under the Chairmanship of Justice P. Kalaiyaran
- (iii) Copy of the letter sent by the then Union Health Minister to the then Chief Minister of Tamil Nadu
- (iv) Copy of the Opinion of the Advocate General of Tamil Nadu on the Ordinance earlier prepared by the State Government.

6. I, therefore, seek your opinion on the said Bill, whether the provision of providing 7.5 percentage (7.5%) of seats, excluding the seats reserved for All India Quota, in the admission to M.B.B.S., B.D.S., B.S.M.S., B.A.M.S., B.U.M.S., and B.H.M.S., Courses on preferential basis to the students who have studied from sixth to twelfth standard in the State Government schools and also students belonging to weaker section and disadvantage group, who studied under RTE Act provision as specified in the Bill, is in accordance of Constitution of India or whether it will violate Article 14 and 15 or any other Article of the Constitution of India.

With High Regards.

Yours sincerely,


(ANANDRAO V. PATIL) 26/9

Encl.: As above

To
Shr. Tushar Mehta,
Solicitor General of India,
Chamber No. 25A, 2nd Floor,
Supreme Court,
New Delhi - 110 001.

TUSHAR MEHTA



सुप्रीम कोर्ट

महा-सॉलिसिटर
भारत
SOLICITOR GENERAL OF INDIA
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10, Akbar Road, New Delhi 110001
the 29th October, 2020
Ph.011-21411446

Dear Shri Patil, IAS

Sub. Opinion regarding "Tamil Nadu Admission to Under graduate courses in Medicine, Dentistry, Indian Medicine and Homeopathy on Preferential Basis to students of Government Schools Bill, 2020".

Ref. Your D.O. Letter No.12/SC/2020 dated 26.9.2020

My opinion has been sought regarding the constitutional viability, especially in light of Article 14 and 15, of the proposed Bill providing for a 7.5 per cent reservation excluding the seats reserved for All India Quota, in the admission to MBBS, BDS, BSMS, BAMS, BUMS, and BHMS courses on preferential basis to the students who have studied from 6th to 12th Standard in State Government schools and also to students belonging to weaker sections and disadvantage groups, who have studied under the provisions of the RTE Act.

2. I am informed that while 41 per cent students in the State of Tamil Nadu study in government schools only 0.14 per cent are able to secure admission to medical colleges. I am also informed that there has been a steep fall in students from government schools getting admissions in medical colleges under the State quota. The State Government, in order to ascertain the reasons behind the same constituted a commission under the chairmanship of Hon'ble Justice P. Kalaiyaran, a retired Judge of the High Court of Madras.

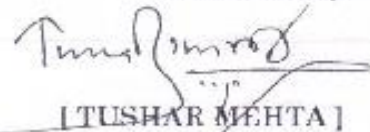
3. The said commission submitted its report and opined that in view of the cognitive gap created by the socio-economic factors such as caste, parental occupation, parental education, parental income amongst others that the students from government schools are in a disadvantageous position as compared with the students from private schools. The commission further opined that in view of the clearly identifiable factor, the said students form a separate class in themselves and ought to be eligible for affirmative action. The Tamil Nadu Government in pursuance of the same has prepared a Bill titled "Tamil Nadu Admission to Under graduate courses in Medicine, Dentistry, Indian Medicine and Homeopathy on Preferential Basis to students of Government Schools Bill, 2020".

4. I have perused the proposed Bill and the Report of the Commission. Article 14 of the Constitution provides for equality before law and equal protection of law within the territory of India. It is settled law the equality code under the Indian Constitution provides for an equal treatment amongst equals and allows unequal treatment amongst unequals. Article 15[5] specifically provides that the State is empowered to make a special provision by law for the advancement of any socially or educationally backward classes of citizens insofar as such special provisions relate to admission to educational institutions including private educational institutions whether aided or unaided by the State. The opinion of the State as to what constitutes socially and educationally backward classes of citizens while extending benefits of affirmative action is a matter within the purview of judicial review by constitutional courts. In the present case, the identification of such socially and educationally backward class has been supported by a report of the commission which contains the data as to the intelligible differentia between such socially and educationally backward class and others.

5. The permissibility of differential treatment to a socially and educationally backward class is premised on the basis of the principles enshrined under Article 14 of the Constitution of India which permits classification on the basis of intelligible differentia and rational nexus with the object sought to be achieved. Considering the fact that the proposed classification is on the basis of a commission report, I opine that the same is grounded in an intelligible differentia which has a rational nexus with the object sought to be achieved. The said intelligible differentia would enable the State to make provisions of affirmative action to such identifiable socially and educationally backward class. It may, however, be noted that the same is subject to rigorous judicial review and also to other constitutional principles which entail an upper limit to the extent of reserved posts/seats in a given exam as well as the principles laid down by the Hon'ble Supreme Court in *Ashok Kumar Thakur vs Union of India* [2008 (6) SCC 1]. It is therefore, opined that subject to the above, the Bill is in consonance with the Constitution of India.

Regards,

Yours sincerely


[TUSHAR MEHTA]

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