

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.2723 of 2013 & M.P. No.1 of 2013
and
W.P. No.19414 of 2015 & M.P. No.1 of 2015

G. Gopinath

Petitioner in both the WPs

vs.

1 National Institute of Technology
Tanjore Main Road - NH 67
Tiruchirapalli 620 015
Tamil Nadu State
represented by its Chairman

2 The Director
Central Counselling Board (AIEEE-2011)
National Institute of Technology
Karnataka Suratkhal Mangalore
Dakshina Kannada District 575 025

3 The Revenue Divisional Officer
Dharmapuri

Respondents in
W.P. No.2723 of 2013

1 Tamil Nadu State Level Scrutiny Committee
rep by its Chairman and Secretary to Government
Secretariat, Chennai-600 009

2 The Revenue Divisional Officer
Dharmapuri

3 The Director
National Institute of Technology
Tanjore Main Road, NH-67
Tiruchirappalli-620 015

Respondents in
W.P. No.19414 of 2015

Prayer in W.P. No.2723 of 2013:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to permit the petitioner to continue to course B. Tech. (Instrumentation and Control Engineering) in the first respondent college, till orders are passed by the third respondent as per the direction issued by this Court in W.P. No.14630 of 2011 dated 25.06.2012.

Prayer in W.P. No.19414 of 2015:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the third respondent to issue B.Tech (Instrumentation and Control Engineering) Transcript, Provisional Certificate, Degree certificate and transfer certificate to the petitioner (Roll No.110111029), pending verification of the community certificate of petitioner's father's sister Deivanai by the first respondent.

For petitioner in
both the WPs Mr. S. Doraisamy

For R1 in
WP No.2723/2013 and Mr. S. Dhayaleswaran
R3 in WP No.19414/2015

For R3 in
WP No.2723/2013 and Mrs. A. Srijayanthi
RR 1 & 2 in Special Government Pleader
WP No.19414/2015

COMMON ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

With consent, the writ petitions are taken up for final disposal. The petitioner being one and the same person in both the writ petitions and the issue involved in both the writ petitions being intertwined, they are considered and decided by this common order.

2 W.P. No.2723 of 2013 is filed seeking a writ of mandamus directing the respondents to permit the petitioner to continue to pursue B.Tech. (Instrumentation and Control Engineering) in the first respondent college, till orders are passed by the third respondent, as per the direction issued by this Court in W.P. No.14630 of 2011 vide order dated 25 June 2012.

3 The facts, in brief, leading to the filing of the instant writ petition are that the petitioner made an application before the second respondent for admission to I year B. Tech. (Instrumentation and Control Engineering) course. He was selected by the second respondent and was allotted the first respondent-college under ST quota. However, the second respondent insisted the petitioner to produce community certificate at the time of allotment. Feeling aggrieved, the petitioner filed a writ petition being W.P.No.23224 of 2011 before the Karnataka High Court, seeking a direction to the respondents therein to permit him to join the first respondent college, subject to production of all original testimonials, except the community certificate. The Karnataka High Court, vide interim order dated 29 June 2011, admitted the writ petition and directed the first respondent-college to admit the petitioner, subject to production of community certificate within three months. By virtue of the said order, the petitioner was admitted to the course in 2011 by the first respondent-college. The interim order granted by the Karnataka High Court was extended till 27 August 2012 on which date, eventually, the writ petition was dismissed on the ground that only the Madras High Court has got the territorial jurisdiction to consider the case, inasmuch the cause of action had arisen only in the State of Tamil Nadu. Hence, the present writ petition for the aforestated relief.

4 A Single Bench, taking cognizance of the matter, by order dated 04 February 2013, directed the first respondent to allow the petitioner to continue the course until further orders. Thereafter, on 17 February 2014, the matter was admitted and subsequently, no further order has been passed in the matter.

5 Today, it is informed by the learned counsel for the petitioner that inasmuch as the petitioner has completed the course in June 2015, this writ petition has become infructuous.

6 As such, confirming the order passed by this Court permitting the petitioner to continue the course, this writ petition is disposed of. No costs. Connected Miscellaneous Petition is closed.

7 Coming to W.P. No.19414 of 2015, it is filed seeking a writ of mandamus directing the third respondent to issue B.Tech (Instrumentation and Control Engineering) Transcript, Provisional Certificate, degree certificate and transfer certificate to the petitioner, pending verification of the community certificate of the petitioner's father's sister Deivanai by the first respondent.

8 The petitioner's father's sister Deivanai was granted Kurichchan (ST) community certificate by the Revenue Divisional Officer, Dharmapuri on 17.06.1996, which is pending verification before the State Level Scrutiny Committee.

9 The petitioner, during the pendency of the verification of his father's sister's community certificate, has completed his course. Thus, this writ petition seeking the aforestated relief.

10 The question which arises for consideration in this petition is as to whether, during the pendency of the verification of the community certificate of the petitioner's father's sister, on the basis of which the petitioner claims Scheduled Tribe community status and certificate, a direction be issued to the third respondent to issue B.Tech (Instrumentation and Control Engineering) Transcript, Provisional Certificate, Degree certificate and transfer certificate to the petitioner, pending verification of the community certificate of petitioner's father's sister Deivanai by the first respondent, particularly, when he undertakes not to claim any reservation benefit, based on the community certificate, in future, till the same is verified and found genuine by the competent authority.

