

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

WP(C).No. 20356 of 2015 (T)

PETITIONER(S):

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

BY ADV. SRI.V.RAMKUMAR NAMBIAR.

RESPONDENT(S):

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.

R1 & R2 BY GOVT. PLEADER SRI.BIJU MEENATTOOR.

R3 BY SRI.DEVAN RAMACHANDRAN, SC.

R4 BY ADVS. SRI.SHYAM PADMAN,
SRI.A.RANJITH NARAYANAN,
SRI.S.K.SAJU,
SRI.JOHN THITHEEMOS.

R5 BY ADV. SMT.R.LEELA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1 : COPY OF THE CERTIFICATE ISSUED BY THE FIFTH RESPONDENT DATED 31.01.2011.
- P2 : COPY OF THE MIGRATION CERTIFICATE ISSUED TO THE PETITIONER AFTER COMPLETION OF HER 12TH STANDARD IN THE SAME SCHOOL DATED 30.04.2013.
- P3 : COPY OF THE ONLINE APPLICATION SUBMITTED BY THE PETITIONER FOR ADMISSION TO DIPLOMA COURSE IN BIO-MEDICAL ENGINEERING.
- P4 : COPY OF THE PROSPECTUS OF THE FOURTH RESPONDENT COLLEGE FOR THE YEAR 2014-15.
- P5 : COPY OF THE RECEIPT ISSUED BY THE PRINCIPAL, KMCT POLYTECHNIC COLLEGE, DATED 21.04.2015.
- P6 : COPY OF THE UNDERTAKING SIGNED BY THE FATHER OF THE PETITIONER AND SUBMITTED BEFORE THE 5TH RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

K. VINOD CHANDRAN, J.

W.P(C). No.20356 of 2015

Dated this the 28th day of July, 2015.

JUDGMENT

The petitioner is aggrieved with the fact that the petitioner is not permitted to apply for the technical course carried on by the 5th respondent, under the aegis of the 6th respondent. The petitioner, admittedly, completed her Secondary Education from the C.B.S.E. and was issued with Ext.P1 Certificate. However, the petitioner had not appeared for the Board Examination and had appeared for the School Examination conducted by the 5th respondent affiliated to the 2nd respondent.

2. The specific provision for a School Examination was brought in by the C.B.S.E. as per a Circular produced across the bar by the learned counsel. The scheme of the Board Examination indicates so:

"1. Scheme of the Board

1.1 Senior Secondary Schools

a) There will be no Class X Board Examination w.e.f. 2011 for students studying in

CBSE's Senior Secondary Schools and who do not wish to move out of the CBSE system after Class X.

b) However, such students of Senior Secondary Schools who wish to move out of the CBSE system after Class X (Pre-University, Vocational courses, Change of Board, etc.) will be required to take the Board's."

3. Hence, the petitioner ought to have been aware that qualification in the School Examination would only entitle the petitioner or any other student, who opts for that, to continue in the CBSE system itself and if they wish to move out of the CBSE stream, then the Board Examination had to be taken.

4. In the present case, the Prospectus of the Government of Kerala issued by the 2nd respondent, again handed over across the Bar contains the following eligibility conditions:

"6.3 For CBSE/ICSE candidates the Marks/Grades obtained in Science is considered for calculating grade in science in the place of Physics and Chemistry. In the case of CBSE candidates, only the certificates of Board examination shall be accepted as qualifying certificate and such candidates shall submit an undertaking as shown in annexure XVIII at the time of admission and a copy of the same shall be submitted along with the application."

5. The Prospectus hence specifically does not confer any

eligibility on any student who has appeared in any Examination, which is not conducted by a Board. When an academic body prescribes certain restrictions, it is not for this Court to interfere with it on the finding that the same is not a reasonable prescription.

6. The petitioner herein also was aware of the fact that the eligibility conditions as to the School Examination specifically permitted the petitioner to only continue the studies in the CBSE stream and not to go for a different stream on the qualification of Secondary School. However, if the petitioner qualifies in the Higher Secondary Examination, then that would be a different matter. The fact that the petitioner had appeared for the Secondary Examination in the School Examination, would not be of consequence since the Board results of the 12th Standard could be taken into consideration. The eligibility prescribed by the Director of Technical Examination is only pass in the Secondary Examination and the 12th Standard definitely is a higher qualification. That however would have to be tested by the student in appropriate proceedings, when she is qualified in the

12th standard.

The amounts deposited as fees with the 4th respondent shall be refunded, since it was incumbent upon the 4th respondent to have verified the qualification, even prior to granting such admission.

The writ petition would stand dismissed with the above observation. No costs.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

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