

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No. 23705 of 2016 &
WMP.No.20309 of 2016

V.Poojashri

.. Petitioner

Versus

1. The Chairman,
Admission Committee (UG),
TANUVAS, Madhavaram Milk Colony,
Chennai - 600 051.
 2. The Sports Development Authority of Tamil Nadu,
Rep. by its Member of Secretary,
No.116-A, Periyar E.V.R.High Road,
Nehru Park,
Chennai - 600 084.
 3. The Indian Olympic Association,
Rep.by its Secretary General
Gate No.25, Jawaharlal Nehru Stadium
New Delhi - 110 003.
 4. The Union of India,
Rep by its Secretary,
Ministry of Youth Affairs & Sports,
Shastri Bhavan,
New Delhi - 110 001.
- .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of declaration, declaring the action of the first respondent refused to consider the highest achievement soft tennis sports certificates of the year 2012 to 2015 i.e.,

- a. IX TH Junior National Soft Tennis Championship, Form II (Silver) for the academic year 2012-13 (160 points)
- b. XI TH Senior National Soft Tennis Championship, Form II (Silver) for the academic year 2013-14 (160 points)
- c. X TH Junior National Soft Tennis Championship, Form II (Gold) for the academic year 2014-15 (190 points)

and refused to add the marks for the admission of Bachelor of Veterinary Science & Animal Husbandry - BVSc & AH (5 years). Tamil Nadu Veterinary and Animal Science University, Chennai, for the academic year, 2016 to 2017 under Sports Quota, Girls as illegal and consequently direct the 1st respondent to consider the same and add the 350 marks along with 320 marks which is already awarded, for the admission of Bachelor of Veterinary Science & Animal Husbandry - BVSc & AH (5 years), Tamil Nadu Veterinary and Animal Science University, Chennai, for the academic year 2016 to 2017 under Sports Quota, Girls.

For Petitioner : Mr. G.K.Ilanthirayan
for M/s.Sai Bharath and Ilan
For R1 : Mr.S.Vijayakumar
For R2 : Mr.I.Sathish Kumar
For R4 : Mr.P.Saravanan, CGSC

ORDER

Heard Mr.G.K.Ilanthirayan for M/s.Sai Bharath and Ilan, learned counsel for the petitioner ; Mr. S.Vijayakumar, learned counsel appearing for the first respondent ; Mr.I.Sathish Kumar, learned counsel appearing for the second respondent ; and Mr.P.Saravanan, learned Central Government Standing Counsel appearing for the fourth respondent and with the consent on either side, the writ petition is taken up for final disposal.

2. The petitioner seeks for issuance of a Writ of declaration, declaring the first respondent/ University's action in not considering the petitioner's achievements in National Soft Tennis Sports Championship and in not awarding appropriate marks to enable her to be admitted to the Bachelor of Veterinary Science & Animal Husbandry-BVSc & AH (5 years) course in the first respondent / University for the academic year 2016-2017, as illegal and arbitrary.

3. The issue involved in the Writ Petition lies in narrow campus. The petitioner's case is that, she is an eminent sportswomen and she has many National and State Level Distinction to her credit in Soft Tennis Championships. If the petitioner is recognized to be a candidate who participated in National Level Sports events by taking note of the certificates produced by her, then, she will be entitled for additional marks for those certificates, resulting in, she being selected to the said course. Further if appropriate marks are given to the petitioner to those certificates, she would be a candidate standing in No.1 in the merit list in the Sports category. The controversy revolves around the certificate issued by the Joint Secretary of the Tamil Nadu Staff Tennis Association, Salem signed by one Tmt.D.Mouneshwari. The said Tmt.D.Mouneshwari,

appears to have addressed the Public Information Officer of the first respondent/University asking for certain queries and one of the query related to the applications submitted by 4 candidates which include the petitioner herein. The Public Information Officer of the first respondent who is the officer functioning in the Right to Information Act should have answered the queries in accordance with the Act and if that was done, the Public Information Officer would have complied with the statutory duty. However, the Registrar (i/c) of the first respondent University addressed a letter to the said Tmt.Mouneshwari, dated 15.07.2016 describing her as the Former General Secretary of Tamil Nadu, Soft Tennis Association, Salem and requested her to confirm as to the genuinity of the certificates produced by the petitioner.

4. The first respondent University had committed a serious error in addressing a private association that to a former General Secretary, seeking for authentication of the certificate in response to a letter written by her under the RTI Act. Based on the response given by her, alleging that somebody forged her signature, the respondent / University has failed to evaluate the Certificates produced by the petitioner issued by the Amateur Soft Tennis Federation of India(Reg) bearing Sr.No.1228 and Serial No.1631.

5. At the time when the writ petition was entertained, this Court has elaborately heard the parties and following interim order was passed:-

"Notice through Court as well as privately to the third respondent returnable on 01.09.2016.

