

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.17187 of 2018

Minor M.Danyah
represented by her Father and Natural Guardian,
Mohammed Ismail

... Petitioner

vs.

1. The Government of Puducherry,
rep. by its Secretary,
Department of Revenue and Disaster Management,
Puducherry.
2. Centralised Admission Committee (CENTAC),
rep. by its Convenor,
Government of Puducherry,
Pondicherry Engineering College Campus,
Pondicherry - 605 014.
3. The Sub-Collector (R) cum Sub-Divisional Magistrate,
Department of Revenue and Disaster Management,
Karaikal.
4. Medical Council of India,
Pocket-14, Sector-8,
Dwaraka Phase - 1,
New Delhi - 110 077.
5. The Tahsildar,
Karaikal, Puducherry.

... Respondents

(R5 suo motu impleaded by this Court vide order dated
27.07.2018
in W.P.No.17187 of 2018)

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records of the 3rd Respondent vide order No.6025/DRDM/SCK/B-3/KKL/2017, dated 26.05.2017 and quash the same and consequently direct the Respondents 1 and 2 to treat and permit the Petitioner as resident of Union Territory of Puducherry and to participate in the Counselling conducted by the 2nd Respondent Under-Graduate Professional

M.B.B.S. Degree Course in the Union Territory of Puducherry (2018-2019) and grant all the benefits flowing therefrom.

For Petitioner : Mr.A.Edwin Prabakar

For Respondents 1 to 3 : Mr.C.T.Ramesh,
Addl. Government Pleader (Pondy)

For 4th Respondent : Mr.V.P.Raman

O R D E R

Minor Petitioner has come up with this Writ Petition seeking to quash the order dated 26.05.2017 passed by the 3rd Respondent vide No.6025/DRDM/SCK/B-3/KKL/2017 and for a consequential direction to the Respondents 1 and 2 to treat and permit her as a resident of Union Territory of Puducherry and to participate in the Counselling conducted by the 2nd Respondent Under-Graduate Professional M.B.B.S. Degree Course in the Union Territory of Puducherry (2018-2019) and grant all the benefits flowing therefrom.

2. According to the Petitioner, she belongs to Backward Class Muslim Community and is a resident of Karaikal. She studied in Nirmala Rane (Government Aided) Girls Higher Secondary School, Karaikal from Pre-K.G. till Ninth Standard. However, due to the frequent travel of her father to take treatment for back pain in Ganga Hospital, Coimbatore, the Petitioner joined 10th Standard in Coimbatore and resided along with her aunt. After completing 12th Standard, the minor Petitioner came back to reside with her parents at Karaikal and is continuously residing at Karaikal till date.

3. It is further stated by the Petitioner that she scored 1145 marks out of 1200 in XII Standard and appeared for NEET, scored 296 and is ranked No.2 in the merit list for U.G. Medical Courses. While so, the father of the minor Petitioner applied for Residence Certificate from the Tahsildar-cum-Executive Magistrate, Taluk Office, Karaikal, but, without proper enquiry, the said Application was refused by an order dated 18.05.2017. Challenging the same, the Petitioner's father preferred an Appeal with the 3rd Respondent/Sub-Collector (Revenue), Karaikal, and the same was dismissed vide order dated 26.05.2017, on the following grounds:

(A) The applicant Thiru.Mohamed Ismail, S/o.Mohamed Ghose could not prove his continuous residence for five years during the check period, in his residential address at Karaikal.

(B) The applicant Thiru. Mohamed Ismail, S/o.Mohamed Ghose has already shifted his residence to Coimbatore, as the same has been clearly accepted by him. The period of his absence along with his entire family from Karaikal appears to be from May 2014, till date.

4. Whereas, the applicant Thiru.Mohamed Ismail, S/o.Mohamed Ghose, who is the Father of the Candidate, Selvi. M.Danyah, could not produce evidence to cover the absenting period of three years of residence at Karaikal. In addition, the schooling of the student during the period of past five years also fell short by three years, as she studied at Coimbatore for X and XII standard classes from the year 2014 till 2017.

4. Aggrieved by the same, the minor Petitioner is before this Court. The main grievance of the minor Petitioner is that she could not produce supporting documents with regard to her continuous residence in Karaikal District for a continuous period of five years prior to May 2017.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. It is seen that the Tahsildar concerned has rejected the minor Petitioner's request for issuance of Residence Certificate on the ground that the Petitioner's father has shifted his residence to Coimbatore and that he was not residing at Karaikal, Pondicherry during the last three years, more particularly from May 2014.

7. Since Tahsildar, Karaikal is not a party to the above Writ Petition, this Court suo motu impleads the Tahsildar, Karaikal as a necessary party to the above Writ Petition.

