

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.34033 of 2016 & W.M.P.No.29401 of 2016

Z.Johny Thomas

.. Petitioner

.. Vs ..

1. The State of Tamil Nadu
Rep. By its Secretary,
Health & Family Welfare (ME) Department,
Fort St. George, Chennai - 600 009.
2. The Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, Periyar High Road,
Kilpauk, Chennai - 600 010.
3. The Medical Council of India,
Rep. By its Secretary,
Pocket - 14, Sector - 8,
Dwarka Phase - I,
New Delhi - 110 077, INDIA.
4. Aswini Gandhimathi.R
5. Mukundhan.P
6. Samyuktha.M
7. Gowri Shankari.J

(Respondents 4 to 7 are suo-motu impleaded as per Order
of this Court by BRJ, dated 07.10.2016) ... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India praying for a Writ of Declaration declaring that the prospectus for M.B.B.S./B.D.S. Admissions 2016-17 issued by the second respondent in respect of the classification under Table IV, Serial No.4 and Table V, Serial No.3 Annexure - III(a) selection of candidates under quota for Eminent Sports Persons for 2016-17 session is discriminatory and also inconsistent with the clauses 13 and 14 of prospectus relating to admission of Eminent Sports Persons is null and void, and consequently direct the respondents to admit the

petitioner for first year M.B.B.S. under sports quota without any discrimination for the academic year 2016 - 17.

Petitioner : Mr.K.M.Vijayan, Sr. Counsel
for M/s.K.M.Vijayan Associates

Respondents : Mr.Muthukumaraswamy,
Advocate General,
assisted by Mr.A.N.Thambidurai,
Spl. Government Pleader - R1

Mr.L.P.Shanmugasundaram
Standing Counsel - R2

O R D E R

This Writ Petition has been filed seeking for a declaration declaring that the prospectus for M.B.B.S./B.D.S. Admissions 2016-17 issued by the second respondent in respect of the selection of candidates under quota for Eminent Sports Persons for 2016-17 session is discriminatory and also inconsistent with the Clauses 13 and 14 of prospectus relating to admission of Eminent Sports Persons as null and void and consequently direct the respondents to admit the petitioner for first year M.B.B.S. under sports quota without any discrimination for the academic year 2016 - 17.

2. The main contention of the petitioner is that his nation level participation was not given due weightage and further in all the levels lesser weightage was adopted by the State Government. There is a discrimination between the students who studied under the C.B.S.E. and students who studied under Government Secondary Education Board and the grade marks which is allotted to CBSE students is different from the marks which is allotted to the State Board students. There cannot be distinction between two sets of students, even though they may be in two different sectors of State namely, State Board as well as C.B.S.E. Both of the them are studying XII Standard, which is an eligible criteria for entering to the college level either in technical or in the college. The only criteria which has been pointed out by the learned senior counsel, is that in the very prospectus itself, in the norms for the sports category, there is no classification among CBSE and State Board students, except consideration of domicile of Tamil Nadu. But without any reason, the first and second respondents arbitrarily decided that the participation in national level is reduced as State level and participation in South Zone level as Divisional level and this is very clear violation of clauses 13 and 14 of the prospectus. Therefore, he would state that such status distinction is illegal. However, in this connection, he also pointed out that the petitioner had participated in the games sponsored by the

agencies recognized by the respondents itself and therefore, there cannot be any discrimination on the name of schools and it is a clear case of affecting the fundamental right of the petitioner. Therefore, he would contend that if the petitioner is awarded proper weightage, then he will get first rank in the Sports quota which was discriminately held against him. This Court has safeguarded the interest of the petitioner by staying one seat at the time of admission. Hence, he would seek a direction to the respondents to admit the petitioner for first year M.B.B.S. under the sports quota without any discrimination for the academic year 2016-17.

3. In the counter filed by the first and second respondents, it has been stated that there is no distinction between the CBSE and State Board students and the respondents have no role to play in awarding marks for any sporting event. Eventhough the petitioner claims that he satisfied the clauses 13 and 14 of the prospectus for admission to MBBS course under Eminent Sports person category, he must fulfill the criteria fixed by the Common Committee constituted by the Anna University for awarding marks for participation/achievements in Nation and International Sporting events. The application of the petitioner for admission under Eminent Sports person category was received by the second respondent's office on 03.06.2016 and the same was forwarded to Anna University along with other 316 applications for awarding marks and for assigning rank. The list of shortlisted candidates with ranks assigned to them by the Common Committee of Anna University was received by the Selection Committee on 18.06.216 and the petitioner was not placed among shortlisted candidates and the petitioner has obtained marks which is much below than the other three persons. Therefore, certain participants have not been taken into consideration, which according to their counter, the persons who have been selected as per the sports marks as follows :