2. The learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that as per the prospectus in respect of sports quota for National Tournaments, it should officially be recognized as the regular annual championships/tournament by the Ministry of Youth Affairs and Sports/Indian Olympic Association / SAI/SDAT/ respective official National Sports Federation, will be considered (for each years) for the award of marks and as per annexure - IV to the application submitted, the first respondent has taken into consideration only the first certificate alone, ignoring the other certificates, which also includes the participation of the petitioner in the National Tournament. Therefore, she is entitled to call for counseling and also for selection and also drawn the attention of this Court to the interim order dated 22.06.2016 made in W.P.No.21559 of 2016 and W.M.P.No.18438 of 2016 and prays for

appropriate orders.

3. Per contra, Mr.S.Vijayakumar, learned counsel, who accepts notice on behalf of the first respondent, on instructions, would submit that the Tamil Nadu Soft Tennis Association has been recognized by the Sports Development Authority of Tamil Nadu only from 05.01.2015 and therefore, it cannot be considered as the application interior to the said date.

4. In the considered opinion of this Court, the stand of the first respondent prima facie appears to be untenable for the reason that as per Clause 4(b) of the prospectus, the National Tournaments officially be recognized either by the Ministry of Youth Affairs and Sports or by Indian Olympic Association or by SAI or by SDAT or respective official National Sports Federation and in the light of the same, the petitioner is entitled to participate in the counseling process.

5. In the result, there shall be an order of ad-interim direction, directing the first respondent to take cognizance of the certificates of the petitioner and also other certificates of the petitioner as per annexure-IV of the application along with the copy of the certificates from page Nos.31 to 36 of the typed set of documents to consider the eligibility of the petitioner to get admission/participate for counseling under the sports quota on 13.07.2016 and it is made clear that this interim order is subject to the result of the writ petition and it is also without prejudice to the rights and contentions of the first respondent and the petitioner, by virtue of this interim order, shall not claim any equity at the time of final disposal of the writ petition".

6. Pursuant to the above directions, the petitioner had participated in the counseling and if all the certificates mentioned above, are given the appropriate marks, then she will be No.1 in the merit list in the sports quota and will be selected. Therefore, this Court has to test as to what would be the impact of the letter sent by Tmt.D.Mouneshwari, the former General Secretary, Tamil Nadu Soft Tennis Association, Salem.

7. Firstly, it has to be noted that Tmt.D.Mouneshwari is not the present Secretary of the Association. Secondly, the certificate in Annexure - II is given by an Association is only based upon the certificate obtained by the candidate in National Championships. Therefore, the certificate given by the Tamil

Nadu Soft Tennis Association in Annexure - II is not a stand alone certificate but purely based upon the certificate insured by a National body. Therefore, what has to be seen is whether the petitioner is an eminent sportswoman and participated in a National level games. There is no doubt to the said fact as the petitioner has participated in two national events namely, 11th Senior National Soft Tennis Championship at Ahmedabad (GJ) from 18.06.2013 to 22.06.2013 and 9th Junior National Soft Tennis Championship at Indore, Bhopal (MP) from 22.05.2013 to 26.05.2013.

8. Therefore, in the absence of any dispute with regard to these two certificates which have certified that the petitioner has secured Silver Medal in both events and the certificate having been issued by a body recognized by the Ministry of Youth, Affairs of Sports, Government of India and the Indian Olympic Association, cannot be discredited. That apart, there is no material produced by Tmt.D.Mouneshwari to state that the certificate issued by the National body is not genuine and she has only stated that her signature has been forged in the certificate issued by the Salem Association. This Court can take judicial notice of the fact that in several such associations, the disputes and differences among the former and the present office bearers are so severe that it has virtually defeated the object for which the associations was formed. The first respondent contended that the organization is not recognized and the sports is not an approved sports by the Indian Olympic Association. This submission is found to be incorrect, since the Amateur Soft Tennis Federation of India has been recognized by the Sports, Ministry of Youth, Affairs and Government of India and affiliated to the Indian Olympic Association.

9. One more issue that has to be pointed out is that the petitioner has secured national distinction in two other events namely, Tamil Nadu State School Team in the game / event of SOFT TENNIS (U-19) in the National Games for Schools held at Dewas, Madhya Pradesh from 17.12.2015 to 21.12.2015 and another event by the same federation namely the 10th Junior National Soft Tennis Championship at KIIT University Tennis Court, Bhubaneswar, Odisha from 25.06.2014 to 29.06.2014 and these certificates were also certified in Form No.II by the General Secretary of the Tamil Nadu Soft Tennis Association. Admittedly, the said D.Mouneshwari did not raise any objections to the said two certificates.

10. In the light of the above facts, since the petitioner has two certificates of having participated in National level competitions and the certificates having not been proved to be either false or fabricated, the first respondent has to accept those certificates and should award appropriate marks to enable the petitioner to be selected to the Bachelor of Veterinary

Science & Animal Husbandry-BVSc & AH (5 years) course.

11.For all the above reasons, the writ petition is allowed as prayed for and the respondents are directed to implement the above direction and issue admission letter to the petitioner within a period of two days from the date of receipt of a copy of this order, to enable her to join the said course. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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Admission Committee (UG),
TANUVAS, Madhavaram Milk Colony,
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+1 cc to Mr.S.Vijayakumar Advocate sr 53044

+1 cc to M/s.Sai Bharath & Ilan Advocate sr 53014

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