

**PRESS RELEASE****Text of the D.O. letter dated 25.4.2017 by Thiru Edappadi K.Palaniswami, Hon'ble Chief Minister of Tamil Nadu to Shri Narendra Modi, Hon'ble Prime Minister of India, New Delhi.**

"You would recall that I had written to you on 20<sup>th</sup> April 2017, bringing to your urgent attention the impasse which has arisen in the admission process to the State quota Government seats in the Post Graduate Medical and Dental colleges for the year 2017-18. In Tamil Nadu, the time tested policy for admission to Post Graduate degree courses is based on a common entrance examination with provision of 50 per cent reservation for candidates from Tamil Nadu. Within the State quota, a reservation of 50 per cent is provided for MBBS graduates who are in Government service to incentivize experience and service in Government Hospitals, with special incentives for the Doctor's service in rural, hilly and difficult areas. This incentive is limited to a weightage of ten percent, with 90 per cent weightage to the marks in the entrance examination.

For the academic year 2017-18, the Tamil Nadu Legislative Assembly had passed two separate Bills to enable continuance of State Policy for Under Graduate / Post Graduate admission which is still awaiting President Assent.

The Union Minister for Health and Family Welfare in his D.O. letter addressed to the late Hon'ble Chief Minister of Tamil Nadu dated 8.9.2016 had given an assurance that States may impose conditions, as they deem fit, on State quota seats at UG/PG level, stating:

*'As far as the issue of National Eligibility-Cum-Entrance Test (NEET) is concerned, I would like to inform that NEET would not interfere with the reservation policy of individual States. It is open to the State Government to provide preferential marks to students who come from rural/hilly/tribal areas as is done in case of admission to PG courses. States may impose conditions, as they may deem fit, on State quota seats at the UG/PG level.'*

Accordingly, in the NEET-PG prospectus issued by Government of India this year, it was clearly indicated that the admission process is to be undertaken and completed by the States/designated authorities/ University using NEET-PG marks as per applicable regulations and/or their eligible criteria, reservation policy, benefit for in-service candidates, rural posting etc.

Based on the above assurances, **Tamil Nadu issued its prospectus for the Post Graduate Medical and Dental courses, following NEET-PG as the entrance examination and continuing the existing policy of reserving 50 per cent of State quota of Government seats for the candidates in Government service with the preferential marking system followed in earlier years.** Under this preferential marking system, the marks awarded for the Entrance Examination (NEET PG 2017) are

computed to a maximum 90 marks. Experience marks for all candidates (both service and non-service) are limited to a maximum of 10.

- i) *One mark per year for experience after Compulsory Rotatory Residential Internship (CRRRI) (All candidates)*
- ii) *Marks for service candidates served in rural, hilly and remote/difficult areas:*
  - a) *Rural area – 1 mark per year*
  - b) *Hills area – 2 marks per year*
  - c) *Remote/difficult area – 2 marks per year*
  - d) *Two marks per year of service candidates who have worked in any Government hospitals, Primary Health Centres and Government Medical College Hospital of Tiruvarur, Nagapattinam and Ramanathapuram districts.*

However as indicated in my earlier letter dated 20<sup>th</sup> April, 2017, the Medical Council of India's Post Graduate Medical Education Regulations, 2000, failed to incorporate the assurances and commitments given by the Hon'ble Minister for Health and Family Welfare. Regulation 9 of the Post Graduate Medical Education Regulations, 2000, prescribes the procedures for selection of candidates for post-graduate courses. Clause IV of Regulation 9 reads as follows:

*"The reservation of seats in medical colleges/institution for respective categories shall be as per applicable laws prevailing in States/Union Territories. An all India merit list as well as State-wise merit list of the eligible candidates shall be prepared on the basis of the marks obtained in National Eligibility-cum-Entrance Test and candidates shall be admitted to Post Graduate courses from the said merit lists only."*

A Proviso was added to Clause IV by Noti.No.MCI.181/2010-ed/62052, dated 15.2.2012 w.e.f.27.02.2012 which reads as follows-

*"Provided that in determining the merit of candidates who are in service of Government/public authority, weightage in the marks may be given by the Government/Competent Authority as an incentive at the rate of 10% of the marks obtained for each year of service in remote and/or difficult areas upto the maximum of 30% of the marks obtained in National Eligibility-cum-Entrance Test. The remote and difficult areas shall be as defined by State Government/ Competent Authority from time to time."*

I understand that the clause 9(IV) providing incentives for service candidates has not been implemented for the All India Quota seats. Further, even though the amendments to the Regulations were made in February

2012, they have not been insisted upon till now and the State's admission policy has not been affected.