S1 .N o.	A.R.No	Name	Sports Mark	Rank	College Allotted
1	21144	Gowrishankari J	980	18436	Thiruvannamalai Medical College
2	21098	Mukundhan P	760	19733	Stanley Medical College
3	21104	Aswini Gandhimthi R	730	25356	Sivagangai Medical College

Eventhough the petitioner has participated in National and International sporting events, she has not fulfilled the criteria fixed by the Common Committee constituted for this purpose at Anna University. Therefore, the allegation that the due weightage for CBSE students applying under Eminent Sports person category was not given cannot be accepted. The

admission would also reveal the same.

4. Heard Mr.Vijayan, learned senior counsel for the petitioner and Mr.Muthukumaraswamy, learned Advocate General for the first respondent and Mr.L.P.Shanmugasundaram, learned Standing Counsel for the second respondent.

5. The only point for consideration is whether there is discrimination between the Students of the Tamilnadu State Board as well as Central Board as pointed out by the learned senior counsel for the petitioner. His specific contention is that they have violated Clause 13 and 14 of their prospectus. The Clause 13 and 14 of the prospectus reads as follows :

" 13. The participation/achievements of candidates with nativity of Tamil Nadu who represented Tamil Nadu alone are eligible for marks under National Category.

14. Only Tamil Nadu candidates are eligible to apply for admission under Sports Quota and only the KVS/CBSE schools within Tamil Nadu are eligible for marks."

By this, he would point out that the word used is candidates in Tamilnadu alone are eligible. Then he would also make a distinction in so far as KVS or CBSE were used is only since the candidates in Tamilnadu are eligible for marks. But on a careful perusal of the documents would reveal that if a national level participants is provided 190 marks weightage, the same is treated as a State level in the case of CBSE students by the authorities and even in respect of the other levels of participation, a lesser weightage is given.

6. As per the counter they have clearly stated that there is no distinction as stated by the petitioner and the Board has given a clarification in the letter No.8410/J2/2004-1, dated 25.06.2004 which reads as follows :

"In the circumstances stated by the Vice-Chancellor Anna University and the Secretary, Tamil Nadu Engineering admission, Anna University in the letters first and second cited, the Government hereby ratify the action of the Anna University in having incorporated the revised guidelines for the selection of candidates under Eminent Sports person category for Engineering and Medicine courses in the application for Tamil Nadu Engineering admission 2004."

According the letter of the university, total CBSE schools in Tamilnadu is only 580 schools and State Board Schools in Tamilnadu is 55,667 and students strength is 1,35,00,000/-. Therefore considering the huge number of schools and strength of the students, the weightage has been given to the State

Board. Whereas, the CBSE Schools is less than 96 Times when compared to the State Board Schools in Tamilnadu. The discrimination between CBSE and State Board Schools Sports Teams /individuals performance has been very well justified by the Sports Committee nominated by the Government of Tamilnadu every year. Therefore, they would clearly state that the CBSE school team at national level is actually equated at state level performance and this has been recommended by the Sports Committee constituted by the Government of Tamilnadu.

7. The contention of the petitioner is that if proper weightage is given to the petitioner, then he would have got first rank in the Sports quota and even otherwise, if the prospectus issued by the respondents is strictly followed, the petitioner will be awarded with appropriate mark, which is higher than the last candidate admitted in the sports quota. Whereas, in the counter it has been clearly stated that when the Central School Board Competitions Organizational Rules itself very clearly states that such participation is only in so far as to the independent category and in such view of the matter, the discrimination as between the students was that the weightage has been given to the event participated, level, number of persons and the area. In such view of the matter, the discrimination stated by the petitioner cannot be accepted as all the three students, who have been provided seat under the Sports quota, have scored more marks than that of the petitioner. Hence, the prayer in the Writ Petition cannot be granted.

8. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is dismissed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vrc

To

1. The Secretary to Government of Tamil Nadu
Health & Family Welfare (ME) Department,
Fort St. George, Chennai - 600 009.
2. The Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, Periyar High Road,
Kilpauk, Chennai - 600 010.

3. The Medical Council of India,
Rep. By its Secretary,
Pocket - 14, Sector - 8,
Dwarka Phase - I,
New Delhi - 110 077, INDIA.

+1cc to Mr.K.M.Vijayan Associates, Advocates, sr.70185

+1cc to M/s.L.P.Shanmugasundaram, Advocates sr.70270

+1cc to The Government Pleader sr.70529

W.P.No.34033 of 2016

mv (co)

ss (31/01/2017)



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