



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.08.2016
CORAM

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

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W.P (MD) No.11543 of 2016
and
WMP (MD) No.8823 of 2016

J.Mohideen Afzal
(Minor aged about 15 years)
Rep.by its uncle
Dr.M.Bakrudeen

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
School Education Department,
Secretariat,
Chennai.

2.The Director of School Education, (Higher Secondary),
O/o.the Directorate of School Education Department,
DPI Compound,
College Road,
Chennai.

3.The Inspector of Matriculation,
O/o.the Inspector of Matriculation,
Arulmigu Prahathambal Higher Secondary School Campus,
Pudukkottai,
Pudukkottai District.

4.The Secretary,
Velumanickam Matriculation Higher Secondary School,
Vaani,
Ramanathapuram District.

5.The Principal,
Velumanickam Matriculation Higher Secondary School,
Vaani,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the 4th and 5th respondents to permit the petitioner's nephew to study +1 (Higher Secondary) under Bio-Maths Department in the respondent School without reference to the marks secured by Mr.J.Mohideen Afzal in 10th standard within the period that may be stipulated by this Court.



For Petitioner : Mr.M.Ajmal Khan, SC for
M/s.Ajmal Associates
For R-1 to R-3 : Mr.V.Muruganandham,
Additional Government Pleader
For R-4 & R-5 : Mr.R.Alagumani

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O R D E R

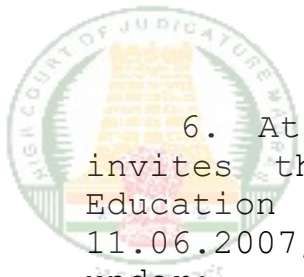
Heard both sides.

2. On behalf of the Fifth Respondent, counter affidavit is filed(R-5's counter affidavit is adopted by R-4, as informed by the Learned Counsel for R-4 and R-5).

3. According to the Petitioner's Uncle, the Petitioner J.Mohideen Afzal, who studied at 10th standard at Velumanickam Matriculation Higher Secondary School, Vaani, Ramanathapuram District, has scored 318 marks in the 10th standard Board Examinations. In the Fourth Respondent's school, only two groups ie., Bio-Maths and Computer Science, are available and therefore, the said Afzal, had opted to study Bio-Maths in the said school. Furthermore, the Fourth Respondent school had denied admission to the said Afzal to Bio-Maths group, on the basis that he had scored less than 400 marks in the 10th standard Board Examinations. In this regard, the plea taken on behalf of the Petitioner is that for the purpose of granting admission to Bio-Maths group, there is no criteria fixing the prescribed marks.

4. It cannot be gainsaid that the Fourth Respondent/Matriculation Higher Secondary School, is governed by the Code of Regulations for Matriculation Schools, Tamil Nadu (hereinafter referred to as ("Code of Regulations")). Furthermore, the said Code of Regulations, does not contemplate any such prescription as the marks to be scored by the candidate for admitting into Bio-Maths group.

5. The pith and substance of the contention advanced on behalf of the Petitioner is that 'Right to Education' is a 'Fundamental Right' and it is an integral part of Article 21 of the Constitution of India. Apart from that, the clear-cut stand of the Petitioner is that the Fifth Respondent/Principal, Velumanickam Matriculation Higher Secondary School, Vaani, Ramanathapuram District, had chosen to admit students, who studied 10th standard in other schools. In short, the Fifth Respondent, had not given any preference to the students, who studied in the same school and the action of the Fifth Respondent is an invalid and illegal one in the eye of Law, as contended on behalf of the Petitioner.



6. At this stage, the Learned Counsel for the Petitioner invites the attention of this Court to G.O.Ms.No.126, School Education (V) Department of the Government of Tamil Nadu, dated 11.06.2007, wherein at paragraphs (a) to (d), it is mentioned as under:

"(a) Admission of a student from class X to XI within the same school should not be treated as a fresh admission but only as continuation of the original admission done in that school. So issuing transfer certificate to class X students within the same school and readmitting them to class XI is against the rules.

(b) All the students of the same school who have qualified in class X Board Examination should be offered admission in Class XI as far as possible subject to the availability of seats. The schools may consider students from other schools for admission after accommodating the students of their own school.

(c) No admission test should be conducted by schools for their own students. After admitting their own students if there are still vacancies, they may be filled either on the basis of the Class X Board Examinations or by conducting an admission test for the students who are from other schools.

(d) No school should prescribe any cut-off marks for admission to class XI or for allotment of subjects."

7. Also the aforesaid G.O.Ms.No.126, School Education (V) Department of the Government of Tamil Nadu, dated 11.06.2007, was informed by the Government in directing the Director of School Education, the Director of Matriculation Schools, Chennai, to communicate the order passed in W.P.No.19834 of 2007 forthwith to all the Higher Secondary Schools in Tamil Nadu, for strict compliance.

