

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2016

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.31739 of 2016 and
WMP.Nos.27556 and 27557 of 2016

R.Indirajith

... Petitioner

Vs.

1. The Chairman,
Law Admissions 2016-2017,
The Tamil Nadu Dr.Ambedkar
Law University,
Poompozhi, No.5
Dr.D.G.S.Dhinakaran Salai,
Chennai-600 028.

2. The Secretary,
Bar Council of India,
21, Rouse Avenue,
Institutional Area,
New Delhi-110 002.

3. The Secretary,
Bar Council of Tamil Nadu,
Bar Council Building,
High Court Campus,
Chennai-104.

... Respondents

(R2 and R3 were suo-motu impleaded
as respondents by this Court)

Writ Petition is filed under Article 226 of the Constitution of India to India for the issuance of a Writ of Certiorarified Mandamus, calling for records relating to the order of the respondent dated 29.08.2016 as published in the website stating the remarks as "SSLC/HSC Private", to quash the same and to consequently direct the respondent to allow the petitioner to join and complete the three years LL.B., Degree Course.

For Petitioner : Mr.L.Chandrakumar
For 1st Respondent : Mr.L.P.Shanmugasundaram
For Respondents 2&3 : Mr.S.R.Rajagopalan

O R D E R

By consent, the Writ Petition itself is taken up for
hearing.

2. The Writ Petition is filed, challenging the order of the respondent dated 29.08.2016 as published in the website stating the remarks as ''SSLC/HSC Private'' and to quash the same and to consequently, direct the respondent to allow the petitioner to join and complete the three years LL.B., Degree Course.

3. When the matter was taken up for hearing, The Secretary, Bar Council of India, 21, Rouse Avenue, Institutional Area, New Delhi-110 002 and The Secretary, Bar Council of Tamil Nadu, Bar Council Building, High Court Campus, Chennai-104 were suo-motu impleaded as respondents 2 and 3.

4. Heard both sides.

5. The learned Counsel for the petitioner would submit that the petitioner has studied up to IX Standard in regular school. According to him, since, he got a lesser mark, he was not allowed to continue the X Standard in the said school. Thereafter, he studied privately and attended the X Standard examination. After that, he completed +2 in the regular school. Thereafter, he completed his U.G. Degree Course in regular college. Thus, according to the learned Counsel for the petitioner, the petitioner has completed his X standard, +2 Examination and thereafter 3 years U.G. Course successfully. He would also contend that merely because, he studied X Standard by private study, that will not be a bar as enunciated by the 1st respondent college/University not permitting him to join the Law College. Therefore, he would contend that he may be permitted to join and complete the three years LL.B., Degree Course.

6. In this connection, the learned Counsel for the petitioner would rely on an interim order passed by a Division Bench of Madurai Bench of this Court in W.P.(MD) No.15308 of 2016 dated 18.08.2016 (R.T.Dharani vs. The Chairman, Law Admissions 2016-2017, The Tamil Nadu Ambedkar Law University, Poompozhi, No.5, Dr.D.G.S.Dhinakaran Salai, Chennai) wherein the 1st respondent therein was directed to immediately consider the case of the writ petitioner for admission to three year Law Degree Course and grant her admission, in case, the marks secured by her with reference to the cut-off marks for such admission, provided the writ petitioner therein has secured an equivalent or higher cut-off marks than that of it.

7. The learned Special Government Pleader appearing for the 1st respondent would bring it to the notice of this Court a final order passed by a Division Bench of this Court in W.A.No.1632 of 2015 (S.R.Deepak vs. The Tamil Nadu Dr.Ambedkar Law University rep. by the Chairman, Law Admission 2015-2016, Poompozhi No.5, Dr.D.G.S.Dinakaran Salai, Chennai-28 and two others) dated 02.02.2016 wherein the Division Bench has categorically held that a candidate is required to complete 10 + 2 examination on regular basis. He would further submit that in the case on hand, the petitioner has completed up to IX Standard in the regular school and thereafter, he completed his X

standard through private study. Therefore, he is not entitled for admission in 3 years LL.B., Course in 1st respondent University.

8. The learned Counsel appearing for the respondents 2 and 3 would also concede to the same.

9. I have considered the above submissions made on either side and I have also considered the materials placed on record.

