

In the High Court of Judicature at Madras

Dated: 08.01.2015

Coram:

The Hon'ble Mr.Justice SATISH K. AGNIHOTRI
and
The Hon'ble Mr.Justice M.VENUGOPAL

W.A.No.1603 of 2014

and

M.P.No.1 of 2014

in

W.P.No.22325 of 2014

M/s.Central University of Tamil Nadu
rep. by its Registrar,
Thanjavur Road,
Thiruvarur-610 004.

.. Appellant /Respondent

Vs.

Minor P.Sundar
rep. by his father S.Pandian. ... Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent,
against the order dated 20.11.2014 and made in W.P.No.22325 of 2014
by the learned Judge of this Court.

Petition under Article 226 of the Constitution of India praying for
a writ of Mandamus directing the respondent to admit the petitioner
in the five year integrated M.Sc. Course for the academic year
2014-15.

For Appellant : Mr.P.S.Raman, SC
for M/s.Swarnam J.Rajagopalan
For respondent : Mr.V.Lakshmi Narayanan
for Mr.V.Raghavachari

J U D G E M E N T
[Judgment of the Court was made by
M.VENUGOPAL, J.]

The appellant/respondent has preferred the instant intra-Court appeal before this Court as against the order dated 20.11.2014 in W.P.No.22325 of 2014.

2.The learned Single Judge while passing the impugned order in W.P.No.22325 of 2014 on 20.11.2014 in para 5 had inter-alia observed that "... the only stand taken by the respondent is that they are obliged to fill up all seats from out of the Common Entrance Test and that it is only thereafter that the residual seats could be filled up from out of the Supplementary Examination. But, unfortunately, the advertisement issued on 25.04.2014 does not either indicate the total number of seats available, the total number of seats already filled up through Common Entrance and the residual seats available".

3.That apart, the learned Single Judge in the aforesaid writ petition in W.P.No.22325 of 2014 in para 6 had observed as follows:

"6.Fortunately for the petitioner, one seat appears to be kept vacant pursuant to an interim order passed on 19.08.2014. The only impediment reflected in a note submitted by the respondent is that for the First Year Integrated M.Sc. Physics and Chemistry, the theory examinations have started on 17.11.2014. Apart from this, there is no other impediment. Therefore, I am of the view that giving a direction to the respondent to admit the petitioner subject to whatever conditions he must fulfill, in respect of the first year, will meet ends of justice" and consequently dispose of the writ petition by directing the respondent (appellant) and admit the petitioner (respondent) into the Integrated Five Years M.Sc. Physics Course and further as to what should happen to the First Semester and the examinations, the University was directed to apply its statutes and regulations and that apart, observed that the admission shall be granted within a week, so that further delay can be avoided."

4.The learned Senior Counsel for the appellant/University submits that the Writ Petition filed by the respondent/petitioner is neither maintainable in law nor on facts because of the reason

that the respondent/writ petitioner only took the examination, viz., Central University of Tamil Nadu Supplementary Entrance Test (CUTN-SET) for the academic year 2014-2015 and it was mentioned in the advertisement to the said examination that CUTN-SET was only for the purpose of filling up of the residual seats and admission of candidates through Central Universities Common Entrance Test-2014 (CUCET-2014) which was conducted all over India for the Seventh Central Universities, by the nodal University, Central University of Rajasthan.

5.The learned Senior Counsel for the appellant/respondent urges before this Court that during the year 2013, no Supplementary Entrance Test (SET) was conducted and that SET was conducted with a sole purpose of filling up the residual seats which remain vacant/unfulfilled for the Central University common Entrance Test (CUCET) and this was unequivocally mentioned in the advertisement dated 25.04.2014.

6.The learned Senior Counsel for the appellant projects the plea that the appellant/University released the results for the CUTN-SET on 18.06.2014, but not released the rank or merit list for CUTN-SET, since the admission for all the available vacancies would be filled from CUCET candidates and in the event of availability of any residual seats after filling up of all vacancies from CUCET, CUTN-SET, the said candidates would be called for filling up such vacancies. As such, there was no necessity to release any rank or merit list for CUTN-SET, but only released the mark list of the candidates.

7.Further, it is represented on behalf of the appellant/University that only for CUCET, the cut off marks were notified on 14.06.2014 and the admission committee of the appellant met on 11.08.2014 and decided to call the candidates in the following order for the counselling in respect of vacant seats in various Integrated M.Sc. Programmes:

- 1.CUCET-CUTN preference 1
- 2.CUCET-CUTN preference 2
- 3.CUTN-SET

In fact, the vacancies were thus notified on 12.08.2014 by the appellant in accordance with the Admission Committee resolution.

