

THE HON'BLE SRI JUSTICE A.V. SESA SAI

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WRIT PETITION Nos.28459 and 23687 of 2015

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COMMON ORDER:

Since these two writ petitions are similar and common questions are raised, this Court deems it appropriate to dispose of the writ petitions by way of this common order.

The common grievance in these two writ petitions is refusal for admission of the petitioners in Diploma in Elementary Education Course (D.Ed.Course) on the ground that they did not get 50% aggregate of marks in the qualifying examination. The petitioners belong to Scheduled Caste community. The petitioner in W.P.No.23687 of 2015 secured 46.8% and petitioner in W.P.No.28459 of 2015 secured 47.7% in the qualifying examination and they joined in the 4th respondent-College, respectively under 'B' category seats in D.Ed.Course in the month of November, 2014 and according to the petitioners, they have been regularly attending the classes. The petitioners were informed by the respondents that their admissions were not approved by the 3rd respondent.

According to the learned counsel for the petitioners, the respondent-Authorities resorted to such action on the ground that the petitioners secured less than 50% in the intermediate examination and the said action is in contravention of G.O.Ms.No.22 School Education (PE-PROG.II) Department dated 29.05.2014.

It is contended by the learned counsel for the petitioners that the impugned action is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and contrary to G.O.Ms.No.22 School Education (PE-PROG.II) Department dated 29.05.2014. There is also no dispute with regard to the fact that the petitioners secured ranks in Diploma in Elementary Education Common Entrance Test(DEECET).

On the contrary, it is emphatic submission of the learned Government Pleader for Education that G.O.Ms.No.22 School Education (PE-PROG.II) Department dated 29.05.2014 is not applicable to the case of the petitioners, as the notification dated 29.04.2014 notifying the applications for admission is anterior to G.O.Ms.No.22 School Education (PE-PROG.II) Department dated 29.05.2014. It is also the submission of the learned Government Pleader that as per Rule 4(iii) (c) of the Rules notified under G.O.Ms.No.63 Education (PE-PROGS.II) Department dated 28.10.2013, the candidates should have passed intermediate with the aggregate of minimum 50% and as the petitioners do not fulfill the said requirement, they are not entitled for any relief from this Court.

There is absolutely no dispute with regard to the fact that the petitioners secured 46.8% and 47.7%, respectively in the qualifying examination, which is intermediate. The State Government framed Rules vide G.O.Ms.No.63 Education (PE-PROGS.II) Department dated 28.10.2013. Rule 4 thereof deals with 'B' category seats, the candidates should have minimum of 50% in the qualifying examination. Subsequently, by

G.O.Ms.No.22 School Education (PE-PROG.II) Department dated 29.05.2014, the State Government made certain amendments to the said Rules and as per the said amendments, the candidates belonging to the Scheduled Castes, Scheduled Tribes and Physically Challenged categories, opting for 'B' category seats must have secured minimum 45% in the aggregate in the qualifying examination. The said amendments, undoubtedly, came into force as per clause (5) of the said notification immediately. According to the learned Government Pleader, it is only prospective and cannot be made applicable to the instant case, as the present notification is issued anterior to the said amendments. According to the petitioners, though the notification in the instant case was issued on 29.04.2014 for the purpose of filling up 'A' category seats, the petitioners joined in the course in the month of November, 2014 against 'B' category seats, as such, it cannot be said that G.O.Ms.No.22 School Education (PE-PROG.II) Department dated 29.05.2014 is not applicable to them. It cannot be lost sight of that by virtue of G.O.Ms.No.22 School Education (PE-PROG.II) Department dated 29.05.2014, the State Government brought amendments to the Rules notified by G.O.Ms.No.63 Education (PE-PROGS.II) Department dated 28.10.2013. In the Government Orders issued in G.O.Ms.No.22 dated 29.05.2014, the State Government made it crystal clear that the amendment shall come into effect immediately as per clause (5) thereof.

In the instant case, absolutely there is no dispute with regard to the fact that the petitioners joined in the course subsequent to the date of said G.O.Ms.No.22 against 'B' category

seats. Therefore, this Court finds absolutely no justification on the part of the respondents in denying admission to the petitioners.

For the aforesaid reasons, the writ petitions are allowed holding that the petitioners are eligible and entitled for admission into the D.Ed. Course for the academic year 2014-2015 and they are entitled to have their admissions approved. It is also made clear that the respondents shall accept the examination fee from the petitioners and permit them to prosecute their studies.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. There shall be no order as to costs.

A.V. SETHA SAI, J

September 16, 2015

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