

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2017

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Petition No.16510 of 2017
and
W.M.P.No.17869 of 2017

M.Thirumalai Selvam (Minor)
Rep.by father & natural guardian
R.Madhesh

... Petitioner

Vs.

1. Union of India,
Rep.by the Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office IIT Campus, Chennai - 600 036.
2. The Principal,
Kendriya Vidyalaya,
Kanathampoondi,
Tiruvannamalai - 606 603.
3. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

... Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, by directing the respondents 1 and 2 to admit the petitioner in the class XI (Group-I) in the 2nd respondent school for the academic year 2017-2018.

For Petitioner : Mr.R.Malaichamy

For Respondents : Mr.V.Anandhamoorthy

Additional Government Pleader For R3
Mr.M.Vaidyanathan, For R1 & R2

O R D E R

The petitioner's son is studying in the second respondent/school from first standard onwards and he qualified in CBSE 10th examination by securing grade point 5.6. Though the

petitioner's son secured 5.6 as grade point, the second respondent/school has denied him seat to Class XI (Group-I) without any reasons.

2. Therefore, the petitioner has come before this Court, seeking writ of mandamus directing the respondents 1 and 2 to admit the petitioner in class XI (Group-I) in the second respondent/school for the academic year 2017-2018.

3. Heard Mr.R.Malaichamy, learned counsel appearing for the petitioner and Mr.M.Vaidhyanathan, learned counsel appearing for respondents 1 and 2.

4. The issue is already covered by the judgement of the Hon'ble Supreme Court rendered in Principal, Kendriya Vidyalaya and Others Vs Saurabh Chaudhary and Others, reported in (2009) 1 SCC Pg.794. Paragraphs 18 to 20 of the above judgement are extracted as follows :

"18. One can have no objection to a school laying down cut-off marks for selection of suitable stream/course for a student giving due regard to his/her aptitude as reflected from the Class X marks where there are more than one stream. But it would be quite unreasonable and unjust to throw out a student from the school because he failed to get the cut-off marks in the Class X examination. After all the school must share at least some responsibility for the poor performance of its student and should help him in trying to do better in the next higher class. The school may of course give him the stream/course that may appear to be most suitable for him on the basis of the prescribed cut-off marks.

19. In the present case, it would have been perfectly open to the appellants to offer admission to the boy, Saurabh Chaudhary in Class XI in streams/courses other than Science stream with Mathematics on the basis of the prescribed cut-off level of marks, had such courses been available in Central School No.2, AFS, Tambaram. But this school has only Science stream with Mathematics for Classes XI and XII. The decision in Payal forbids the school from turning down a student because he/she failed to get the cut-off level of marks for admission to Class XI. As a result of this fortuitous circumstance the boy must get admission in Class XI in Central School No.2, AFS, Tambaram in Science stream with Mathematics.

20. In the light of the discussions made above, we come to the conclusion that the case in hand is fully covered by the earlier decision of the Court in Payal. The decisions of the three High Courts relied upon by

Mr.Patwalia insofar as they go contrary to the decision in Payal do not lay down the correct law. The decision of the Madras High Court coming under appeal takes the correct view of the matter and warrants no interference by this Court."

5. Merely because the petitioner's son secured less marks or below the cut off marks, he should not be denied seat in Plus One course. Further, it is stated in paragraph 5 of the counter affidavit that in Science Stream, thirty seats have been filled up and 10 seats are yet to be filled up.

6. In view of the above judgement and in view of the above position, this Court directs the second respondent/school to admit the petitioner in the class XI (Group-I) for the academic year 2017-2018. The petitioner is directed to approach the school on 20.07.2017 and the school shall admit the student.

7. With the above direction, this writ petition is disposed of. Consequently connected miscellaneous petition is also closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

ms/sai

To

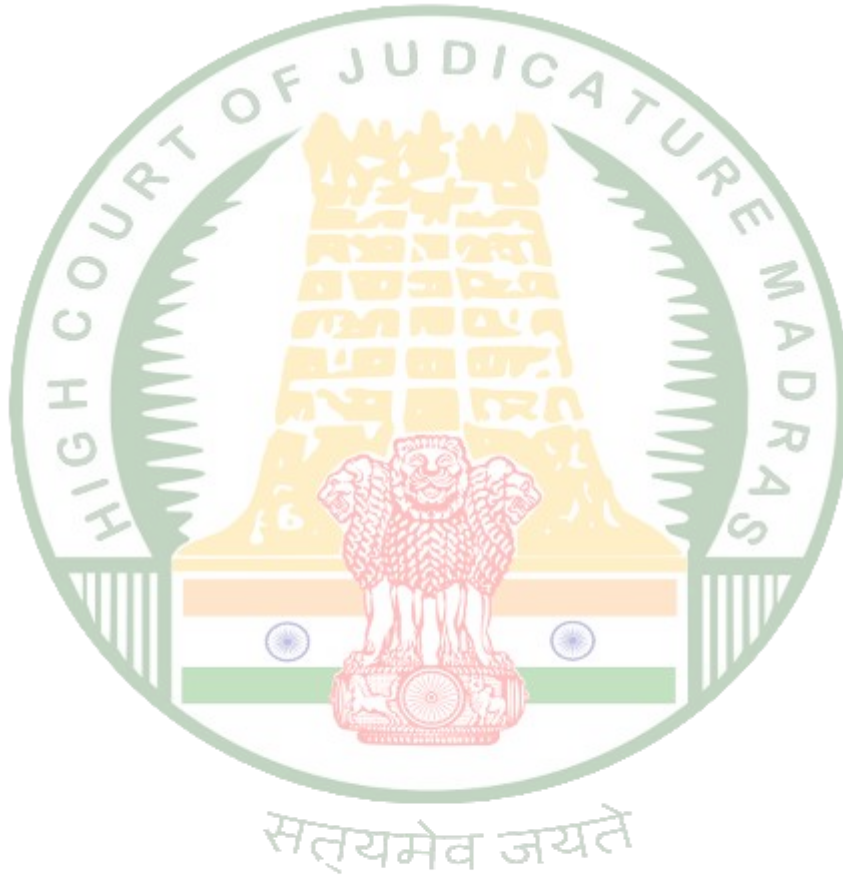
1. The Deputy Commissioner,
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3. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

+1cc to M/S. M.Vaidyanathan, Advocate Sr. 50334
+1cc to M/S.R. Malaichamy, Advocate Sr.50425

W.P.No.16510 of 2017

CNR (CO)
VR (19/07/2017)



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