

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

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WRIT PETITION No.18658 of 2015

Between:

T.Sai Abhishekh

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_____. Petitioner

and

The State of Telangana
Rep. by its Principal Secretary to Government
Higher Education Department
Secretariat, Hyderabad
and others

.. Respondent

DATE OF ORDER PRONOUNCED:

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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|--|---------------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| | |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals? | Yes/No |
| | |
| 3. Whether their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.18658 of 2015

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ORDER:

The petitioner is a student who appeared for EAMCET-2015 examination conducted by the JNT University, Hyderabad. He states that he passed Intermediate examination with 94% marks in Bi.P.C. subjects and has secured 18,140 rank in the said EAMCET examination. He studied Class 1 to 7 in St. Mary's High School, Hyderabad, Class 8 in Krishnaveni Talent School, Tandoor, R.R. District, 9th and 10th class in St.Paul's High School, Hyderabad, and Intermediate at Sri Chaitanya Junior College, Uppal, R.R.District. He claims to be belonging to agricultural family. His father owns agricultural lands at Thimmaipalli and Jekkepally villages, Yalal Mandal, R.R. District. He is qualified for admission to respondents 2 to 4 University courses. He seeks admission in B.Sc. (Ag.) and some other agricultural courses under agricultural family quota from the second respondent University, but challenges the condition of study for a minimum period of four years in schools located in non-municipal areas during the period of study from 1st Class to 12th class.

Counter affidavit was filed by the second respondent University stating that the University issued a notification calling for applications for admission to various U.G courses under the respondents 2 to 4 for the academic year 2015-2016. The petitioner had applied for admission. The rank of 18,140 obtained by the petitioner was admitted. In view of the regulations framed for filling up the seats in 'farmers' quota', the petitioner is not eligible to be admitted under the said quota as he failed to fulfill the condition of study for a period of four years in schools located in non-municipal areas. The farmers' quota is being implemented since 1986 and the said quota was initially provided for 25% of the seats, which is now enhanced to 40% from the academic year 2009-10. It was provided to encourage students coming from agriculture families and rural areas so that they would get an opportunity to carry out effective farming techniques in view of their agricultural background. However, the petitioner is eligible to seek admission in agricultural courses under non-farmers quota.

The third respondent also filed a separate counter affidavit stating that

the admission into various U.G courses are governed by regulations called 'Andhra Pradesh Agricultural University Undergraduate Admission Regulations, 1986' issued on 03.07.1986.

The only point raised and argued by the learned Senior Counsel, Sri A.Sudershan Reddy is that the imposition of four years study in schools located in non-municipal areas is arbitrary and has no nexus to the object sought to be achieved.

On the other hand, the learned Standing Counsel appearing for the second respondent University submits that the writ petition is liable to be dismissed as the petitioner is a minor at the time of filing the writ petition and the regulations have been in vogue in respect of the farmers' quota since 1986. He further submits that the regulations are framed keeping in view the needs of the farming community as the second respondent is imparting agricultural courses.

In the light of the above rival contentions, the relevant Regulation, which is framed in respect of the Farmers' Quota, has to be examined and it reads as under:

Reservation of seats for the candidates coming from families of Agriculturist cum Rural Area (Farmers' Quota):

Ø **Forty per cent (40%) of the seats in the PJTSAU & SKLTSHU and 25% in SPVNRTSUVAFS** are reserved for candidates coming from families of Agriculturists (Farmers) owing **not less than 3 acres of land either in the name of the parents or in the name of the candidates** and who have studied for a **minimum of 4 years in schools located in Non-Municipal areas**. If the land is owned by **grandfather, grandmother or guardian or any other relations is not acceptable**.

Ø **FORM-I:** It is a proforma indicating the patta numbers and extent of land owned by the **candidate/parents** duly certified by **the Tahsildar with his office seal (or)** the candidate has to enclose attested xerox copies of **pattadar pass book** as an evidence of the extent of land.

