

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.35130 of 2016
and WMP.No.30266 of 2016

K.Priyavarshini ...Petitioner

Vs

1.The Secretary to Government
Backward Classes and Most Backward Classes
& Minority Welfare Department
Fort St.George
Chennai-600 009

2.The Secretary to Government
Law Department
Fort St.George
Chennai-600 009

3.The Registrar
The Tamil Nadu Dr.Ambedkar Law University
"Poompozhi"
No.5, Dr.D.G.S.Dhinakaran Salai
Chennai-600 028

4.The Bar Council of India
rep. By its Secretary
21, Rouse Avenue
Institutional Area
New Delhi-110 002

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Declaration, to declare Section 4 of the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institutions and of Appointments of Posts in the Services under the State) Act, 1993 (Act 45 of 1994) as unconstitutional, ultravires and contrary to the judgment rendered by the Supreme Court of India in the case of Indira Sahaney vs. Union of India (AIR 1993 SC page 477).

For Petitioner : :Mr.T.Sellapandian
for Mr.S.Mani
For Respondents : :Mr.V.Ayyadurai,
Addl.Advocate General
Assisted by
Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader for
R1 and R2
Dr.A.Thiyagarajan, Senior
counsel
for Mr.Nallathambi for R3
Mr.S.R.Raghunathan for
Mr.S.R.Rajagopal for R4.

ORDER

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

Heard Mr.T.Sellapandian, learned counsel for the petitioner, the learned Additional Advocate General and the learned Special Government Pleader, appearing for the respondents.

2. The petitioner is making a hectic effort to get admitted in the Law course in the 3rd respondent-Tamil Nadu Dr.Ambedkar Law University. In the accompanying affidavit filed in support of the Writ Petition, it is stated by the petitioner that she does not come under any one of the reserved categories and applied for LL.B. 3 Year course in the 3rd respondent University under the Open Competition viz., the General Category.

3. The learned Additional Advocate General appearing for respondent No.3, submits that in the various merit list, the petitioner stands at No.22 and 21 candidates are still above the petitioner, who were issued with call letters for attending counselling to the admission of the Law course.

4. It appears that admission to 3rd respondent-Law University, is based on Rule of reservation for different categories in the community ranking and cut off marks including the general merit or open competition.

5. It is also submitted by the learned Additional Advocate General that admission to Law course for the academic year 2016-2017 in the 3rd respondent-University, as far as General Merit (Open Competition) is concerned, the same is already exhausted.

6. The contention of the learned counsel for the petitioner is that the petitioner should be accommodated in the seat which goes waste or if any seat remained vacant.

7. Normally, for the admissions, which are to be made on the last date, candidates above the petitioner viz., 21 candidates, who have been issued with call letters for counselling are given preference. However, the prayer sought for by the learned counsel for the petitioner herein, is that even though the petitioner has not been issued with call letter for counselling in the general merit/Open Competition, she can be given a chance for counselling to get admission as she ranked at No.22 in the select list.

8. Insofar as appointment to Government service is concerned, candidates not coming under the reserved category could not compete for those seats, however, herein, it is a case of admission in respect of Educational Pursuit. Non availability of a particular candidate in the reserved category normally will create a vacancy, which will ultimately go waste. Hence, instead of allowing such thing to happen, we are of the view that if the petitioner is found otherwise eligible, she shall be accommodated in the seat, which will not be against the reservation policy or quota or causes any prejudice to others for the said academic year.

9. In the light of the above observation, we pass the following order:-

(i) The case of the petitioner shall be considered at the last moment if the same would not cause any prejudice to other candidates who stands in the merit list above the petitioner. The petitioner should be afforded an opportunity of counselling as a last chance.

(ii) The petitioner also can go along with other formalities, which are necessary for the admission.

10. Since it is submitted by the learned Additional Advocate General appearing for the 3rd respondent that last date for counselling for admission is not yet decided, we direct the 3rd respondent to accommodate the petitioner, as a last case, in the place of a candidate, who has not turned up for counselling for admission. This direction is issued only with a view to fulfill the academic purpose and with a view that in cases of non availability of candidates, the 69% reservation as decided by the Tamil Nadu Government, may go vacant and hence in the said

vacant seats, the case of the petitioner shall be considered without disturbing the admitting students.

11. With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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New Delhi-110 002

+1cc to M/S.M.Nallathambi, Advocate sr.61261
+1cc to Mr.S.D.Rajagopal, Advocate Sr.61408
+1cc to Mr.S.Mani Associate, Advocate Sr.61622
+1cc to the Government Pleader Sr.61715

W.P.No.35130 of 2016

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