

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2017

CORAM

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
And
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.873 of 2017

J.Rajasekar

... Appellant

Vs.

1. Pondicherry University
Rep. by the Registrar, Pondicherry
University, R.V.Nagar,
Kalapet, Puducherry.

2. The Principal, Pondicherry Engineering
College, Pillaichavady, Puducherry.

... Respondents

Prayer:

Writ Appeal filed under Clause 15 of Letters Patent seeking to set aside the order dated 05.06.2017 passed in W.P.No.5664 of 2017.

W.P. No 5664 of 2017:

Writ petition filed under Article 226 of the constitution of India praying to issuance of a writ of Mandamus, directing the 2nd Respondent to admit the petitioner to the Ph.D. Programme in the faculty of Mechanical Engineering for the year 2016- 17 as per the select list with No. PU/ AS/ Aca-2/ PEC-Ph. D. ME/ 2016-17/ 324 dated 28.12.2016.

For Appellant : Mr.V.Ajayakumar

For R1 : Mr.Stalin Abhimanyu

For R2 : Mr.Ramesh
Additional Government Pleader

J U D G M E N T

(Order of the Court was made by NOOTY.RAMAMOHANA RAO,J.)

This Writ Appeal is directed against the judgment and order rendered by the learned Single Judge in

W.P.No.5664 of 2017, whereby, the writ petition of the writ petitioner is dismissed.

2.The facts lie in a very narrow compass. The writ petitioner has prosecuted the Post Graduate Engineering Course of M.Tech. (Mechanical Engineering) and secured the said Post Graduate Degree. When the first respondent/ Puducherry University, a Central University, issued Notification for grant of admission to Ph.D. Degree Course for the academic session 2016-2017, he responded to the said Notification for the purpose of securing admission for Ph.D Course in Mechanical Engineering, for which course, the intake is as high as 15. As per the Notification, the entrance examination has been slated to be held on 27.05.2016, between 9:00 a.m to 11:00 a.m.

3.The writ petitioner has claimed admission based upon his residence in the Union Territory of Puducherry. In the first respondent, Central University, 75% of the seats, it appears, are reserved/set apart for the local candidates over which the University exercises jurisdiction and the balance 25% are set apart for the other State candidates. This apart the reservation on social sector based is also contemplated and provided for.

4.After the entrance examination was conducted, the first respondent University has published the list of candidates arranging them in the descending order of the score secured by them at the entrance examination. As many as 18 candidates under Puducherry quota, general category have been identified. The name of the writ petitioner/ appellant figures at S.No.7 thereof, as he has secured a score of 78 while the first candidate, one N.Ejournale secured score of 158. It appears one candidate by name V.Rupachanthiran secured 61 score and figured at S.No.11, while N.Subramanian who secured 58 score stood at S.No.14. Since we are not concerned with the other social sector based reservation categories and also the other State candidates merit ranking, we are not adverting to the same.

5.This Notification of score sheet has also made it clear that the date of interview is 29.07.2016. It appears that on 29.07.2016, two candidates by names R.Hemant Kumar and P.Balaji were absent and thus did not face the interview for admission to Ph.D (Mechanical Engineering) Course. These two candidates have secured 96 and 83 scores, being more than the score of the writ petitioner. They were placed at S.Nos. 4 and 6 respectively, while the writ petitioner as already noted stands at S.No.7. On 29.07.2016, it appears the admission list has been finalised for the State quota of Puducherry. For the candidates hailing from other States, the

interviews were conducted on 26.08.2016. Accordingly, for the quota of candidates from other States, selections were finalised on 26.08.2016. List of candidates who have been short listed for admission has been drawn on 26.08.2016. In so far as Mechanical Engineering is concerned, 13 candidates in all have been granted admission leaving two seats unfilled. Even amongst these 13 candidates to whom admission in Ph.D. Course is granted, one did not take the admission. Thus leaving the total number of unfilled seats in Ph.D. (Mechanical Engineering) Course as 3.

6.The grievance of the writ petitioner/appellant before us is two fold. (1) The candidates who have secured lesser score than the writ petitioner at the entrance examination, as per the list of candidates notified for interview, which is arranged in the descending order of the score secured at the entrance examination, it becomes clear that V.Rupachanthiran and N.Subramanian are placed at S.Nos.11 and 14, whereas the writ petitioner/ appellant was placed at S.No.7 having secured better score than the aforementioned two individuals. But, however those two individuals have been granted admission under the Puducherry local quota against the general category denying admission to the more meritorious writ petitioner/ appellant. (2) When seats are lying vacant admission to writ petitioner ought to have been granted.

