

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.16471 of 2015

and

M.P.No.1 of 2015

The Pondichery Scheduled Caste People's
Welfare Association [Regn. No.456 of 2002],
Rep. By its General Secretary,
No.5, II Street,
Thirubuvanai Chinnapet,
Puducherry 605 107.

...Petitioner

- Vs -

1. Union of India,
Rep. By The Government of Puducherry,
Through its Chief Secretary,
Chief Secretariat,
Puducherry 605 001.
2. The Secretary,
Department of Education,
Chief Secretariat,
Puducherry 605 001.
3. Centralised Admission Committee (CENTAC),
Rep. By the Convener,
CENTAC,
Pondicherry Engineering College Campus,
Pillaichavadi,
Puducherry 605 014.
4. The District Collector,
Office of the District Collectorate,
Revenue Complex,
Saram, Puducherry 605 013.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents to extend to the children of the scheduled caste members of the petitioner who have settled in Pondicherry between 1964 and 1995 and having 'migrant' Scheduled Caste certificates, the benefit of reservation in admission to professional and other courses of higher education pursuant to the issuance of the G.O.No.27 dated 01.04.2015 by the 1st respondent, as published in the Gazette of Puducherry dated 02.04.2015.

Petitioner : Ms. Anna Mathew

For Respondents : Mr. R. Sreedhar, GA [Pondy]

ORDER

By consent, the writ petition is taken up for final disposal.

2. The petitioner claims that he is the General Secretary of the Pondicherry Scheduled Caste People's Welfare Association, which is a registered association. According to the petitioner, he is representing the causes of welfare of the migrant scheduled caste community people in the region of Union Territory of Puducherry. The petitioner would further state that admissions for the professional and other courses of higher education in the Union Territory of Puducherry, such as, medical, engineering and other professional courses are regularised by the 3rd respondent viz., Centralised Admission Committee (CENTAC) and the children of migrant scheduled caste members, who have settled in Puducherry, have scored good marks in the higher secondary examination during the academic year 2014-2015 and when they sought to apply to the professional and other courses, they have been denied the reservation benefits available to the students belonging to the scheduled caste community thereby categorising them as the people belonging to 'migrant scheduled caste'. In this regard, repeated representations have been sent and last such representation sent on 05.02.2015 by the petitioner to the 1st respondent and the 3rd respondent, without giving disposal to the above said representation, is proceeding with the admission process to fill up the seats in respect of professional and other courses treating the applicants who belong to migrant scheduled caste community as General Category thereby denying the reservation benefits and hence, the petitioner association came forward with this writ petition.

2. Ms. Anna Mathew, the learned counsel appearing for the petitioner in her usual vehemence inviting the attention of this court to the judgement rendered by the Hon'ble Supreme Court of India reported in Puducherry Scheduled Caste People Welfare Association v. Chief Secretary to Government of Pondicherry and others, (2014) 9 SCC 236 would contend that in the light of the above said judgement, the categorisation of the people belonging to the scheduled caste community, who have settled in the Union Territory of Puducherry, as 'migrant scheduled caste' is unsustainable and though the Union Territory of Puducherry is bound by the law declared by the Hon'ble Supreme Court in the judgement cited supra, for the reason best known to them, they had ignored the same and continue to treat the applicants belonging to the scheduled caste community, whose family have settled in Union Territory of Puducherry, as migrant schedule caste and thereby deny the reservation benefits and hence, she prays for appropriate orders.

3. Per contra Mr. R. Sreedhar, the learned Government Advocate (Puducherry), who accepts notice for the respondents, would submit that in the event of this writ petition being entertained and the interim order is being granted, it would amount to allowing the writ petition and hence, he would pray that appropriate direction may be issued for the disposal of the representation of the petitioner.

4. This court has considered the rival submissions and also perused the available materials.

5. As rightly pointed out by the learned counsel appearing for the petitioner, in view of the law laid down by the Hon'ble Supreme Court of India in Puducherry Scheduled Caste People Welfare Association's case [cited supra], by no executive power, amendment, modification, alteration or variance in the Presidential Order is permissible and it is not open to the executive to do anything directly or indirectly which may lead to any change in the Presidential Order. It has been further held by the Hon'ble Supreme Court in the judgement cited supra that once the Presidential Order has been issued under Article 341(1) or Article 342(1), any amendment in the Presidential Order can only be made by Parliament by law as provided in Article 341 (2) or Article 342(2) of the Constitution of India, as the case may be, and in no other manner and the interpretation of "resident" in the Presidential Order as "of origin" amounts to altering the Presidential Order.

