

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WA.No. 2231 of 2015 IN WP(C).20356/2015

AGAINST THE JUDGMENT IN WP(C) 20356/2015 DATED 28/07/2015

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APPELLANT/PETITIONER :

MISS. JABEENA P.A.P., AGED 19 YEARS,
D/O.SULAIMAN HAJI, RESIDING AT 'JABNAS', KHOZHI BAZAR
P.O.MADAYI, KANNUR - 670 304.

BY ADV. SRI.V.RAMKUMAR NAMBIAR

RESPONDENTS/RESPONDENTS :

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY
GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.
2. THE DIRECTOR OF TECHNICAL EDUCATION
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
3. THE CHAIRMAN
CENTRAL BOARD OF SECONDARY EDUCATION, HEAD OFFICE
SHIKSHA KENDRA, 2, COMMUNITY CENTRE
PREET VIHAR, NEW DELHI - 110 092.
4. THE PRINCIPAL
K.M.C.T. POLYTECHNIC COLLEGE, NIT CAMPUS P.O.
CALICUT - 673 601.
5. THE PRINCIPAL
PROGRESSIVE ENGLISH SCHOOL, WADIHUDA, PAYANGADI
KANNUR - 670 303.

R1 & R2 BY SR. GOVT. PLEADER, SRI. C.R. SYAM KUMAR
R3 BY SRI.DEVAN RAMACHANDRAN, SC, CBSE
R4 BY ADV. SRI.SHYAM PADMAN
R4 BY ADV. SRI.S.K.SAJU
R4 BY ADV. SRI.A.RANJITH NARAYANAN
R4 BY ADV. SRI.JOHN THITHEEMOS
R5 BY ADV.SMT.R.LEELA

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 30-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.A. No.2231 of 2015

Dated this the 30th day of October 2015

J U D G M E N T

Shaffique, J.

The petitioner in W.P.(C) No.20356 of 2015 has filed this writ appeal challenging the judgment dated 28.7.2015.

2. The writ petition was filed seeking for a declaration that Ext.P1 certificate issued to the petitioner is equivalent to the certificate issued by the Central Board of Secondary Education ('CBSE' for short), New Delhi and for a direction to the 4th respondent not to insist upon the certificate of the 5th respondent, Principal of the School, in Ext.P6 undertaking. The issue projected in the writ petition was that, the petitioner had passed her 10th standard examinations from the School under the CBSE. She had continued in the same school for her 11th and 12th standards. Later, she obtained a Migration Certificate in the year 2013. In 2015, She submitted an application to the 4th respondent for admission to the Diploma in Bio-Medical Engineering course. As per the prospectus conditions, she is

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eligible for admission to the said course and she has been listed for admission under the management quota in the said college. It is stated that she has also paid fees towards advance payment of seat and Ext.P5 is the receipt. The 4th respondent, thereafter directed the petitioner to submit an undertaking vide Ext.P6 to be certified by the 5th respondent, Principal of the School, that the petitioner had passed her Board Examination of the 10th standard. But the 5th respondent had refused to issue the certificate on the ground that the petitioner had passed the School examination and not the Board examination.

3. The learned Single Judge formed an opinion that though there was clear instruction in the prospectus that a person should be qualified to be admitted in the said course based on the grading in SSLC or equivalent examination, in so far as equivalency certificate is concerned, since the petitioner has not submitted any application, it may not be possible for this Court to issue any direction.

4. Learned counsel for the petitioner/appellant submits that the petitioner has approached this Court before

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approaching the Director of Technical Education for equivalency certificate.

5. Learned counsel appearing for the 4th respondent submits that even if the petitioner has got equivalency certificate issued by the 2nd respondent, there is difficulty for giving admission to the petitioner for the present academic year. An affidavit is also seen filed by the 4th respondent in this regard.

6. Having regard to the aforesaid factual situation, we do not think that any error has been committed by the learned Single Judge especially in the light of the clear prospectus conditions. The petitioner will have to obtain equivalency certificate to show that the School examination conducted by the CBSE School is equivalent to SSLC or similar classes. Hence, we permit the appellant/petitioner to approach the 2nd respondent with an application to issue equivalency certificate and if the 2nd respondent declares that the examination undertaken by the petitioner in the 10th standard is equivalent to the Board Examinations, he will be eligible to get admission in the aforesaid course.

In the result, this writ appeal is disposed of granting liberty to the petitioner/appellant to approach the 2nd respondent and seek equivalency certificate and in the event of any such application being filed by the petitioner/appellant, the 2nd respondent shall consider the same and pass appropriate orders within one month from the date of receipt of a copy of this judgment.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE