

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P No.27485 of 2017

and

W.M.P. No.29374 of 2017

T.Balaji
S/o.Thambiran

... Petitioner

Vs.

1.Directorate of Indian Medicine and Homeopathy
Arignar Anna Govt. Hospital
of Indian Medicine Campus,
Arumbakkam,
Chennai - 600 106.

2.Sports Development Authority of Tamil Nadu
Represented by its Member Secretary
No.116-A, Periyar EVR High Road
Nehru Park, Chennai.

.... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondent to revise the merit list and call for the petitioner for counseling.

For Petitioner : Mr.R.Karthikeyan

For Respondents : Mr.T.M.Pappiah
Spl. Government Pleader, for R1

Mr.I.Sathish, for R2

O R D E R

The petitioner applied for admission to Under Graduate (Ayush) course, as he secured 1014 out of 1200 in the +2 examination. Apart from the above marks, the petitioner also relied upon the certificates issued by the sports authorities to get seat under special category for sportsman as he had obtained 2 Gold medals and 1 Bronze medal in Hockey in the District Level Competitions held by the School Education Department.

2.As per the prospectus, the petitioner is entitled to 105 marks for the aforesaid certificates. However, no marks were granted for the certificate issued by the Chengalpattu

Educational District School's Athletic - Association for District Level Games 2012-2013, though the petitioner is entitled to get 45 marks for the said certificate. If appropriate marks would have been awarded, the petitioner would have secured 105 marks, however, the petitioner was originally given only 15 marks for sports certificate which was later corrected as 60 marks. Aggrieved over non-selection of petitioner for admission into Ayush course, the petitioner has come before this Court seeking a writ of Mandamus directing the respondent to revise the merit list and call the petitioner for counseling.

3.Mr.R.Karthikeyan, learned counsel appearing on behalf of the petitioner would submit that exclusion of the District Level certificate issued for playing Hockey during the year 2012-13 is unjustified as the eminence in the sports alone is the criteria for determining the eligibility under the sports quota. Merely because the certificate was issued one year prior to the cut off date, it will not take away his qualification as eminent sports person. The learned counsel also relied upon the judgment of this Court made in W.P.No.9406/1983, decided on 06.04.1984 wherein it was held that "the word 'eminent' means, rising above others, conspicuous, distinguished. Therefore, it stands to reason that it is not mere sportsmanship, but eminent in sportsmanship, that has to be the guiding principle on which the selection is to be made and the touch-stone on which the selection has to be tested".

4.Therefore, the learned counsel seeks to revise the marks given to the petitioner as 105 marks, by taking into consideration of the certificate issued by Chengalpattu Educational District School's Athletic - Association for District Level Games 2012-2013 and allow the writ petition.

5.On the other hand, Mr.T.M.Pappiah, learned Special Government Pleader appearing on behalf of the first respondent would submit that the first respondent had merely adopted the marks given by the Sports Development Authority of Tamil Nadu. The certificates were sent to SDAT and based on the marks given by them, the selection list has been prepared. Therefore, he prays for dismissal of the writ petition.

6.Mr.I.Satish, learned counsel appearing on behalf of the second respondent would submit that the petitioner's certificate pertaining to the year 2012-2013 could not be considered as the prospectus speaks about the certificates which will be considered for award of marks during the period 01.06.2013 to 31.05.2017 and therefore, the certificate of the petitioner which was issued for District Level Games 2012-2013 was not considered and the petitioner was awarded only 60 marks with

regard to the two other certificates submitted by the petitioner. Therefore, the learned counsel appearing on behalf of the second respondent would contend that the marks were correctly awarded and prays for dismissal of the writ petition.

7. Heard the parties and perused the records.

8. The petitioner agreeing to the conditions given in the prospectus for Medical Degree Courses in Siddha, Ayurvedha, Yoga & Naturopathy, Unani and Homeopathy Systems of Medicine for the year 2017-2018 had applied for the course. The prospectus speaks about the time within which the certificates/medals have to be obtained for consideration for awarding marks in the sports category. In Appendix-IV viz., Selection of Candidates under Quota for Eminent Sports Persons, in clause 5-'General Conditions', in sub-clause (2), it has been stated as follows:

"Participation / achievements in each academic year from 01.06.2013 to 31.05.2017 (01.06.2013 to 31.05.2014, 01.06.2014 to 31.05.2015, 01.06.2015 to 31.05.2016 and 01.06.2016 to 31.05.2017) in sports / games shown in the list alone will be taken into account. National / State Level Championships or Tournaments conducted by Sports Federations / Associations recognised by Ministry of Youth Affairs and Sports / Indian Olympic Association (IOA) / Sports Development Authority of Tamilnadu (SDAT) / Tamilnadu Olympic Association (TNOA) alone will be considered for award of marks. (Recognition of State Association / National Federations should be relevant to the year concerned)."

9. From the above, it is clear that the certificates / medals obtained from 01.06.2013 to 31.05.2017, that too, recognized or authorized by specified authorities alone would be considered for awarding marks. When such are the conditions stated in the prospectus, the petitioner having agreed to the same and applied for the course, cannot now wriggle out of the same.

10. As per the conditions stated in the prospectus, the second respondent had given 15 marks for obtaining third place in Hockey in Education District Competitions held on 10.09.2014 and 45 marks for obtaining first place in Hockey in Education District Competitions held on 10.09.2016. Therefore, the petitioner was rightly awarded 60 marks and he cannot have any grievance in this regard. Thus, the selection has been made as per the marks rightly determined by the second respondent viz., Sports Development Authority of Tamil Nadu and the first respondent had only followed the marks determined by the second respondent.

11. In view of the above stated position, the writ petition

fails and the same is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

pgp

To

1. Directorate of Indian Medicine and Homeopathy
Arignar Anna Govt. Hospital
of Indian Medicine Campus,
Arumbakkam,
Chennai - 600 106.

2. The Member Secretary
Sports Development Authority of Tamil Nadu
No.116-A, Periyar EVR High Road
Nehru Park, Chennai.

+1cc to Mr.I.Sathish, Advocate, S.R.No.87530
+1cc to the Government Pleader, S.R.No.88109

W.P No.27485 of 2017

RRK(08/03/2018)

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