

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.27541 of 2017
and
W.M.P.No.29433 of 2017

G.Kesavan

... Petitioner

Vs.

1. The Tamilnadu Agricultural University,
Rep. by its Registrar,
Coimbatore.

2. The Tamilnadu Agricultural University,
Rep. by its Dean,
Coimbatore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to admit the petitioner's daughter Minor Akshya NK in the University College.

For petitioner : Mr.A.S.Narasimhan

For respondents : Mr.Abdul Saleem

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to admit the petitioner's daughter Minor Akshya NK in the University College.

2. According to the petitioner, his daughter Akshya NK has completed the Tamil Nadu Government Higher Secondary Course Examination and applied for B.Sc. (Agriculture) in the respondents-Tamil Nadu Agricultural University through online process along with Community Certificate (MBC). She was instructed to attend the counselling on 30.08.2017. Suddenly, after entering into the counselling hall, the petitioner received a message that his wife was not well and hence, the petitioner's daughter could not attend the counselling and both of them left the counselling hall. Thereafter, when they returned, it was informed that the counselling time was over and

at the time of calling for counselling, the petitioner's daughter was not present and her candidature cannot be considered due to lapse on their part. Thereafter, the petitioner met the first respondent and brought to his notice about the matter and his daughter's absence at the appropriate time when her candidature was taken up for counselling and having seen the justification in the grievance, the first respondent informed the petitioner that his daughter will be called again for counselling, and accordingly, on 10.09.2017, they were called over cell phone to attend for the counselling on 13.09.2017. It is stated that the petitioner's daughter had attended the counselling even on 11.09.2017, which being a second Saturday, the Bank was holiday and she could not produce the Demand Draft and hence, she went to the counselling and taken the tuition fees in cash. According to the petitioner, on 13.09.2017, there were about 7 seats available for MBC and De-notified Community with the first respondent. It is stated by the petitioner that his daughter secured 189.5 marks in the subjects when she was called for counselling.

3. It is the grievance of the petitioner that as there was a call that the petitioner's wife was unwell, himself and his daughter left the counselling hall and that the petitioner's daughter is willing to get admission in the respondent-University/College in the existing vacancies. There was rejection of her candidature inspite of the fact that she secured necessary marks, which affects the rights of the petitioner's daughter legally and also emotionally. Hence, the petitioner has filed this Writ Petition praying that the respondents may be directed to admit the petitioner's daughter in the University/College in the B.Sc. (Agri) Course.

4. The respondents have filed counter affidavit stating that the Writ Petition is not maintainable. The petitioner's daughter had opted to move out of the counselling hall on her willingness for the best reasons known to her and that the said candidate is estopped from getting any right of admission in the said slot. The candidates are permitted to apply only through online and not manually and all the eligible candidates applied through online enrolment through Single Window System for getting admission in the constituents of college of the respondent-TNAU as well as affiliated college run by private Trust even for management quota and this process is being followed in order to select only the eligible candidates. The counselling commenced at 8 am on 30.8.2017 and that it is not in dispute that the petitioner's daughter has secured 189.5 marks. When entering into the counselling hall, it is mandatory that the counselling letter (with bar code) is scanned so as to generate attendance of candidates attending counselling and the same was done in the case of the petitioner's daughter also. Once the bar code is

scanned, the attendance of the candidate is marked for the particular day and the petitioner's daughter's name was included in the computer generated attendance list. Around 11 a.m., when the candidate Akshya's name as called, she was not present in the counselling hall and the petitioner and his daughter left the counselling hall without even informing the officials present there. The petitioner returned to the counselling hall around 3.30 p.m. when Session C29 was under-way and requested permission to attend the counselling. The reasons stated is that the petitioner's wife was unwell and they left as soon as they received the message. As the counselling Session C27 was over, the candidate was not permitted to attend the subsequent counselling session by following the rules and regulations of the counselling.

5. It is further stated in the counter that it was later ascertained by the respondents that since there was no vacancy in their choice of Government colleges, they had left the counselling hall without attending the counselling i.e. at around 11 a.m. The entire admission process of TNAU is being administered through the Integrated University Management System (IUMS) by the Indian Telephone Industry Limited (ITIL). Once a candidate enters into the hall and marks his/her attendance for a particular session, the system gets closed for the session and the same cannot be undone and the candidate cannot be permitted to attend another session. Further, after completing the counselling procedures, it is mandatory that the candidates should also mark in the outgoing attendance and the candidate in this case has not marked the outgoing attendance and hence, she was advised to attend the counselling scheduled on 13.09.2017. It is found that the candidate has already been given a chance to attend the counselling, but failed to avail of the opportunity, and hence, she was not permitted to attend the further counselling. The candidate who has missed her chance to select a college of her choice, is not entitled to raise any claim whatsoever in respect of the other candidates who have secured a seat in the next counselling. The respondent-University strictly followed the admission procedures as stipulated under the Information Brochure without any deviation. The entire admission process is over and the courses have commenced from 01.09.2017 and further, mid-semester for the present term was also completed on 21.11.2017 and no admission can be made beyond the cut-off date, i.e. 15.09.2017. The entire issue arose due to the act/conduct of the petitioner and the candidate, though the petitioner and the candidate are well aware of the fact that they are not entitled to participate in another counselling session and had wantonly defaulted in closing the attendance while moving out, resulting in calling for next counselling scheduled on 13.09.2017, for which the candidate is otherwise not entitled to.