8. From the aforesaid tenor and spirit of G.O.Ms.No.126, School Education (V) Department of the Government of Tamil Nadu, dated 11.06.2007, it clearly emerges that,

(1) Admission of a student from class X to XI within the same school, should not be treated as a fresh admission but only as continuation of the original admission made in that school.

(2) Further, all the students of the same school, who had qualified in class X Board Examinations, should be offered admission in Class XI as far as possible subject to the availability of seats. Further, it is mentioned that the schools may consider students from other schools for admission after accommodating the students of their own school.



(3) More particularly, no admission test should be conducted by schools for their own students and apart from that, no school should prescribe any cut-off marks for admission to class XI or for allotment of subjects.

9. In response, the Learned Additional Government Pleader appearing for R-1 to R-3 submits that in fact, the third Respondent by proceedings in Na.Ka.No.127/2016, dated 01.07.2016 (With reference to the petition of the Petitioner's uncle, dated 16.06.2016), had informed the Fifth Respondent Principal/Correspondent of the School that Mohideen Afzal, who had studied 10th standard in the Fifth Respondent School must be given permission to join in Bio-Maths group and to inform about it to the Office and in spite of the said issuance of proceedings by the third Respondent, the Fifth Respondent/Principal of the School, had not complied with the same.

10. Per contra, it is the submission of the Learned Counsel for the Respondent Nos.4 and 5 that several students had applied for Bio-Maths group in the Fourth Respondent School and therefore, Admission Committee was constituted and the Committee gave admission to the students on merit basis. Also that, the student Mohideen Afzal(who scored 318 marks out of 500 in the 10th standard Board Examinations), was not denied admission in the Fourth Respondent School in 11th standard. But, the school cannot able to accommodate the said Mohideen Afzal in Bio-Maths group and in fact, the school is ready to give admission to the said Mohideen Afzal in the other group.

11. The Learned Counsel for the Respondent Nos.4 and 5 projects an argument that Clause (b) and (c) of G.O.Ms.No.126, School Education (V) Department of the Government of Tamil Nadu, dated 11.06.2007, clearly mentioned that "subject to the availability of seats ..." and "... either on the basis of the Class X Board Examinations..." and further the Fourth Respondent school had already admitted the students in Bio-Maths group and besides that, the Fifth Respondent/Principal of the School, had not denied admission to the Petitioner in 11th standard in their school.

12. In this connection, this Court very pertinently makes a mention that a mere running of the eye over the ingredients of tenor and spirit of G.O.Ms.No.126, School Education (V) Department of the Government of Tamil Nadu, dated 11.06.2007, in a crystalline fashion, unerringly point out that admission of a student from class X to XI, within the same school, should not be treated as a fresh admission but only as continuation of the original admission made in that school. Further, the said Government Order, enjoins all the students of the same school, who had qualified in class X Board Examinations, should be offered admission in Class XI as far as possible, subject to the



availability of seats.

13. Therefore, this Court comes to a resultant conclusion that R-4 and R-5, are to follow the ingredients of G.O.Ms.No.126, School Education (V) Department of the Government of Tamil Nadu, dated 11.06.2007, in a scrupulous manner, without any deviation whatsoever. Suffice it for this Court to point out the stand taken by the Fifth Respondent in the counter affidavit filed by them before this Court in this Writ Petition to the effect that the Petitioner was not denied admission in 11th standard in the school and that, the school administration had also already admitted students in Bio-Maths group, in the teeth of G.O.Ms.No.126, School Education (V) Department of the Government of Tamil Nadu, dated 11.06.2007, does not stand a moment scrutiny in the eye of Law.

14. Viewed in that perspective, this Court allows the Writ Petition by directing the Fourth and Fifth Respondents to permit the student Mohideen Afzal to join in 11th standard in their school under Bio-Maths group, without reference to the marks secured by him in 10th standard Board Examinations and such exercise shall be done by R-4 and R-5, within a period of two weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar.

To

- 1.The Secretary to Government,State of Tamil Nadu,
School Education Department,Secretariat, Chennai.
 - 2.The Director of School Education, (Higher Secondary),
O/o.the Directorate of School Education Department,
DPI Compound, College Road, Chennai.
 - 3.The Inspector of Matriculation, O/o.the Inspector of
Matriculation, Arulmigu Prahathambal Higher Secondary School
Campus, Pudukkottai, Pudukkottai District.
 - 4.The Secretary, Velumanickam Matriculation Higher Secondary
School, Vaani, Ramanathapuram District.
 - 5.The Principal, Velumanickam Matriculation Higher Secondary
School, Vaani, Ramanathapuram District.
- +1CC to M/S. Ajmal Associates, Advocate, SR.No. 41453
+1CC to the Special Government Pleader, SR.No. 41531

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