

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Writ Appeal No.1105 of 2016
& C.M.P.No.14349 of 2016

The Managing Director
Tamil Nadu State Transport Corporation (Salem) Ltd.,
12, Ramakrishna Road
Salem-636 007

...Appellant

Vs.

1.Minor K.M.MaiyiliChelvi,
Rep. By her father K.Mathivanan

2.The Director
Institute of Road Transport Corporation
Tharamani, Chennai-600 113

3.The Principal
IRT Perundurai Medical College
Perundurai, Namakkal

4.The Medical Council of India
Rep. By its Secretary
Dhwaraga Phse-1
New Delhi-110 077

...Respondents

Writ Appeal filed against the order passed in W.M.P.No.24683 of 2016 in W.P.No.28613 of 2016 dated 16.08.2016.

W.M.P.No.24683 of 2016:- Petition praying to direct the R2 & R3 to keep one seat vacant of MBBS Course for admission into Perundurai Medical College of Institute of Road Transport for the academic year 2016-2017 under reserved quota for the children of employees of the Transport Corporation Workers pending W.P.No.28613/16 presented under Art 226 of the constitution of India praying to issue a writ of mandamus directing the 1st respondent to supply the prospectus and application form for admission to the 1st year MBBS Course for the academic year 2016-17 at the Perundurai Medical College of Road Transport and consequently permit the petitioner to submit the filled up application form to the 1st respondent to be processed further in accordance with law for consideration of

admission under the category reserved for the children of employees of the Transport Corporation of Tamil Nadu.

For Appellant : Mr.P.Paramasivadosh

For respondent 1 : Ms.S.Girija

JUDGMENT

(Judgment of the Court was made by HULUVADI G. RAMESH, J.)

Heard the learned counsel for the respective parties.

2. This Writ Appeal is filed as against the order of the learned Single Judge directing the third respondent/The Principal, IRT Perundurai Medical College, Perundurai, Namakkal, to issue an application form to the writ petitioner viz., K.M.Maivili Chelvi, (1st respondent herein) under Management quota for admission to first year M.B.B.S. Course for the academic year 2016-2017 forthwith and shall entertain the filled up application, if it is otherwise in order and depends upon the marks secured by the concerned candidates who applied under the Management Quota, can pass appropriate orders. The learned Single Judge, further held that the result of the selection process pertains to the writ petitioner/K.M.Maivili Chelvi, alone shall be kept in a sealed cover and produced before the Court on 09.09.2016 for passing further orders.

3. Aggrieved by the said order, the Transport Corporation, has filed this Writ Appeal, contending that the father of the 1st respondent herein was a driver in the service of the Corporation and was dismissed from service and the Management of the Corporation sought for approval and it was pending before the concerned officials.

4. One of the grounds taken in this Writ Appeal is that filling of the seat in the third respondent College, being a self-financed and Private unaided Educational Institution, take their choice in selection of students and fixation of fees.

5. The learned counsel appearing for the appellant/Corporation submits that the Corporation has dismissed the father of the 1st respondent herein for unauthorised absence and in such circumstances, there is no merit for considering the 1st respondent to the appellant's sponsored seat.

6. The learned Single Judge, while taking into consideration the facts of the case and also by following the ratio laid down in the case in M.D.Tamil Nadu State Transport Corporation Vs. Neethivilangan [2001 (3) CTC 372], had directed the 3rd respondent/College, to pass appropriate orders.

7. The learned counsel for the appellant further contended that as per clause 6-Method of Selection and Admission, it is stated that selection for admission to MBBS course of Perundurai Medical College under Management quota seats for wards of employees of STUs/IRT/PTCS/TDFC and who are member of the scheme will be detailed in Section 6.1 to 6.4 and further, when the order of the termination of the employee is under challenge before this court and the writ petition is pending for consideration, the direction sought for by the 1st respondent cannot be granted.

8. On the other hand, it is submitted by the learned counsel for the 1st respondent that the 1st respondent's father/workman under the Corporation, was dismissed on the alleged charge of unauthorized absence without considering his permanent disability and the Writ Petitions filed by him against the termination order has not reached the finality.

9. On a perusal of the records, it is seen that the Institute of Road Transport accepted the letter of the workman that he is still continuing to be a live member and asked to approach the Transport Corporation for the application form to be admitted at Medical College at Perundurai. Further, on hearing the rival submission made before this court and also on a perusal of the interim order passed by the learned Single Judge dated 16.08.2016, we are of the view that even though the dismissal is approved at the departmental level, it is subject to scrutiny before this court and in the said circumstances, it would be too premature to file this Writ Appeal, challenging the order passed in WMP.No.24683 of 2016, as the main Writ Petition itself is pending before the learned Single Judge. Accordingly, we dismiss the Writ Appeal, with a direction to the parties herein to cooperate for the early disposal of the main Writ Petition. All the contentions are left open to the parties to raise it before the learned Single Judge. No costs. Consequently, connected CMP is closed.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

nvsri

To

1.The Managing Director
Tamil Nadu State Transport Corporation (Salem)Ltd.,
12, Ramakrishna Road
Salem-636 007

2.The Secretary
Medical Council of India
Dhwaraga Phse-1
New Delhi-110 077

1 cc to Ms.S.Girija, Advocate, Sr. 51500

W.A.No.1105 of 2016

KSJ (CO)
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