

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2017

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.17405 of 2017 and
W.M.P.No.18912 of 2017

N.R.Prahash
minor represented by his father/natural guardian
N.Ravinthiran ... Petitioner

Vs.

- 1.The Deputy Collector (North),
Revenue, Department of Revenue and
Disaster Management, Puducherry.
- 2.The Tahsildar,
Oulgaret Taluk Office, Puducherry.
- 3.Centralised Admission Committee (CENTAC),
Pondicherry Engineering College Campus,
Puducherry - 605 014. ... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records leading to the issuance of the order dated 29.06.2017 passed by the 1st respondent in No.2191/DC (R)N/A2/2017 confirming the order dated 19.05.2017 passed by the 2nd respondent in No.010399/TOO/TAH/2017 and quash the same and consequently, direct the 2nd respondent to issue residence certificate to the petitioner.

For Petitioner : Mr.R.Sreedhar for
M/s.Prem Auxilan Raj

For Respondents : Mr.J.Kumaran,
Government Advocate (Pondy)
(R1 & R2)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records of the order dated 29.06.2017 passed by the 1st respondent, confirming the order dated 19.05.2017 passed by the 2nd respondent and to quash the same and to consequently, direct the 2nd respondent to issue residence certificate to the petitioner.

2. Heard Mr.R.Sreedhar, learned counsel appearing for the petitioner and Mr.J.Kumaran, learned Government Advocate (Pondy) appearing for the respondents 1 & 2.

3. It is the case of the petitioner that he had his school education from 8th to 12th Standard at Pondicherry by staying at Hostel for three years and two years, at his guardian's house. The school authorities have also issued certificate confirming his study at Pondicherry in recognized institutions. The petitioner applied for residence certificate before the 3rd respondent for producing the same for availing MBBS seat. The 2nd respondent rejected the petitioner's claim for residence certificate and on appeal preferred by the petitioner before the 1st respondent also, the 1st respondent confirmed the order of the 2nd respondent. Aggrieved against the orders passed by the respondents 1 & 2, the petitioner has filed the above Writ Petition.

4. The learned counsel appearing for the petitioner submitted that since the petitioner had studied continuously for five successive classes immediately preceding the qualifying examination, he is entitled to get the residence certificate from the respondents 1 & 2. In Clause-2.5 of the Information Bulletin for the academic year 2017-2018 issued by the Government of Puducherry, the 3rd respondent, it has been stated that those who have passed SSLC/HSC or any other public examination and for that purpose had undergone academic studies continuously for 5 successive classes immediately preceding the qualifying examination (including the year of the qualifying examination) in recognized education institutions (s) located in the U.T of Puducherry and having their residence in the U.T of Puducherry for 5 years continuously during that period, are considered to belong to the Union Territory of Puducherry.

5. In the case on hand, the petitioner studied from 8th to 10th Standard at Aditya Vidyashram Residential School, Puducherry during the academic year 2012-2015. Thereafter, he studied 11th and 12th Standard in Maruthi Matriculation Higher Secondary School, Puducherry from 01.06.2015 to 01.04.2017. Therefore, it is clear that the petitioner had studied continuously for five successive years in two schools in Puducherry.

6. The learned Government Advocate (Pondy) appearing for the respondents submitted that in view of the judgment of the Division Bench of this Court dated 29.08.2007 made in W.A.No.1151 of 2006, the Division Bench has held as follows:

"...

10. In the present case, we have discussed the two different criteria as mentioned in clause 2.6 and 5.1.7, both of which relates to those who are Domicile/Residing in the Union Territory of Pondicherry and residents of one or other region of Pondicherry Union Territory. It has already been seen that the Union Territory of Pondicherry includes the three regions of 'Karaikal', 'Mahe' and 'Yanam', but the three regions do not include Pondicherry. The intention of the framers of the eligibility criteria, thus, is clear that clause 5.1.7, that the said special regional allocation criteria is meant for those, who are not only actually residing for last five years or studied continuously for three years on the date of application but must be a permanent resident of the region.

As it has not been disputed by the appellant that the appellant obtained certificate from the State of Kerala that she is a resident of Manepram Desam, Chokli Amsam, Kerala, coupled with the fact that the appellant was studying in Jawahar Navodhaya Residential School, a residential school from its hostel, it will be clear that the resident certificate dated 26th May, 1994, granted to her by the 1st respondent, thought make her eligible as Pondicherry Union Territory candidate for the purpose of clause 2.6, but she cannot be treated to be a resident of Mahe region for the purpose of getting benefit of special regional allocation under clause 5.1.7."

7. On a reading of the judgment of the Division Bench of

this Court, it is clear that if a candidate has studied at Puducherry continuously for five years, he is eligible as Pondicherry Union Territory candidate for the purpose of clause 2.5. However, the candidate cannot be treated to be a resident of Mahe region for the purpose of getting benefit of special regional allocation under clause 4.1.9.

8. Since the Division Bench has observed that for the purpose of 2.5, if the candidate had studied continuously for five years Pondicherry Union Territory, is eligible, the impugned orders passed by the respondents 1 & 2 are liable to be set aside.

9. The learned counsel appearing for the petitioner submitted that the counselling for MBBS is scheduled to be held on 24.07.2017.

10. In these circumstances, following the ratio laid down by the Division Bench of this Court in W.A.No.1151 of 2006, I set aside the orders passed by the respondents 1 & 2 and direct the 2nd respondent to issue the residence certificate on or before 22.07.2017, enabling the petitioner to participate in the counselling on 24.07.2017.

11. With these observations, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

सत्यमेव जयते

To

1. The Deputy Collector (North),
Revenue, Department of Revenue and
Disaster Management, Puducherry.

2. The Tahsildar,
Oulgaret Taluk Office, Puducherry.

3. Centralised Admission Committee (CENTAC),
Pondicherry Engineering College Campus,
Puducherry - 605 014.

+1cc to Mr.S.Prem Auxilian Raj, Advocate sr.50493

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W.M.P.No.18912 of 2017

sk(co)
ss(19/7/2017)



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