8.Advancing his arguments, the learned Senior Counsel for the appellant/University contends that only one candidate from Scheduled Tribe Category was called from CUTN-SET for filling up the Integrated M.Sc. Physics Course in view of non availability of ST Candidates in CUNET. Also that no candidates from CUTN-SET were

called and that the appellant decision to call the CUCET candidates first was pursuant to the decision of the Admission Committee and that the Admission Committee had reserved to follow the aforesaid preference of selection of candidates to the academic year 2014-2015.

9. Expatiating his contentions, the learned Senior Counsel for the appellant takes his stand that the learned Single Judge without appreciating the necessary facts, passed an interim order in [M.P.1 of 2014] W.P.No22325 of 2014 on 19.08.2014, by directing the appellant/University to reserve one seat in the Five Years Integrated M.Sc. Course pending writ petition. However, the said order reached the appellant/University only on 03.09.2014 after the second counselling held on 21.08.2014. Further-more, the learned Single Judge disposed of the main Writ Petition on 20.11.2014, by directing the appellant/University to admit the respondent/writ petitioner subject to whatever condition he must fulfill in respect of the First Year, since fortunately, one seat was kept vacant.

10. The prime contention advanced on behalf of the appellant by the learned Senior Counsel for the appellant/University is that two examinations namely, viz., CUCET, CUTN-SET cannot be equated in terms of merits and be treated on the same yardstick and in fact, the said two examinations are incomparable in its scheme and syllabus which were not appreciated by the learned Single Judge in proper and real perspective.

11. The learned Senior Counsel for the appellant/University strenuously submits that the admission of all candidates were over in August 2014 itself and that I Semester examination for the Integrated M.Sc. Physics commenced on 17.11.2014 and was about to complete on 28.11.2014 and in a direction to admit the respondent/petitioner would be virtually impossible and also would have set off the whole academic system of the appellant. Besides that, there were 129 candidates available in CUCET to exhaust the CUCET list and two more candidates with more marks than the writ petitioner were still to be exhausted in CUTN-SET list itself. Thus, in the event of respondent/writ petitioner being accompanied out of turn, the rest of them would be aggrieved. However, these vital facts were not appreciated by the learned Single Judge at the time of passing orders in the Writ Petition.

12. During his last leg of arguments, the learned Senior counsel for the appellant/University makes an emphatic submission that in the event of respondent/writ petitioner is directly admitted to the Second Semester, the course duration would be reduced to 4 ½ years instead of regular Five Years which is

contrary to the University Curriculum and also that he would not be in a position to cope with the second semester classes without having a grounding in the first semester introductory classes and enough attendance in the first semester classes which is pre-requisite for taking semester exams as prescribed in the University Regulations.

13. Conversely, it is the submission of the learned counsel for the respondent/writ petitioner (minor petitioner being represented by his father) that the petitioner had applied for admission through his Supplementary Entrance Test rule and also provided his OBC- Non Creamy Layer reserved category certificate. He was issued with a hall ticket for the Supplementary Entrance Test and assigned Registration No.14312. Further that, he secured 78% in the Entrance Examination and secured 84.95% in +2 examination and in fact the weightage given to the Entrance Examination score and Higher Secondary Examination was 60:40. Therefore, the petitioner ought to have secured 83.95% and was expected to secure admission based on his rank. As such, he had not applied for other institutions.

14. The learned counsel for the respondent/petitioner brings it to the notice of this Court that the appellant/respondent in its web-side on 14.06.2014 had published the cut-off list which runs as follows:

"Physics (Cut off Marks): Gen-65, OBC (NCL)-60, SC/ST-No Cut off.
Chemistry (Cut off Marks): Gen-60, OBC (NCL)-55 SC/St-No Cut off."

Also that while the rank list was provisional and subject to amendment, the cut off marks would remain the same. Indeed, the appellant/University had published the list of provisionally admitted candidates after conducting counselling and certificate verification on June 2014 and after exhausting the main list, provisional selection list was prepared. At this stage, a strong plea taken on behalf of the petitioner is that surprisingly, the list included five candidates who had secured less than the published cut off percentage and some other candidates who took part in the Supplementary Entrance Test were also called upon to attend the counselling.

