IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-06-2017

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.28608 of 2016
and
W.M.P.No.24675 & 24676 of 2016

1. Animilli Aparajitha,
   (Minor rep. By her father
   Tr.Animilli Ramalingeswararao)
   3-4-081, Thiyagaraja Street,
   Yanam, Union Territory of Puducherry,

2. Tr.Animilli Ramalingeswararao,
   S/o.A.V.Raja Rao,
   3-4-081, Thiyagaraja Street,
   Yanam, Union Territory of Puducherry. ... Petitioner

-Vs-

1. Government of Puducherry,
   Rep. By Secretary to Government,
   (Higher & Technical Education),
   Chief Secretariat,
   Puducherry.

2. Centralised Admission Committee,
   Rep. By Convenor,
   Government of Puducherry,
   Pondicherry Engineering College Campus,
   Puducherry - 605 014.

3. The Deputy Tahsildar (Revenue)
   Sub-Taluk Office,
   Yanam, Puducherry

4. The Secretary,
   Medical Council of India,
   Sector VIII
   Dwaraga Phase II
   New Delhi 110 077 ... Respondents

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prayer amended as per order dated
25.04.2017 by PSNJ in W.M.P.No.10967 of 2017
in W.P.No.28608 of 2016

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the orders in (1) Information Bulletin for 2016-17 for admission to Professional Courses in U.T of Puducherry issued by the 1st respondent in so far as it relates to Clause 2.5 C (ii) thereof (2) Order No. 830/Certificates/DRTY/2016/65 dated 28.07.2016 of the 3rd Respondent to quash the same and to issue consequential direction to the third respondent to issue the Residence/Nativity Certificates to the Petitioners herein within a limited time frame so as to enable the 1st petitioner to secure admission in the 1st year of MBBS Course for the Academic Year 2017 - 2018 and to direct the Respondents herein to grant adequate compensation amount to the petitioners for the loss and damages caused to them on account of depriving the First Petitioner of admission to the 1st year MBBS course for the year 2016-2017 by illegality denying them, their Residence/Nativity Certificate.

(prayer amended vide order dated 25.04.2017 in W.M.P.No.10967/17 in in W.P.No.28608 of 2016).

For Petitioner : Mr.M.Ravi
For Respondents 1 & 2 : Mr.R.Ghandiraj
For Respondent 4 : Mr.V.P.Raman

O R D E R

The first petitioner is a minor aspiring to become a Doctor having secured 97.66% in her +2 course. The first petitioner made an application through Online as published by CENTAC-the first respondent. In the Information Bulletin as found in the Website, it is seen that for the first time, in this year, apart from the certificates, either of the parents of the children, who had applied for the professional course, shall have to be a Government employee for the past five years along with the other conditions. In order to satisfy Clause 2.5 of the Information Bulletin 2016-2017, the petitioner had applied for the Nationality Certificate as well as the Residency Certificate on 10.05.2016 to the third respondent herein. Though the Nationality Certificate has been issued by the third respondent,

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the Residency Certificate was not issued. In the meanwhile, the second respondent had published the counseling call letter in the CENTAC Website and the first petitioner was also called to attend the counseling for provisional allotment of seats to M.B.B.S on 24.06.2016. The overall rank assigned to the first petitioner was 54 and the merit list assigned to her by CENTAC was 194/200. The first petitioner also attended the Counseling on the scheduled date and time. However, during the Counseling, they insisted for production of the Residency Certificate (Proof for Puducherry Domicile Claim) and directed the first petitioner to produce the same during the second counseling, for which, a separate call letter will be published. In order to produce the Residency Certificate, the first petitioner made representations to the third respondent to issue the Residency Certificate. In the meanwhile, the second Counseling had commenced. But, the third respondent had not issued the Residency Certificate. Therefore, the petitioners filed W.P.No.25885 of 2016 praying for direction to the third respondent to issue the Residency Certificate and this Court also issued direction to the third respondent to consider the application submitted by the first petitioner and pass orders on merits. Thereupon, the present impugned order No.830/certificates/DTRY/2016/65 dated 28.07.2016 rejecting the request of the first petitioner to issue Residence / Nativity Certificate was passed. Aggrieved by the same, the present writ petition is filed.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

3. The learned counsel appearing for the petitioners drew the attention of this Court to Clause 2.5(c) of the Information Bulletin [2016-2017], wherein, it is stated as follows:

> Clause 2.5: Domicile criteria for UT of Puducherry:
>
> ..
>
> ....
>
> c) (i) Children whose parents are Central Government Servants, State Government Servants, Defence Personnel, Central Paramilitary Forces, Employees of Public Sector Undertakings wholly or substantially run either by the Central Government or by the Puducherry union Territory administration, posted and serving in the Puducherry Union Territory for at least a minimum continuous period of three years immediately prior to the last date of submission of application.

