

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

WRIT PETITION No.12782 OF 2018

Abbinaya Arivazhagan,
represented by her father,
Arivazhagan Murugaiyan,
No.47/2, Main Street,
Ganapathy Nagar,
Collector Office (PO),
Erode - 638 011.

...Petitioner

Vs.

1. The Secretary,
Higher Education Department,
Government of Tamil Nadu,
St. George Fort, Chennai 600 003.
2. The Director - Admissions,
Tamil Nadu Engineering Admission - 2018,
Anna University,
Chennai 600 025.
3. The Secretary,
Tamil Nadu Engineering Admission - 2018,
Anna University,
Chennai 600 025.
4. The Registrar,
Anna University,
Chennai 600 025.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents 2 to 4 to accept the Petitioner's application for registration of Tamil Nadu Engineering Admissions, 2018 (TNEA-2018) at par with Indian Nationals Scheme in respective web online portal whereas, the last date to apply (TNEA-2018) is 30.05.2018.

For Petitioner	:	Mr.S.Jayakumar
For 1st Respondent	:	Mr.A.Rajaperumal, Additional Government Pleader
For Respondents 2 to 4	:	Mr.M.Vijayakumar

O R D E R

Petitioner has come up with the present Writ Petition seeking a direction to respondents 2 to 4 to accept his minor daughter's application for registration of Tamil Nadu Engineering Admissions, 2018 (TNEA-2018) on par with Indian Nationals Scheme in the respective web online portal, as the last date to apply for TNEA-2018 is 30.05.2018.

2. According to the Petitioner, he and his wife are Indian Nationals and his minor daughter viz. Abbinaya was born in United States of America on 06.07.2001 and she is in possession of Birth Certificate and Passport issued by United States of America and that she is as an Overseas Citizen of India (OCI) card holder. It is further stated by the Petitioner that he brought his daughter back to India during the year 2004 and they started residing at No.47/2, Ganapathy Nagar, Main Street, Collector Office (PO), Erode. His daughter joined the Indian Public School, Erode affiliated to CBSE during the academic year 2004-05 and pursued her school education and that she appeared for 12th Standard Board Exams conducted by CBSE, New Delhi and is awaiting results. While so, she applied for Tamil Nadu Engineering Admission - 2018 through online on 14.05.2018.

3. The case of the Petitioner is that during the process of registering for TNEA-2018 through online, his daughter selected her 'Nationality' under the caption 'Others', as there was no specific column for Overseas Citizens of India category and hence, her application was rejected, stating that she is not eligible to attend the counselling.

4. It is the contention of the Petitioner that his daughter is eligible for admission to MBBS/BDS Courses through National Eligibility cum Entrance Test (NEET) as an Overseas Citizen of India Cardholder vide Letter of Approval No.U.12023/16/2010-ME-II, dated 13.01.2017, issued by the Ministry of Health and Family Welfare, Government of India. It is also his contention that even prior to the commencement of NEET, for admission to MBBS/BDS in Tamil Nadu, his daughter is eligible under Section 7A of the Citizenship (Amendment) Act, 2015.

5. Respondents 2 to 4/Anna University have filed counter affidavit, wherein, it is stated that only Indian Nationals are eligible to apply for first year admission to B.E./B.Tech. Degree course through single window online counselling. According to them, Anna University is following the eligibility criteria, minimum marks, number of seats, etc. only as per AICTE norms. As per AICTE Approval Process Handbook for the year 2018-2019 in Clause 2.16.1.g, Overseas Citizen of India (OCI) is

also given along with Foreign Nationals (FN), Persons of Indian Origin (PIO) and Children of Indian Workers in the Gulf Countries (CIWGC) and 15% seats over and above the approved intake are given for admitting students from amongst Foreign Nationals/Overseas Citizen of India (OCI)/Persons of Indian Origin (PIO)/Children of Indian Workers in the Gulf Countries, without affecting the students of India.

6. With reference to Ground (d) of the Petitioner's Affidavit, Respondents 2 to 4 have stated that the Petitioner is a citizen of America and that she can be treated as an NRI candidate and in TNEA admission process, there is no specific provision for candidates belonging to NRI category or foreign nationals. According to them, the Petitioner can be considered only under Foreign National category and she can apply through online mode as a Foreign National candidate, as Anna University is conducting counselling for Foreign National candidates separately.

7. Though, no reply is filed by the Petitioner, learned counsel for the Petitioner submitted that norms have been fixed for NEET and a different yardstick is applied with regard to Engineering courses. He contended that it would be violative of Article 14 of the Constitution of India, when the Petitioner's daughter, who started pursuing education in India, i.e. from the age of three, will have to shell out fee, which is more than three times the normal fee collected in Government Colleges or self-financing Colleges, as would be applicable to an NRI. Learned counsel went on to contend that there is discrimination on the part of the Respondent/University in the admission process.

8. In support of his case, learned counsel for the Petitioner has relied on a decision of the Karnataka High Court dated 22.02.2018 in W.P.No.7724 of 2018 and the order of this Court, dated 13.04.2018 made in W.P.No.7524 of 2018, which pertain to candidates seeking benefits under Sports Quota.

9. Heard the learned counsel for the parties. Though the facts mentioned in the above decisions are distinguishable, the Petitioner's daughter would be entitled to a seat, more particularly, in the light of the fact that she is a Person of Indian Origin (PIO), in terms of Section 7(A) of the Citizenship (Amendment) Act, 2015, as Overseas Citizenship of India cardholders would be entitled to have education on par with Non-Resident Indians (NRI) in respect of all facilities available to them, more particularly in educational field, except in matters that are excluded under the provisions of the Citizenship Act. Even though the Petitioner's daughter has applied for TNEA-2018 through online, without prejudice to her

rights, as time was running out, she could be treated only under the category 'Overseas' on par with NRI candidates and she cannot be equated on par with Indian citizens. The contention of the Petitioner that there is discrimination cannot be accepted, as admittedly, the Petitioner's daughter is a U.S. Citizen and not a citizen of this country.

10. In view of the aforesaid discussion, this Court holds that the Petitioner could be considered for admission only under NRI Quota and if the Petitioner fulfils the necessary requirements stipulated in the Prospectus and other conditions that are required for admission under 'NRI' Quota, her candidature may be considered for a seat by accepting the fee applicable to an NRI.

The Writ Petition is disposed of with the above direction and observation. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Secretary,
Higher Education Department,
Government of Tamil Nadu,
St. George Fort, Chennai 600 003.
2. The Director - Admissions,
Tamil Nadu Engineering Admission - 2018,
Anna University,
Chennai 600 025.
3. The Secretary,
Tamil Nadu Engineering Admission - 2018,
Anna University,
Chennai 600 025.
4. The Registrar,
Anna University,
Chennai 600 025.
+1cc to Mr.M.VIJAYAKUMAR, Advocate, S.R.No.40495
+1cc to Mr.S.JAYAKUMAR, Advocate, S.R.No.40474

Order in W.P.No.12782 of 2018

TR(06/07/2018)