Ø **FORM-II:** It is a proforma to be certified by the **Head Master** of the School with his office seal that the candidate has studied for a **minimum period of four years in schools located in Non-Municipal areas** during their period of study from 1st class to 12th class/Intermediate (**Non-Municipal Area Certificate**).

Ø **Form-I and Form-II** need to be filled in with the **signatures of concerned officials viz., Tahsildar and concerned Head of Institution, respectively**, along with office seal. Otherwise, the claim of the candidates under this category will be summarily rejected.

The present challenge relates to the prescription of minimum of four years study in schools located in non-municipal areas. Admittedly the petitioner studied in municipal areas only and most of his studies upto Intermediate took place in and around Hyderabad. Since the father of the petitioner owns agricultural land, the petitioner wants to gain entry under farmers' quota by challenging the above stipulation of study. The details of the occupation of the father are not furnished and the learned Standing Counsel for respondents says that it is purposely concealed. The learned Senior Counsel for the petitioner strongly relied on the decision of **Suneel Jatly v.**

State of Haryana^[1]. He placed reliance on the following observations in the said judgment.

11. Assuming that the decision in Pradip Tandon's case AIR 1975 SC 563 does not conclude the point as herein raised, the differentia on which the classification is founded appears to us arbitrary and irrational. How arbitrary and irrational it is, can be demonstrably established. In order to take advantage of the reservation students from nearby urban areas can join common rural schools on the periphery of urban agglomeration. And all rural schools without an exception cannot be condemned as ill-housed, ill-staffed and ill- equipped. Agriculture in Haryana has been a very profitable pursuit and standard of life of average farmer in rural area has gone up compared to middle class and industrial workers and the slum dwellers whose children will attend as a necessity urban schools. And yet the better placed will enjoy reservation. Further the basis of classification based on education upto 8th standard is wholly irrational. And it has no nexus to the object sought to be achieved of providing extra facility to students coming from rural schools to enter medical college.

12. What was the object sought to be achieved by the classification? It was said that students taking education in common rural schools from 1st to 8th standard are at a

comparative disadvantage to those taking education in urban schools in the same standards. The comparison in our opinion is fallacious for the reason that the same Government prescribes standards of education, equipment, grants and facilities including the qualification of the staff for being employed in urban and rural schools imparting instruction from 1st to 8th Standard. However, as pointed out earlier, the knowledge acquired by the students while taking instruction in Classes I to VIII has hardly any relevance to his being equipped for taking the test for entrance to the medical college. The real challenge would come in Standards XI and XII. In this behalf all students those coming from common rural schools and urban schools are similarly placed and similarly situated and yet by a reference to a past event wholly unrelated to the objects sought to be achieved, they are artificially divided.

13. It was however said that there was another discernible purpose in making the reservation. The urbanised students are disinclined to go to rural areas for practice or service and therefore, if the students coming from rural common schools are encouraged to seek admission they may return after obtaining qualification to their childhood habitat and thus help extend efficient medical service to rural areas at present wholly neglected. It was urged if a region is woefully deficient in medical services, there occurs serious educational and health service disparity for that human region which must be redressed by a Welfare State. It was submitted that the reservation was a step in this direction. This submission was sought to be supported by referring to *Jagdish Saran v. Union of India* (1989) 2 SCR 831 : (AIR 1980 SC 820). This approach overlooks the fact that even students educated in common rural schools would be joining urban schools for four years before going to medical college and then spend about five years in medical college. There is no guarantee save a wishful thinking that they would return to rural areas. This is too flimsy a material to sustain classification.

The facts in the said case are that 25 seats in medical faculty of Maharishi Dayanand University were reserved for candidates from rural areas. In respect of the candidates claiming seats reserved for them, the following condition was imposed.

“A candidate must have received education from Class 1 to Class 8 and passed 8th Class examination from a common Rural School situated in any village not having any Municipality or

notified area or Town Area Committee. For this purpose a certificate is required to be submitted which may be seen in Appendix 'C'."