6. The respondents have filed additional counter affidavit stating that there is no provision in the admission Prospectus to allow a candidate to participate in the next counselling, as a candidate who fails to attend the counselling at the specified date and time, will forfeit his/her right of admission. On 13.09.2017, there was no vacancy in the Government College as alleged by the petitioner and the same is evident from the vacancy position of the Government Colleges as on 13.09.2017. The Writ Petition lacks merit and the same is liable to be dismissed as devoid of merits.

7. Heard both sides and perused the materials available on record.

8. It is not in dispute that the petitioner's daughter had applied for B.Sc (Agri) U.G. course, for which she was called for counselling on 30.08.2017. It is also not in dispute that she secured 189.5 marks and she is in MBC quota. The candidate who has entered the counselling hall by making a mark in the attendance register, however, has left the counselling hall without even informing anyone, much less the officials present there. The petitioner's daughter came back while the next counselling session was in progress and by that time, her counselling session was already over. It is stated that the entire seat with regard to MBS quota, had been filled up and the petitioner's daughter was not willing to take up the course in the private college. Much emphasis has been made stating that the candidate's date of counselling has been changed to 11.09.2017 instead of 13.09.2017 and that there was an Electronic Dash Board which reflected seven vacancies available on 13.09.2017 in MBC/de-notified community quota and that the petitioner's daughter should be given a seat and that there were seats available on 11/13.09.2017 and that the Electronic Dash Board reflected the said number of vacancies and that without furnishing the Electronic Dash Board's data, the respondent-University is trying to decline the seat to the petitioner's daughter and foul play is being played. It cannot be accepted that the respondent-University has produced the vacancy position on 11.09.2017 and in the list of candidates called for counselling on 13.09.2017, the candidates have been given seat accommodation. The petitioner appears to have left the counselling hall on the ground that his daughter would not get the seat and there is no evidence to show that the petitioner's wife, i.e. the mother of the daughter was unwell.

9. Now that the classes have begun and I Semester examination is also over and almost it is in the verge of closing of the First Year, as the examinations have been scheduled in the month of May for the first year students, and

the contention that there shall be a seat reserved for the next year, so that the petitioner's daughter can be accommodated, cannot be accepted. As much water has flown since the admission process is over and the classes have commenced, and the petitioner's daughter did not attend her counselling session for the best reasons known to her and even assuming that the petitioner's wife (mother of the candidate-daughter) was unwell, there is no reason as to why it was not informed by them to any one present there, i.e. to the authorities / staff available in the counselling hall and that there is no documentary evidence to show that her mother was unwell. The respondent-University has produced the vacancy position and also the list of candidates called for counselling and merely because there was vacancy position in the Electronic Dash Board on 11.09.2017 and 13.09.2017 and that the petitioner should be accommodated, the same may not be correct.

10. It may be true that the Electronic Dash Board would have reflected the vacancy position in regard to the admission matter, but as it is a question of fact, as the same Board may continue to remain for more than a day or not, is a point to be considered by the appropriate forum and those disputed questions of fact cannot be gone into by this Court. As there are no vacancies and as on date, the classes have commenced and the first year is also almost over, it is needless to mention that the petitioner's daughter even though may not be entitled to get the relief in this Writ Petition for this academic year, can make a fresh application and participate in the counselling process along with the other candidates for the forthcoming year and if the petitioner's daughter comes out successful and other other things being equal with the other candidates, the case of the petitioner's daughter shall be considered by the respondent-University favourably.

11. The relief sought for by the petitioner in the present Writ Petition cannot be granted in respect of the present academic year 2017-2018 and she is entitled to participate for the next year as observed above, and the respondent-University shall consider the case of the petitioner's daughter if she participates for the forthcoming year, as directed above.

12. With the above observations and directions, the Writ Petition is dismissed. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

CS
To

1. The Registrar,
The Tamilnadu Agricultural University,
Coimbatore.
2. The Dean,
The Tamilnadu Agricultural University,
Coimbatore.

+1cc to Mr.A.S.Narasimhan, Advocate, S.R.No.27161

W.P.No.27541 of 2017

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srg 16/05/2018



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