7.Mr.Stalin Abhimanyu, learned Standing Counsel for the first respondent University would submit that after the written test, entrance examination was conducted on 27.05.2016, interviews were conducted for the Puducherry local category on 29.07.2016. Thus, after adding the marks secured at the interview, the over all merit list is drawn and in that merit list V.Rupachanthiran and N.Subramanian have moved ahead of the writ petitioner and hence, their names have been finalised for admission.

8.Mr.Stalin Abhimanyu would also contend that no such specific plea has been raised in the writ petition or in the writ appeal. At the bar, the contention is canvassed and hence, before the learned Single Judge, he has produced the file which contained the details relating to preparation of final merit list after the interviews were held on 29.07.2016. After the Court perused the file, at that stage, the learned counsel for the writ petitioner has rightly not pressed the said claim before the learned Single Judge. That was the reason, why the learned Single Judge did not advert to that particular contention at all.

9.It is now contended by the learned counsel for the writ petitioner/ appellant that there are atleast three seats in Ph.D. Programme lying vacant and since the

University has itself included the writ petitioner at S.No.1 in the wait list, as per the information furnished under the Right to Information Act, on 28.12.2016, the writ petitioner ought to have been granted admission.

10.Dealing with this contention, Mr.Stalin Abhimanyu, learned Standing Counsel for the first respondent contended that it is no doubt true that there are three seats lying unfilled, one from Puducherry local quota and two from other State candidates quota. However, the one seat which is lying vacant under the Puducherry quota is the one which has been reserved for Scheduled Caste candidates. Since no such a candidate belonging to Scheduled Caste category has picked up the said admission, the seat is left unfilled. Similarly, one out of the two seats of the other State quota, is reserved for candidates from Scheduled Caste, while the other is reserved for OBC category. It is hence contended by Mr.Stalin Abhimanyu, that the writ petitioner does not belong to either Scheduled Caste or OBC/Backward Classes, but instead he belongs to open category. The writ petitioner/appellant, hence, cannot be granted admission against the three vacancies.

11.There is no difficulty for us to agree, in principle that an open category candidate cannot be straight way offered admission against the seats reserved for candidates belonging to Scheduled Caste/ Scheduled Tribes or Backward Classes, etc. An open category candidate can only secure admission against open category seats, whereas, by virtue of a superior merit, candidates belonging to Scheduled Caste, Scheduled Tribe or Backward Classes can stake a claim for admission against the open category. Thus, the vice versa process for open category candidates is not allowable.

12.In our opinion, the problem does not end here. The entrance examination is conducted, we are told, for 400 marks. Since the admission is for Ph.D. Course, undoubtedly, oral interview occupies a very prominent place in the selection process.

13.Apart from the entrance test, the general merit of the candidate in the subject, his general aptitude towards research and other academic pursuits and inputs can easily be gauged and judged during such an interview process. Only such of those candidates who genuinely evince interest in carrying on research, should be encouraged and be allowed to pursue the Ph.D. Course. Factors such as the thesis which they have submitted earlier or desertation work carried out either at the

graduate level or at Post Graduate level can easily be judged for its intrinsic quality and the academicians can easily make up as to whether the candidate who is seeking admission to Ph.D is genuinely intrusted in pursuing the arduous nature of research work to be undertaken or he is merely interested in using the library facilities, laboratory facilities and the academic environment and other infrastructural facilities in the form of granting admission to the research scholars hostel or subsidised boarding facilities etc. shall not be used as a spring board for different kinds of pursuits including employment.

14.The reason is: the investment made on a dropped out candidate from Ph.D. programme remains largely a loss to the institution as no recovery can be made from the dropped out candidate as the stipend firstly cannot be recovered and the subsidies extended in the form of concessional rent for hostel accommodation or mess charges for food and beverages supplied is not to be recovered at all. Similarly, the library, advanced computing equipment, internet facility and other laboratory equipment, which is utilised instead of producing a positive result in the form of publication of research paper, if it is used for pursuits of employment by such candidates elsewhere, will make the research scholars and the infrastructure provided to support them only as a training academy for employment rather than meant for academic research pursuits.