10. A perusal of the records would go to show that in an identical situation, as pointed out by the learned Special Government Pleader for the 1st respondent, the Division Bench of this Court in W.A.No.1632 of 2015 dated 02.02.2016 has held as follows:

"21 Indisputably, Rule 5 or the relevant criteria prescribed in the Information Bulletin does not deal with a situation, wherein, a candidate has obtained X standard examination certificate privately nor after prosecuting studies in distance or correspondence method. Distance education has been defined under the provisions of the Indira Gandhi National Open University Act, 1985, as an education taken from an outside place on the basis of education imparted through broadcasting, telecasting, correspondence courses, seminars, contact programmes or the combination of any two or more of such means. In distance education, a candidate is not required to attend classes regularly. However, the education is imparted, as aforesaid, for two years in two year course. In the case of open university system, albeit there may not be regular classrooms, but, the candidates are supplied with study materials which make them abreast of up-to-date knowledge. In the case of a private candidate, no study material is supplied. It is for the candidate to study on his own and write the examination. The test is passing the examination without there being any support.

22 In the case on hand, the appellant had passed the 2 years examination, i.e., for IX and X standard in one year privately without any educational aid. As such, it cannot be held that he had obtained a basic qualification of X standard in 10 years. As a sequel, we have no hesitation in holding that the appellant does not fall within the eligibility criteria as enshrined in Clause (a) of Rule 5 of the Rules of Legal Education.

23 In T.L. Muthukumar (supra), the issue involved was the interpretation of G.O. Ms.No.107, Personnel and Administrative Reforms Department dated 18.08.2009 to consider the promotion of the appellant therein to the post of Assistant Section Officer, whereunder, while interpreting Regulation 2 of 1985 Regulations, it was held that no candidate shall be

eligible for award of first degree unless he has successfully completed 12 years schooling and similarly, no student, who has not successfully pursued the first degree course of 3 years duration, shall be eligible to seek admission to Master's degree course in any faculty. In the instant case, the appellant has not successfully completed X standard in 8 + 2 years. Thus, the ratio laid down in T.L. Muthukumar (supra) is not of any assistance to the appellant.

24 The issue involved in Shri Krishnan (supra) was as to whether the candidature of the applicant to take the examination can be withdrawn subsequently on finding that there was shortage of percentage in attendance. It was held that once the candidate is allowed to take the examination rightly or wrongly, the candidature cannot be withdrawn subsequently. The facts of the instant case are entirely different and as such, no benefit can be derived from the aforestated case which was approved subsequently in Chandrakala Trivedi (supra). Issuance of a call letter for counselling is not a promise or assurance for admission to a course. Thus, the principle of estoppel, as pleaded by the learned counsel for the appellant, is not applicable to the appellant's case.

25 In view of the aforestated premises, we are of the considered opinion that the appellant is not eligible under prescription of Rule 5 of the Rules of Legal Education read with Eligibility Criteria for admission to 3 years LL.B course. The respondent University has rightly rejected the appellant's candidature for admission to the said course.'

11. As rightly pointed out by the Division Bench of this Court in para 21 of the judgment in W.A.No.1632 of 2015, in the case of a private candidate, no study material is supplied. It is for the candidate to study on his own and write the examination. The test is passing the examination without there being any support. Therefore, the petitioner is not eligible under prescription of Rule 5 of the Rules of Legal Education read with Eligibility Criteria for admission to 3 years LL.B. Course. Therefore, I find no merit in the case of the petitioner.

12. I have also gone through the said judgment very carefully. Further, in the case referred to by the learned Counsel for the petitioner in W.P.(MD) No.15308 of 2016 dated 18.08.2016, the candidate therein has studied up to X Standard in regular school and thereafter completed her +2 and U.G. Course through Distance Education. Therefore, that order will not be applicable to the facts of this case. Further, what was relied on by the petitioner was only an interim order whereas the respondent has relied on the final order passed by this High Court.

13. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
Law Admissions 2016-2017,
The Tamil Nadu Dr.Ambedkar Law University,
Poompozhi, No.5 Dr.D.G.S.Dhinakaran Salai,
Chennai-600 028.
2. The Secretary,
Bar Council of India,
21, Rouse Avenue,
Institutional Area,
New Delhi-110 002.
3. The Secretary,
Bar Council of Tamil Nadu,
Bar Council Building,
High Court Campus,
Chennai-104.

+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.51798
+1cc to Mr.L. Chandrakumar, Advocate, S.R.No.51748

EU(19/09/2016)

W.P.No.31739 of 2016