11 The first respondent, in his counter affidavit, had stated that the Vigilance Cell has been directed to conduct enquiry and submit a report on 13th January, 2015. On receipt of the Vigilance report, an appropriate order, in accordance with the procedure, will be issued.

12 On the issuance of a direction to the third respondent-Institute, the first respondent has nothing to submit.

13 Indisputably, the petitioner was admitted to the aforestated course against the reserved vacancy. However, during the pendency of the verification of the community certificate of his father's sister, the petitioner has completed his academic course.

14 An identical issue came up for consideration in State of Maharashtra Vs. Milind and others¹. A Constitution Bench of the Supreme Court, pronouncing the power of the High Court in the matter of consideration of the order of State Level Scrutiny

1 (2001) 1 SCC 4

Committee (inferior tribunal), in exercise of judicial review, held that the High Court is not competent to make a roving and in depth examination of the materials afresh. The jurisdiction of the High Court would be restricted while dealing with the question in respect of the particular caste or tribe, which has to be verified after proper scrutiny by the State Level Scrutiny Committee.

15 In similar facts, wherein, the respondent therein obtained admission to medical course on the basis of the Scheduled Tribe certificate, which was rejected subsequently by the State Level Scrutiny committee, the Supreme Court observed as under :

"38. x x x x x x x We are told he has already completed the course and may be he is practising as a doctor. In this view and at this length of time it is for nobody's benefit to annul his admission. Huge amount is spent on each candidate for completion of medical course. No doubt, one Scheduled Tribe candidate was deprived of joining medical course by the admission given to Respondent 1. If any action is taken against Respondent 1, it may lead to depriving the service of a doctor to the society on whom public money has already been spent. In these circumstances, this judgment shall not affect the degree obtained by him and his practising as a doctor. But we make it clear that he cannot claim to belong to the Scheduled Tribe covered by the Scheduled Tribes Order. In other words, he cannot take advantage of the Scheduled Tribes Order any further or for any other constitutional purpose. x x x x x x x "

16 Referring to and relying on the aforestated observation, the Supreme Court, further, in Additional General Manager-Human Resource, Bharat Heavy Electricals Ltd. Vs. Suresh Ramkrishna Burde², observed as under :

"13. The principle, which seems to have been followed by this Court is, that, where a person secures an appointment on the basis of a false caste certificate, he cannot be allowed to retain the benefit of the wrong committed by him and his services are liable to be terminated. However, where a person has got admission in a professional course like engineering or MBBS and has successfully completed the course after studying for the prescribed period and has passed the examination, his case may, on special facts, be considered on a

different footing. Normally, huge amount of public money is spent in imparting education in a professional college and the student also acquires the necessary skill in the subjects which he has studied. The skill acquired by him can be gainfully utilised by the society. In such cases the professional degree obtained by the student may be protected though he may have got admission by producing a false caste certificate. Here again no hard-and-fast rule can be laid down. If the falsehood of the caste certificate submitted by the student is detected within a short period of his getting admission in the professional course, his admission would be liable to be cancelled. However, where he has completed the course and has passed all the examinations and acquired the degree, his case may be treated on a different footing. In such cases only a limited relief of protection of his professional degree may be granted."

17 In the case on hand, the petitioner has undertaken not to claim any reservation benefit, based on the community certificate, which may be falsified and denied subsequently to the petitioner. Thus, we are inclined to direct the third respondent to issue B.Tech (Instrumentation and Control Engineering) Transcript, Provisional Certificate, degree certificate and transfer certificate to the petitioner. It is further directed that, in the event of the petitioner failing to obtain the Scheduled Tribe community certificate, he shall not claim any reservation and benefit on the basis of the benefit of reservation in any service or elsewhere. As the petitioner has got necessary knowledge and skill in the subject, which may be used for public purpose, it is not proper to deprive him of his professional degree and the same is protected and the said professional degree shall not be subject to verification or confirmation of the community certificate.

With the aforesaid direction and observation, the writ petition stands disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Chairman
National Institute of Technology
Tanjore Main Road - NH 67
Tiruchirapalli 620 015, Tamil Nadu State
- 2 The Director
Central Counselling Board (AIEEE-2011)
National Institute of Technology
Karnataka Suratkall Mangalore
Dakshina Kannada District 575 025
- 3 The Revenue Divisional Officer
Dharmapuri
- 4 The Chairman and Secretary to Government
Tamil Nadu State Level Scrutiny Committee
Secretariat, Chennai-600 009

+1cc to Mr.S. Doraisamy, Advocate, S.R.No.67351
+1cc to Mr.S. Dayaleswaran, Advocate, S.R.No.67387
+1cc to the Government Pleader, S.R.No.67827

MSM(CO)
EU(23/12/2015)

W.P. No.2723 of 2013
and
W.P. No.19414 of 2015



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