A piquant issue has now arisen as the High Court of Madras on 17.4.2017 in W.P.No.6031 of 2017 and W.M.P.No.6455 of 2017 has directed the Government of Tamil Nadu to follow Regulation 9(IV) of the Post Graduate Medical Education Regulations, 2000 by adding 30% marks on the marks secured by the petitioner in the NEET examination while preparing the rank list for admission to the Post Graduate Courses for the academic year 2017-2018 holding that Regulation 9 as the only effective and permissible basis for granting admission to in-service candidates. If this procedure is followed, out of the 556 Post Graduate Government seats available under the State quota in Tamil Nadu, only 206 seats would go to in-service quota candidates. **Thus the direction to follow the MCI Post Graduate Regulations, 2000 which have not been amended to reflect the assurances given by the Government of India, is preventing the State Government from implementing its admission policy for State Quota seats in the Post Graduate courses based on NEET-PG. This is bound to have consequences on the provision of quality health care to needy people in rural and remote areas.**

While the Madras High Court's latest order has been taken on appeal, both by the State Government and by the Government Doctors' Association, an amendment to the MCI Post Graduate Medical Education Regulations, 2000 to enable States to follow their respective reservation policies in admission to Post Graduate courses reflecting the assurance given by the Union Minister of Health and Family Welfare could resolve this issue.

However, the permanent solution to ensure continuance of the present system of admission to post graduate courses in medicine and dentistry with statutory backing, is to obtain the Presidential Assent at the earliest to the two Bills unanimously passed by the Tamil Nadu Legislative Assembly. This would also ensure that in admission for Under Graduate courses, the students of Tamil Nadu who appear in the State Board examinations, who constitute 98 per cent of the total number of eligible students would not be placed at a tremendous disadvantage in NEET because they lack the resources to enroll in training institutions and access materials available to urban students.

I understand that there is an apprehension that as the amendments in the Indian Medical Council Act, 1956 and Dentists Act, 1948, introducing NEET have been made to give effect to the Supreme Court Judgement on the NEET issue, Presidential Assent to Tamil Nadu's two Bills on the issue would go contrary to the Supreme Court judgment on the issue. Further, there is an interpretation that introduction of NEET is purely within the legislative competence of the Union, as it is covered by Entry 66 of List I (Union List) "Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions". However,

Government of Tamil Nadu has already obtained a detailed legal opinion citing various Supreme Court judgments' including the judgement of the Constitution Bench of the Supreme Court in the Modern Dental College and Research Centre Vs the State of Madhya Pradesh (2016) 7 SCC 353, wherein it has been specifically mentioned that Entry 66 in List I would not include conduct of examinations and admission. In fact, Hon'ble Ms. Justice R. Banumathi delivering a separate concurring order as a part of the Five bench categorically stated "*In fact, the State Government should be the sole entity to lay down the procedure for admission and fee etc. governing the institutions running in that particular State except the centrally funded institutions like IIT, NIT etc. because no one can be a better judge of the requirements and inequalities-in-opportunity of the people of a particular State than the State itself. Only the State legislation can create equal level playing field for the students who are coming out from the State Board and other streams.*"

This judgment and several other judgments have upheld the legislative competence of the State to enact legislation under Entry 25 of List III (Concurrent list) which covers "Education, including technical education, medical education and universities". Hence, the Government of Tamil Nadu is well within its legislative competence to enact a legislation to exempt Tamil Nadu from the application of NEET. Such legislation requires the assent of the President under Article 254(2). Such assent was granted to the Tamil Nadu Admission in Professional Educational Institutions Act, 2006. Therefore, I once again request you to expedite the Presidential assent for the two pending State Bills namely the Tamil Nadu Admissions to Post Graduate Courses in Medicine and Dentistry Bill, 2017 and the Tamil Nadu Admissions to MBBS and BDS Courses Bill, 2017."

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**Issued by: Director, Information and Public Relations, Chennai-9.**  
**Date : 26.4.2017**