6. In the light of the above ratio laid down by the Hon'ble Supreme Court, prima facie, this court is of the view that the people belonging to schedule caste community, who have settled in the Union

Territory of Puducherry cannot be treated as migrant people belonging to the schedule caste community and categorise them as general category. The petitioner association in its representation dated 05.02.2015 has, in fact, drawn the attention of the concerned authority to this aspect.

7. Though the petitioner prayed for a larger relief, this court, on going through the facts and circumstances of the case, is of the view that it would suffice to direct the 1st respondent to consider the representation of the petitioner on merits and in accordance with law and dispose the same within a stipulated time after giving an opportunity of personal hearing to the representative of the petitioner association.

8. In the result, this writ petition is disposed of and the 1st respondent is directed to consider the petitioner's representation dated 05.02.2015 on merits and in accordance with law after providing an opportunity of personal hearing to an authorised representative of the petitioner association and pass appropriate orders as expeditiously as possible and not later than two weeks from the date of receipt of a copy of this order and until then, the respondents 1 and 3 shall defer the admission process pertaining to the candidates who are treated as migrant Scheduled Caste community. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kmk

To

1. The Chief Secretary, Secretary, Government of Puducherry, Chief Secretariat, Puducherry 605 001.
2. The Secretary, Department of Education, Chief Secretariat, Puducherry 605 001.

3. The Convener, Centralised Admission Committee (CENTAC),
CENTAC, Pondicherry Engineering College Campus,
Pillaichavadi,
Puducherry 605 014.

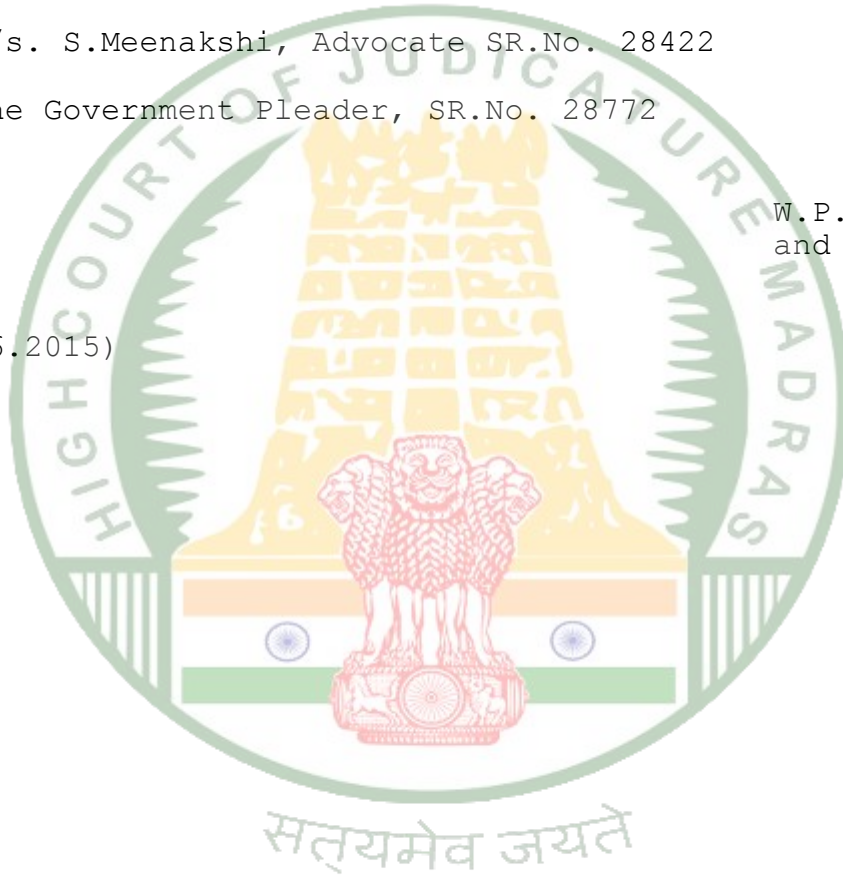
4. The District Collector,
Office of the District Collectorate,
Revenue Complex, Saram,
Puducherry 605 013.

1 CC to M/s. S.Meenakshi, Advocate SR.No. 28422

1 CC to the Government Pleader, SR.No. 28772

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and M.P.No.1 of 2015

NM (CO)
PSI (12.06.2015)



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