

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.No.10802 of 2010 and
M.P.No.1 of 2010

C.Abdul Hakeem College of
Engineering & Technology,
represented by its Correspondent,
Hakeem Nagar, Melvisharam-632509,
Vellore District.

...Petitioner

-Vs-

1. The Government of Tamil Nadu,
represented by its Secretary,
Higher Education Department,
Chennai 600 009.

2. The Commissioner Technical Education,
Chennai 600 025.

3. Anna University-Chennai,
represented by its Registrar,
Chennai 600 025.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the Respondents 1 and 2 herein to forthwith consider the representation of the petitioner dated 19.04.2010 and pass orders permitting the Petitioner herein to forego the special reservation of 3.5% for Backward Class-Muslims for admission in so far as the petitioner institution is concerned.

For Petitioner	: Mr.K.Doraisami, SC for Mr. Muthumani Doraisamy
For R1 & R2	: Mr.P.Sanjay Gandhi, AGP
For R3	: Mr.M.Vijaya Kumar SC (Anna University)

ORDER

The prayer in the writ petition is for a writ of mandamus directing the Respondents 1 and 2 herein to forthwith consider the representation of the petitioner dated 19.04.2010 and pass orders permitting the Petitioner herein to forego the special reservation of 3.5% for Backward Class-Muslims for admission in so far as the petitioner institution is concerned.

2. The case of the petitioner is that it is a religious minority institution functioning for several years. As per the Government policy, there is a reservation of 30% for backward classes and out of which there is inner reservation of 3.5% for backward class Muslims. In view of such requirements, though the institution have been permitted to have an intake of 360 seats in the academic year 2006-07 was able to admit only 35 students. Like that, for several years upto 2009-2010, the admissions were very minimal comparing to the actual sanctioned intake of the petitioner institution.

3. The learned counsel for the petitioner would further submit

that the reason being for such poor admissions is only because of the compulsory reservation of minority students which according to the learned counsel for the petitioner was made by the Government, of course for the benefit of minority students, but in practicality, the situation is entirely different as there is no takers from such reserved category and in the result, the seats are kept vacant continuously for several academic years which will go to the root of the matter as the very viability of the institution would be at stake.

4. Therefore, the learned counsel for the petitioner submits that the petitioner has made a representation to the respondents on 19.4.2010 explaining the aforesaid factual position and requested the authorities concerned to give exemption for the petitioner institution for the compulsory requirement of 3.5% quota for BCM.

5. The learned counsel for the petitioner quoting paragraph 7 of the affidavit filed in support of the writ petition submits that for a similar request made by the minority people belonging to Christian, the State Government deleted the special reservation of 3.5% earmarked for backward class Christians.

6. Heard both sides.

7. The reservation given by the Government for backward class or other sector is meant for the depressed class or oppressed class of people considering their social status and other aspects. Being the policy of the Government and also is supported by the constitutional mandate, this Court cannot express any opinion as to the percentage of reservation given to any sector of people and it is for the Government to take decision depending upon the need and the situation. Therefore, the representation given by the petitioner can only be considered and a decision can be taken only by the State Government, i.e., the first respondent to whom the said representation has been given.

8. Accordingly, writ petition is disposed of with a direction to the petitioner to submit a copy of the representation dated 19.04.2010 along with relevant data and materials to substantiate its claim for the request they have sought for in that representation for consideration within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, there shall be direction to the first respondent to consider the representation made by the petitioner dated 19.04.2010 on merits and in accordance with law of course, after giving an opportunity to represent, to the

petitioner by which the Government also can get some inputs and data generally, to tackle this kind of situations and pass a reasoned order within a period of three months, thereafter.

9. With these observations and directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index: Yes/No
Internet: Yes/No
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19.10.2016

To

1. The Secretary,
Government of Tamil Nadu,
Higher Education Department,
Chennai 600 009.

2. The Commissioner Technical Education,
Chennai 600 025.

3. The Registrar,
Anna University-Chennai,
Chennai 600 025.

R.SURESH KUMAR,J.

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