8. Admittedly, the minor Petitioner studied Classes X, XI and XII at Coimbatore, for a period of three years. However, the minor Petitioner has produced a copy of her father's Voter Identity Card, Patient ID and Passport issued as early as on 02.04.1992 and Voter Identity Card and Birth Certificate of her mother, in addition to her Family Card. She also produced her father's Treatment Certificate, due to which, she was shifted to Coimbatore for three years for pursuing education.

9. It is seen that the documents produced by the Petitioner are suffice to establish that she was a resident of Karaikal for more than 5 years. It is submitted by the learned Additional Government Pleader (Pondicherry) that a seat has been allotted to the Petitioner. Hence, this Court is of the view that the impugned order dated 26.05.2017 passed by the 3rd Respondent has to be interfered and accordingly, the same is interfered with a direction to the 3rd Respondent/Sub-Collector (Revenue)-cum-Sub Divisional Magistrate, to treat the minor Petitioner as a resident of Union Territory of Puducherry, based on the documents produced by the Petitioner before this Court and direct the Tahildar, Karaikal to issue Residence Certificate to the minor Petitioner to that effect. It is made clear that the seat allotted to the Petitioner shall not be disturbed.

The Writ Petition is allowed with the above direction and observation. No costs. Consequently, connected W.M.P.Nos.20474, 20456 and 20457 of 2018 are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To:

1. The Government of Puducherry Secretary,
Department of Revenue and Disaster Management,
Puducherry.
2. Centralised Admission Committee (CENTAC), Convenor,
Government of Puducherry,
Pondicherry Engineering College Campus,
Pondicherry - 605 014.
3. The Sub-Collector (R) cum Sub-Divisional Magistrate,
Department of Revenue and Disaster Management,
Karaikal.
4. Medical Council of India,
Pocket-14, Sector-8,
Dwaraka Phase - 1,
New Delhi - 110 077.

5.The Tasildar
Karaikal, Puducherry

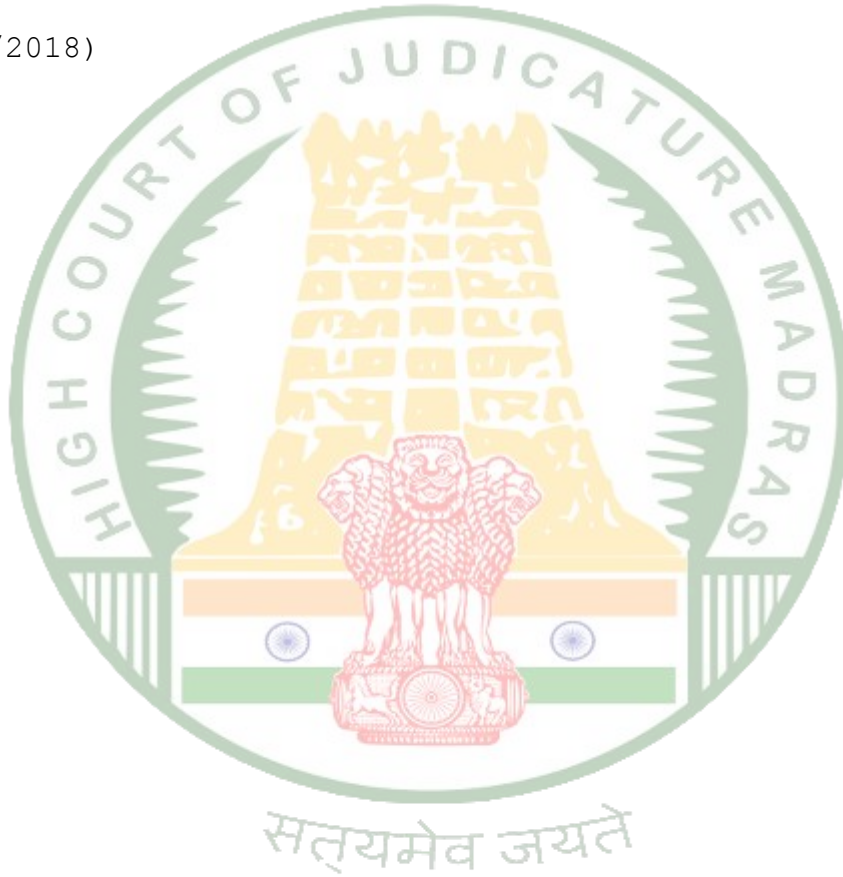
+2cc to Mr.A.Edwin Prabakar, Advocate, S.R.No.51491

+1cc to Mr.V.P.Raman, Advocate, S.R.No.51116

+1cc to the Government Pleader, S.R.No.51653

W.P.No.17187 of 2018

GSP(01/08/2018)



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