The petitioner challenged the reservation of 25 seats for candidates coming from rural areas on the ground that such classification is arbitrary, unintelligible and unrelated to the object sought to be achieved and not saved by Article 15(4) of the Constitution of India. It was argued that classification of candidates on the basis of their education in a school in rural area and urban area is irrational inasmuch as before seeking admission to the medical faculty even the student coming from rural areas, having been educated in common rural school from 1st to 8th standard would have taken further education for a period of 4 years before seeking admission to the medical college. In support of that, they stated that the syllabus for 1st to 8th standard in common rural schools and urban schools is identical. It was further contended that the majority of the population in the State of Haryana as in the whole country is residing in rural areas and the reservation in favour of majority would be *void ab initio*. Lastly it was contended that the classification apart from being arbitrary and irrational does not satisfy the twin test of it being based on intelligible differentia and having any nexus to the object sought to be achieved.

The Supreme Court considered the question whether reservation of 25 seats for rural areas for admission to 1982 session in the medical college attached to the University is constitutionally valid. The Supreme Court said that the said reservation does not form part of the reservation provided under Article 15(4) of the Constitution of India. Then it considered whether the classification of the candidates coming from rural areas against urban areas in the matter of admission to the medical college satisfy the twin test? The Supreme Court observed that if the reservation is for rural areas and the challenge is confined to that extent, in view of the decision of the Court in **State of U.P. v. Pradip Tandon** reported in **AIR 1975 SC 563**, there was no need for giving a separate judgment. In the said case, the Supreme Court accepted in part the contention of the State (for advancement of facility for

medical education for candidates coming from reserved areas as the people belonged to socially and educationally backward classes) and negated in part. The Supreme Court struck down the reservation of candidates coming from rural areas and held that reservation for rural areas cannot be sustained on the ground that rural areas represent socially and educationally backward classes of citizens and such reservation appears to have been made for the majority of the population of the State on the ground of place of birth, however, it upheld reservation in favour of candidates from hill and Uttarakhand areas on the ground that reservation in favour of the people in those areas, as they can be classified as belonging to socially and educationally backward classes of citizens. For coming to the said conclusion, it held that socially and educationally backward citizens cannot be equated with areas as a whole as some people in the rural areas may be educationally backward, some may be socially backward and there may be a few who are both socially and educationally backward, but it cannot be said that all citizens residing in rural areas are socially and educationally backward. In the above background, the Supreme Court held as above and set aside the quota of seats for candidates belonging to rural areas.

In the instant case, the petitioner is not challenging the quota reserved for farmers, but challenges the imposition of one condition for such quota. The learned Senior Counsel submitted that the ratio in the **Suneel Jatley's** case is applicable in this case also.

If that ratio is applied, the reservation for the candidates coming from families of agriculturists and rural areas (farmers' quota) has to be considered. Since that quota is not under challenge in the present case, that issue is left open. So far as the condition relating to minimum four years of study in schools located in non-municipal areas is concerned, the said condition cannot be said to be arbitrary as it has got nexus to the seats reserved under farmers' quota. In **Suneel Jatley's** case also, the Supreme Court, in the absence of sustainability of reservation under Article 15(4) of the Constitution of India, examined the reservation on the test drawn on Article 14. It held that in order to sustain classification permissible under Article 14

of the Constitution of India, it has to satisfy the twin tests (1) that the classification is founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and (2) the differentia must have a rational relation to the object sought to be achieved by the impugned provision.

In the case before this court, both the tests have been satisfied when it is examined in relation to the farmers' quota as the students claiming seats under the said quota have to satisfy that their parents possess agricultural land and they studied in non-municipal areas. They form a separate class and the conditions have reasonable relation to the object sought to be achieved for the purpose of the said quota. The petitioner, when he intends to take benefit of the quota, must satisfy the conditions mentioned for admission under the quota and he cannot take advantage of the condition, which is favourable to him, and challenge another condition, which he could not fulfill.

In view of the above, the Writ Petition is liable to be dismissed and is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 19.08.2015
MVA

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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