15. The real grievance of the respondent/petitioner is that his name was not to be seen in the list despite having topped the CUTN-SET and immediately, he made a representation bringing it to the notice of the appellant that certain candidates who had secured lower marks were included.

16. On a careful consideration of respective contentions and also this Court bearing in mind, the facts and circumstances of the present case in an encircling fashion comes to an irresistible and inescapable conclusion that the learned Single Judge rightly disposed of the Writ Petition by directing the appellant/University to admit the respondent/petitioner into the Integrated Five Years M.Sc. Course and further, opined that the appellant/University shall apply its statutes and regulations as to what to happen to the First Semester and examinations and consequently, directed the appellant to admit the respondent/petitioner within a week so that further delay could be avoided. Also, this Court is of the considered view that the learned Single Judge prior to the disposal of the Writ Petition on 20.11.2014, on 19.08.2014 had rightly passed the order by pertinently observing that since the respondent/petitioner had cut off 93.9% but appellant/University invited a person to the same category who had secured a cut off mark of 64 for consideration and gave interim direction to the respondent/petitioner to keep one seat vacant.

17. Suffice it for this Court to point out that the ultimate view taken by the learned Single Judge in allowing the main writ petition in W.P.22325 of 2014 by directing the appellant/University to admit the respondent/petitioner in the Integrated Five years M.Sc. Course etc., as stated supra could not be found fault with because of the reason that the same does not suffer from any material irregularity or patent illegality in the eye of law. Consequently, the Writ Appeal sans merits. Also, this case cannot be cited as a precedent since the same is being considered and decided in the particular facts of the case.

18. In the result, the Writ Appeal is dismissed leaving the parties to bear their own costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

DP

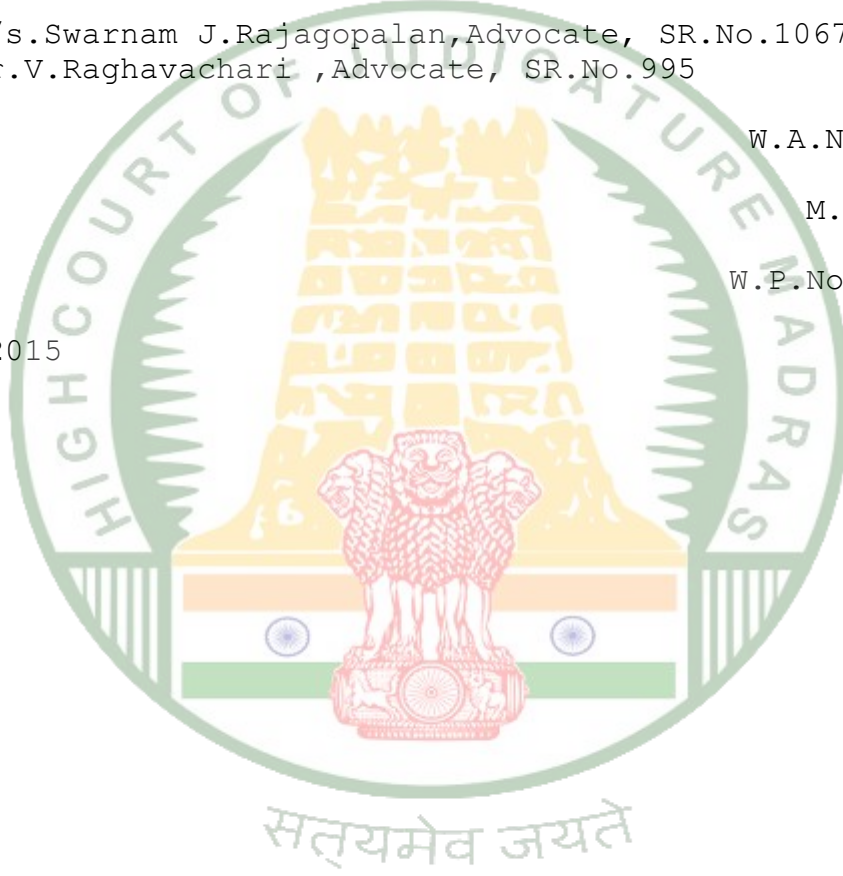
To

The Registrar,
Central University of Tamil Nadu
Thanjavur Road,
Thiruvarur-610 004.

1 cc to M/s.Swarnam J.Rajagopalan,Advocate, SR.No.1067
1 cc to Mr.V.Raghavachari ,Advocate, SR.No.995

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