15.We are therefore of the opinion that the assertion made by Mr.Stalin Abhimanyu that 30% of marks are set apart for the evaluation of the performance of the candidates at interview for admission to Ph.D., as is reflected at page number 42 of the paper book, is absolutely justifiable and no exception need be drawn thereto. We have therefore, noticed from the final merit list drawn after the interviews (which is annexed page 42 of paper book), the writ petitioner has secured total marks of 29 and consequently was wait listed as No.1 candidate. The two names which the writ petitioner/appellant has taken namely V.Rupachanthiran and N.Subramanian, have secured perhaps the best marks awarded for candidates in the interview at 19.50 and 19.63, respectively. Whereas only two other candidates, number one ranker N.Ejournale who has been awarded 20.63 and one S.Narayanan candidate belonging to Scheduled Caste who has been awarded 19.83, secured more marks in the interview than the above mentioned two candidates. We only hope that the interview has been conducted by the academics who formed the interview Committee fairly, objectively and not subjectively for selecting candidates of their choice and candidates are not preferred arbitrarily.

16. Still there are three seats, which are left unfilled in Ph.D. Course (Mechanical Engineering) in the respondent University. Based upon the availability of infrastructure and instructional facilities, strength of admissions depend when once it is notified, that there are 15 seats as available, every endeavour should be made to fill them up completely with suitable candidates. For want of suitability on the part of a candidate, he shall not be granted admission in Ph.D. Courses, merely because a seat is lying vacant. It is better to keep such seats vacant rather than being filled up with candidates who are not very serious to pursue the research activity with necessary vigour. But however it should be noticed that unlike in cases of public employment, seats remaining unfilled in a particular academic session can not be carried forward to the next academic session. Either the seats get filled in or simply lapse.

17. In these circumstances, we consider that it would be wholly appropriate for the University to finalise a Policy decision as to whether seats remaining unfilled, after the normal process of admissions is completed, should be allowed to be filled in by the wait listed candidates at all or not. The Policy decision should also be taken as to whether seats meant for reserved category candidates such as Scheduled Caste/Scheduled Tribes or Other Backward Classes, who are not coming forward to take admission against the course, and thus remain vacant can be de-reserved and thrown to open category. Such Policy decision alone will help in allowing the seats being filled in instead of remaining vacant. May be if the wait list candidates are granted admission against such vacant seats, they would be pursuing the research courses full time. If the University has any reason to suspect that the candidates will not pursue the research completely and vigorously, it would also be open to obtain an undertaking in the form of a bond that they will compensate the University by making appropriate payment, which can be a deterring factor for the students to drop out, perhaps, by prescribing an amount of Rs.10 lakhs as recoverable irrespective of the quantum of hardship, inconvenience or damage sustained by the institution, such a measure would go a long way in preventing the students who are not serious about pursuing Ph.D. Courses but were only interested in utilising the otherwise cheaply available supporting infrastructure for indulging in pursuits other than research, from getting discouraged to get admitted to Ph.D. Programme.

18.We only hope that the University would take an appropriate decision in this regard at the earliest and would announce the same in its admission brochure so that the students would note the consequences that flow from their not pursuing the research once they get into the Course.

19.We also hope that the university will take an appropriate decision as to whether the case of the writ petitioner/appellant should be considered for admission against the Puducherry State quota if the lone vacant seat meant for Scheduled Caste candidates is de-reserved. A similar exercise in so far as the candidates belonging to the other State quota also be carried out and only in the event no other wait listed candidates of other states is willing to take such admission, the same can be offered to the local candidates. However, we leave it completely open to the University to take appropriate decision inasmuch as the next academic session, namely 2017-2018, has also commenced and or otherwise the admission process would have also commenced for the next academic session.

20.The Writ Appeal accordingly stands disposed of. No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

asi/pri

To

1. The Registrar, Pondicherry
University, R.V.Nagar,
Kalapet, Puducherry.

2. The Prinicipal, Pondicherry Engineering
College, Pillaichavady, Pducherry.

+1 CC to Mr.Stalin Abhimanyu, Advocate sr 56543

+1 CC to Mr.V.Ajayakumar, Advocate sr 56607.

+1 CC to Govt. Pleader sr 57089

W.A.No.873 of 2017

SCD(CO)

sp(24/08/2017)