

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

WRIT PETITION Nos.27642 AND 29826 OF 2015

COMMON ORDER: (Per Hon'ble Sri Justice R. Subhash Reddy)

These Writ Petitions are filed seeking to declare the action of respondents in depriving the petitioners of admission into M.B.B.S. Course for the academic year 2015 – 16 by treating them as non-local candidates of Sri Venkateswara (S.V.) University as illegal, arbitrary and contrary to the provisions of Andhra Pradesh Educational Institutions (Regulation of Admissions) Order, 1974 (for short, 'the Presidential Order') and the instructions issued in G.O.P.No.646, dated 10.07.1979. As common issues arise for consideration on similar set of facts, both these Writ Petitions are heard together and are disposed of by this common order. For the purpose of disposal, we refer to the facts as arise in W.P.No.27642 of 2015.

The petitioner though had primary education from the local area of S.V. University, studied IX and X Classes in the State of Tamil Nadu and thereafter, studied Intermediate in the local area of S.V. University. The 1st respondent – University has issued notification for admission into M.B.B.S./B.D.S. course for the academic year 2015 – 16 on 23.07.2015 and the petitioner has secured the rank '1860'.

Article 371D of the Constitution of India, introduced by the Constitution (32nd Amendment) Act, 1973, deals with the special provisions with respect to the State of Andhra Pradesh. The said provision empowers the Honourable President to issue an order in the matter of public employment and education for providing

equitable opportunities and facilities for the people belonging to different parts of the State. Accordingly, the Presidential Order was issued.

Paragraph No.3 of the Presidential Order defines 'Local Area', which reads as under:

"3. Local Area : - (1) The part of the State comprising the districts of Srikakulam, Visakhapatnam, West Godavari, East Godavari, Krishna, Guntur and Prakasam shall be regarded as the local area for the purposes of admission to the Andhra University, the Nagarjuna University and to any other educational institution (other than State-wide University or a State-wide educational institution) which is subject to the control of the State Government and is situated in that part.

(2) The part of the State comprising the districts of Adilabad, Hyderabad, Karimnagar, Khammam, Mahaboobnagar, Medak, Nalgonda, Nizamabad and Warangal shall be regarded as the local area for the purposes of admission to the Osmania University, the Kakatiya University and to any other educational institution (other than a State-wide University or State-wide educational institution) which is subject to the control of the State Government and is situated in that part.

(3) The part of the State comprising the districts of Anantapur, Cuddapah, Kurnool, Chittoor and Nellore shall be regarded as the local area for the purposes of admission to Sri Venkateswara University and to any other educational institution (other than a State-wide University or State-wide educational institution) which is subject to the control of the State Government and is situated in that part."

As per paragraph No.3 of the Presidential Order, for the purpose of admission into educational institutions, the entire composite State of Andhra Pradesh is divided into three local areas

i.e., Andhra University, Osmania University and S.V. University areas.

Paragraph No.4 of the Presidential Order defines 'Local Candidate', which reads as under:

"4. Local Candidate:- (1) A candidate for admission to any course of study shall be regarded as a local candidate in relation to a local area-

(a) if he has studied in an educational institution or educational institutions in such local area for a period of not less than four consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared in the relevant qualifying examination; or

(b) where, during the whole or any part of the four consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared for the relevant qualifying examination, he has not studied in any educational institution, if he has resided in that local area for a period of not less than four years immediately preceding the date of commencement of the relevant qualifying examination in which he appeared or, as the case may be, first appeared.

(2) A candidate for admission to any course of study who is not regarded as a local candidate under sub-paragraph (1) in relation to any local area shall –

(a) if he has studied in educational institutions in the State for a period of not less than seven consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared for the relevant qualifying examination, regarded as a local candidate in relation to –

(i) such local area where he has studied for the maximum

period out of the said period of seven years; or

(ii) where the periods of his study in two or more local areas are equal, such local area where he has studied last in such equal periods; or

(b) if, during the whole or any part of the seven consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared for the relevant qualifying examination, he has not studied in the educational institutions in any local area, but has resided in the State during the whole of the said period of seven years, be regarded as a local candidate in relation to -

(i) such local area where he has resided for the maximum period out of the said period of seven years; or

(ii) where the periods of his residence in two or more local areas are equal, such local area where he has resided last in such equal periods.

Explanation :- For the purpose of this paragraph, -

(i) “educational institution” means a University or any educational institution recognized by the State Government, a University or other competent authority;

(ii) “relevant qualifying examination” in relation to admission to any course of study, means the examination, a pass in which is the minimum educational qualification for admission to such course of study;

(iii) In reckoning the consecutive academic years during which a candidate has studied;-

(a) any period of interruption of his study by reason of his failure to pass any examination; and

(b) any period of his study in a State-wide University or a State-wide educational institution, shall be disregarded.

(iv) The question whether any candidate for admission to any course of study has resided in any local area shall be determined with reference to the places where the candidate actually resided and not with reference to the residence of his parent or other guardian.”

In this Writ Petition, though it is not in dispute that prior to appearing for the qualifying examination, the petitioners have studied outside the State of Andhra Pradesh, learned counsel for the petitioners contended that as per paragraph Nos.4 (2) (a) and 4 (2) (b) of the Presidential Order, the petitioners have to be treated as ‘local candidates’ of S.V. University for the purpose of admission into M.B.B.S. Course, but under paragraph No.4 (2) (a), a candidate can be regarded as a ‘local candidate’ if he has studied in educational institutions in the State for a period of not less than seven consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared for the relevant qualifying examination. Even, paragraph No.4 (2) (b) applies only if the candidate has not studied in any educational institution in any local area, but is residing in the State during the period of seven years. The word ‘State’ used in the said paragraphs is referable to the composite State of Andhra Pradesh only. As petitioners have studied outside the composite State of Andhra Pradesh prior to appearing for the qualifying examination, they will not fit into the definition of ‘local candidate’ under paragraph Nos.4 (2) (a) and 4 (2) (b). Equally, to claim ‘local candidate’ status under paragraph No.4 (1) (a), one has to study not less than four consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared in the relevant qualifying examination and paragraph No.4 (1) (b) applies only if the candidate has not studied in any educational institution within such period of four years, but has resided in that local area.

Though the learned counsel for petitioners have placed reliance on the judgments of this Court in **Chairman, University of Health Sciences and another v. K. Tulasiram and another** and **R. Sridhar v. Convenor, EAMCET – 1995, JNTU, Hyderabad** in support of their arguments, from a careful perusal of the same, it appears that they would not render any assistance in support of the case of petitioners for the reason that they have not shown as to how they shall be treated as local candidates of S.V. University as per the Presidential Order. The aforesaid judgments are relied mainly on the ground that the parents of the appellants therein have been residing in the Village within the local area, but from a careful perusal of the Presidential Order, it appears that only the candidate's residence has to be taken into consideration, if he has not studied in any local area, and in this case, within the period of four years preceding the qualifying examination, the petitioners have not studied in the State of Andhra Pradesh for some period. Therefore, we are of the view that the petitioners cannot be treated as local candidates of S.V. University. Hence, we do not find any merit in these Writ Petitions.

Accordingly, the Writ Petitions are dismissed. Miscellaneous Petitions, if any, pending in these Writ Petitions, shall stand closed. No costs.

R. SUBHASH REDDY, J

A. SHANKAR NARAYANA, J

September 16, 2015

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