

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.16872 OF 2010

and M.P.No.1 of 2010

Miss.B.K.Vidhya

.. Petitioner

Vs.

1. The Dental Council of India
represented by its Secretary,
AIWAN-E-Galibmar,
Kotla Road,
New Delhi - 110 002.
2. The Secretary to Government,
Healthy & Family Welfare Department,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.
3. The Vice Chancellor,
Tamil Nadu Dr.M.G.R.Medical University,
No.46, Anna Salai,
Guindy, Chennai - 600 032.
4. The Chairman,
PRIYADHARSHINI Dental College and Hospital,
V.G.R. Gardens,
Pandur - 631 203
Thiruvallur Taluk & District.

.. Respondents

* * *

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the third respondent to grant Eligibility Certificate to the petitioner to complete the BDS Course through the fourth respondent college and permit the petitioner to write II Year BDS examination to be held in August 2010.

* * *

For Petitioner : Mr.T.P.Kathirraavan
for M/s.A.K.Rajeswari Asso.

For Respondents: Ms.S.Seethalakshmi
Standing Counsel for R1

Ms.P.Rajalakshmi
Govt. Advocate for R2

Mr.Sanjay Ramasami,
Standing Counsel for R3

O R D E R

Heard Mr.T.P.Kathirraavan, learned counsel for the petitioner, Ms.S.Seethalakshmi, learned Standing Counsel for the first respondent, Ms.P.Rajalakshmi, learned Govt. Advocate for the second respondent and Mr.Sanjay Ramasami, learned Standing Counsel for the third respondent.

2. The petitioner has filed this writ petition praying for a writ of Mandamus to direct the third respondent to grant eligibility certificate to the petitioner to complete her B.D.S. Course through the fourth respondent college and to permit her to write II year B.D.S. Examination.

3. The learned counsel for the petitioner very fairly submitted that the prayer sought for by the petitioner is not feasible for being granted due to efflux of time, but would submit that facts of this case call for a remedy from this Court, by which, the petitioner should be directed to be compensated.

4. The petitioner hails from Kerala State and according to her, the fourth respondent college canvassed the petitioner through agent to get admission in the B.D.S. Course. The petitioner has passed the Vocational Higher Secondary examination in the Kerala State, which, according to the petitioner, is equivalent to Higher Secondary Course in the State of Tamil Nadu. The petitioner was able to secure admission in the fourth respondent college under the management quota during 2007. The petitioner is stated to have availed educational loan from the State Bank of India, Thiruvananthapuram Branch to pursue the Course, since she was unable to pay the fees as her father was only a Driver and he was earning only Rs.3,000/- p.m. and therefore, he cannot fund the petitioner's education.

5. The learned counsel for the petitioner would state that since as of now she cannot pursue the education, the petitioner should be compensated adequately on account of the fact that she was misled and admission was granted to her in the B.D.S. Course and she was also permitted to write the First Year Examination as well as arrear examination and the third respondent University also issued certificates to the petitioner. It is submitted that since the prayer sought for in this writ petition cannot be granted at this stage, appropriate orders may be passed directing the fourth respondent college to return all the certificates, refund the entire fees as well as to adequately compensate her.

6. The issue to be addressed in this writ petition is as to whether on account of the fact that the petitioner was permitted to sit for the first year examination would it be a ground to hold the third respondent Dr.M.G.R. Medical University liable to compensate the petitioner.

7. From the counter-affidavit filed by the third respondent University, it is seen that the petitioner was permitted to write the first year examination on the basis of the affidavit given by her that she will obtain equivalence certificate from the Government of Tamil Nadu and produce the same before the next examination. Further, it is not in dispute that the petitioner was unable to produce any equivalence certificate and therefore, she has to be discharged from the course and the permission granted by the university is based on the affidavit given by the petitioner undertaking to produce the equivalence certificate. Therefore, the provisional permission cannot be put against the respondent University and that they are not estopped from discharging the petitioner from the course and therefore, the respondent University is not held to be liable to pay any compensation to the petitioner merely on account of the fact that they permitted her to write the first year examination based on her affidavit and hence, the relief of payment of compensation as against the respondent University as well as the respondents 1 and 2 stands rejected and the writ petition against the respondents 1 to 3 stands dismissed.

8. Insofar as the fourth respondent college is concerned, though notice has been served on them, none appears for the fourth respondent and their name is printed in the cause list.

9. The petitioner was put to such a difficult situation on account of the fact that the fourth respondent college misled her and admitted her in the college in B.D.S Course under the management quota. The fourth respondent cannot deny the fact that a person, who studied vocational course in higher secondary is not eligible to seek

for admission to medical course in the Tamil Nadu State. Therefore, by no stretch of imagination, the fourth respondent college could have admitted the petitioner to the B.D.S. course knowing fully well that she has completed her higher secondary course in the vocational stream in the State of Kerala. If the fourth respondent wanted to entertain the application submitted by the petitioner, they ought to have insisted prior clearance from the Government by way of equivalence certificate and they ought not to have admitted the candidate and then directed her to obtain a certificate from the Government of Tamil Nadu. Therefore, the fourth respondent was at fault in entertaining the application of the petitioner for admission to B.D.S. Course in management quota and therefore, the fourth respondent has to compensate the petitioner.

10. It is also stated that all the original certificates of the petitioner are held and retained by the fourth respondent college. The retention of the original certificates by the fourth respondent is wholly without jurisdiction. Furthermore, the conduct of the fourth respondent, in having granted admission knowing fully well that she did not possess the eligibility criteria, shows that the fourth respondent has willfully committed the fault of admitting the petitioner to B.D.S. course. Therefore, whatever the fees paid by the petitioner while pursuing the course for first year should also be directed to be returned by the fourth respondent college.

11. In the result, the writ petition against the respondents 1 to 3 is dismissed and there will be a direction to the fourth respondent to return all the original certificates of the petitioner to her within a period of three weeks from the date of receipt of a copy of this order and to refund the entire fees paid by the petitioner during the course of study and also pay compensation of a sum of Rs.2,00,000/- (Rupees two lakhs only) to the petitioner. Refund of fees and the compensation shall be paid by way of Demand Draft drawn in favour of the petitioner and the same shall be paid within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/ True copy /

Sub Assistant Registrar

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To

1. The Secretary,
Dental Council of India
AIWAN-E-Galibmar,
Kotla Road,
New Delhi - 110 002.
2. The Secretary to Government,
Healthy & Family Welfare Department,
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V.G.R. Gardens,
Pandur - 631 203
Thiruvallur Taluk & District.

+ one cc to Mr.T.P.Kathiravan, Advocate SR.7000

+ one cc to M/s.S.Seethalakshmi, Advocate SR.7641

ORDER IN
W.P.NO.16872 OF 2010

RK(CO)
JK 21/02/15

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