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(ii) Children of the above said employees should have studied in the Higher Secondary Course of two years in any of the schools in the U.T. of Puducherry and should have also passed the Higher Secondary Examination from the same school. [G.O. Ms. No. 04, Puducherry, dated 09-02-2016 of the Chief Secretariat, (Hr.&Tech.Edn.)Puducherry.

4. The Domicile criteria of the Union Territory of Puducherry mentioned in Clause 2.5 states that "A candidate is considered to belong to the UT of Puducherry, if he / she satisfies atleast one of the following domicile criteria. (Refer Annexure-III for the Format of Certificate)" and sub-clause (a) reads as follows:

a) Those candidates or whose parent (either mother or father of both) or Guardian (in the case of children who have lost both the parents) has been residing continuously in this Union territory for at least five years immediately preceding the date of application.

5. Though the petitioners have challenged Clause 2.5(c), it is stated that the first petitioner should satisfy Clause (a) therein and state that the petitioner is to be considered to belong to the Union Territory of Puducherry. The first petitioner has also produced the Ration Card, Aadhar Card, Nationality Certificate, Voter ID and the caste certificate to show that the parents are employed in the Government of Puducherry, in order to prove her domicile in Puducherry. Admittedly, Nationality Certificate has also been issued by the third respondent.

6. The learned Government Pleader (Puducherry) had filed counter affidavit of the third respondent, in which, it is stated in para 13 and 14, which are as follows:

"13. I humbly submit that there is no doubt about the employment status of the parent in Yanam. He was working in Yanam for many years, for which employer Certificate already issued by his employer. Up to the year 2015-16, one who produces the employer certificate was treated as Domicile of Puducherry by the CENTAC authorities. But from the year 2016-17 onwards CENTAC authorities had inserted a clause 2.5 c (ii) as, in addition to the employer certificate from Yanam, the student should produce a study Certificate from Yanam for Higher Secondary Course. It is learnt that this amendment was as

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per G.O. Ms. No. 4 dated 9th February 2016.

14. I humbly submit that it is true that candidate was born at nam. Her father was a resident of Yanam for many years. Forefathers were residents of Yanam even during French regime. These facts do not override the essential necessity of actual physical residence prior to the date of application. As per the G.O. Ms. No. 48 dated 12-12-2002 of Revenue Department, Nativity by birth can be issued to a person, who have born in U.T. of Puducherry, if he returns to U.T. of Puducherry and residingcontinuously on concluding the absence from U.T., with a clear intention of residing there permanently."

7. As per the above extracted para 13, admittedly, the father of the candidate has been working in Yanam and employer certificate has already been issued to him. According to the third respondent, the said certificate is not valid, as the new Clause 2.5(c)(ii) has been introduced for the year 2016-2017 and the student should produce the study certificate from Yanam for the Higher Secondary Course. In para 14, the third respondent has specifically admitted that the student was born in Yanam and the father is the resident of Yanam for many years including the forefathers of the petitioners even during the French regime. While so, the address of the petitioner's father is also in Yanam and even the impugned notices were issued to the address of the petitioner's father, which is within the Union Territory of Puducherry (Yanam). Therefore, there cannot be any impediment for the respondents to issue the Residency Certificate to the petitioners. As the petitioner falls well within Clause 2.5 (a), there is no need to discuss the validity of Clause 2.5(c) (ii). The second respondent has been issuing the CENTAC Information Bulletin year after year. No doubt, the Government of Puducherry has taken pains to introduce stringent provisions to enable only the domicile of Puducherry to take part in the CENTAC Counselling. The criteria based on which the domicile of a person is decided, can be defined clearly.

8. In the case on hand, the minor first petitioner was born in Yanam. Her father is the native of Yanam and initially, he was employed as a Lecturer in a Government College at Yanam and he has been employed and continuing in the Education Department of Puducherry at Yanam. Therefore, the petitioner qualifies Clause 2.5 (a) and falls within the definition of even the criteria prescribed in the domicile as per the Information Bulletin. Hence, there cannot be any dificulty for the respondents to issue the Residency / Nativity Certificate to the first petitioner.

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9. Accordingly, the third respondent is directed to issue the Residency / Nativity Certificate to the first petitioner herein within a period of four weeks from the date of receipt of a copy of this order to enable the first petitioner to secure the admission in the first year M.B.B.S Course for the academic year 2017-2018. No costs. Consequently, connected miscellaneous petitions are closed.

10. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

srn
To

1. The Secretary to Government,
   (Higher & Technical Education),
   Government of Puducherry,
   Chief Secretariat,
   Puducherry.

2. The Convenor,
   Centralised Admission Committee,
   Government of Puducherry,
   Pondicherry Engineering College Campus,
   Puducherry - 605 014.

3. The Deputy Tahsildar (Revenue)
   Sub-Taluk Office,
   Yanam.

+1cc to the Government Pleader for Puducherry, Sr.40896

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and W.M.P.No.24675 of 2016

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