

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.17413 of 2018

T.Srijeya

mother of C.P.Jessevin Shine

...Petitioner

Vs.

1. The Director,
Directorate General of Health Services,
Ministry of Health & Family Welfare,
Government of India,
Room No.446 A, Nirman Bhavan,
Moulana Azaad Road, New Delhi 110 108.
 2. The Secretary,
Department of General Health & Family Welfare,
Government of Tamil Nadu,
Fort. St. George, Chennai 600 009.
 3. The Secretary, Selection Committee,
Directorate of Medical Education,
162, E.V.R. Periyar Salai, Kilpauk,
Chennai 600 010.
 4. Central Board of Secondary Education,
National Eligibility cum Entrance Test Unit,
Shiksha Kendra, 2, Community Centre,
Preet Vihar, Delhi 110 092.
 5. Central Board of Secondary Education,
New No.3, Old No.1630-A, "J" Block,
16th Main Road, Anna Nagar West,
Chennai - 600 040.
 6. Medical Council of India,
Pocket-14, Sector-8, Dwaraka Phase I,
New Delhi 110 007.
- ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents herein to increase the sports quota

for M.B.B.S. course in the light of the procedure followed by other State like Puducherry.

For Petitioner : Mr.M.Digvijayapandian
For Respondents: Mr.A.Kumaraguru, CGSC, for R1
Mr.K.karthikeyan, G.A., for RR2 & 3
Mr.G.Nagarajan, for RR4 & 5
Mr.V.P.Raman, for R6

ORDER

Heard Mr.M.Digvijayapandian, learned counsel for the petitioner, Mr.A.Kumaraguru, learned Central Government Standing Counsel for the 1st respondent, Mr.K.karthikeyan, learned Government Advocate for respondents 2 and 3, Mr.G.Nagarajan, learned counsel for respondents 4 and 5 and Mr.V.P.Raman, learned counsel for the 6th respondent and perused the materials available on record.

2. This writ petition has been filed, praying for issuance of a writ of mandamus to direct the respondents herein to increase the sports quota for M.B.B.S. course in the light of the procedure followed by other State like Puducherry.

3. The learned counsel for the petitioner by referring to mail communication, dated 8th July 2018 annexed in the typed set argued that the Puducherry Government has allotted one percentage of seats for sports quota, but the same procedure was not followed by the Government of Tamil Nadu and hence, the petitioner is entitled to succeed in the writ petition.

4. The learned Central Government Standing Counsel for the first respondent and the learned Government Advocates for the respondents 2 and 3 submitted that the Government by issuing G.O.(D).No.976, Health and Family Welfare (MCA-1) Department, dated 01.06.2018 has increased the sport quota from 3 to 8, for the academic year 2018-2019 and that it is a policy decision of the Government and the scope of judicial review is in a narrow compass.

5. It is settled law that no direction could be issued to the respondents to increase the seats under the sports quota based on the policy decision of the neighbouring States.

6. It would be relevant to recapitulate the decision of the Apex Court in 2011 (1) SCC 640 (Bajaj Hindustan limited vs Sir Shadi Lal Enterprises Limited and another), which reads as follows:

"39. We should not be understood to have meant that the

judiciary should never interfere with administrative decisions. However, such interference should be only within narrow limits e.g., when there is clear violation of the statute or a constitutional provision, or there is arbitrariness in the Wednesbury sense. It is the administrators and legislators who are entitled to frame policies and take such administrative decisions as they think necessary in the public interest. The Court should not ordinarily interfere with policy decisions, unless clearly illegal.

45. In our opinion there should be judicial restraint in fiscal and economic regulatory measures. The State should not be hampered by the Court in such measures unless they are clearly illegal or unconstitutional. All administrative decisions in the economic and social spheres are essentially ad hoc and experimental: Since economic matters are extremely complicated this inevitably entails special treatment for district social phenomena. The State must therefore be left with wide latitude in devising ways and means of imposing fiscal regulatory measures, and the Court should not, unless compelled by the statute or by the Constitution, encroach into this field.

46. In our opinion, it will make no difference whether the policy has been framed by the legislature or the executive and in either case there should be judicial restraint. The Court invalidate an executive policy only when it is clearly violative of some provisions of the statute or Constitution or is shockingly arbitrary but not otherwise."

7. Keeping in mind the principles laid down in the above decision and considering the facts of this case, I find no merit in this writ petition. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

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+1cc to Mr.M.Digvijayapandian, Advocate sr.no.55257
+1cc to Government Pleader sr.no.55645
+1cc to Mr.A.Kumaraguru, Advocate sr.no.55734
+1cc to M/s.G.Nagarajan, Advocate sr.no.55863
+1cc to M/s.V.P.Raman, Advocate sr.no.56182

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gmr(co)
nr 20/08/2018

सत्यमेव जयते

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