

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2018

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.No.17946 of 2018 and
W.M.P.No.21245 of 2018

Minor Rogith Kumar.B

Represented by his father Balamurugan.K

...Petitioner

Versus

- 1.The Chairman,
Admission Committee (UG),
TANUVAS, Madhavaram Milk Colony,
Chennai-600 051.
- 2.The Sports Development Authority of Tamil Nadu
Rep by its Member Secretary,
No.116-A, Periyar E.V.R.High Road,
Nehru Park, Chennai - 600 084.
- 3.The Indian Olympic Association,
Rep by its Secretary General,
Gate No.25, Jawaharlal Nehru Stadium,
New Delhi - 110 003.
- 4.The Union of India,
Rep by its Secretary,
Ministry of Youth Affairs and Sports,
Shastri Bhavan, New Delhi - 110 001.

...Respondents

Prayer: This Writ petition has been filed under Article 226 of the Constitution of India for issuance of declaration, declaring the action of the first respondent refusing to consider the soft tennis sports certificates of the years 2015-16 & 2017-18 i.e.,

- a. 9th Junior State Level Soft Tennis Championship for the academic year 2015-16 (80 Marks);
 - b. 10th Junior State Level Soft Tennis Championship for the academic year 2017-18 (95 Marks);
- issued to the petitioner and to award and add the said marks to the petitioner for the admission to the course of Bachelor of Veterinary Science & Animal Husbandry - BVSc & AH(5 Years), Tamil Nadu Veterinary and Animal Sciences University, Chennai, for the academic year, 2018-2019 under sports quota, Boys as illegal and consequently direct the 1st respondent to consider the same and add the 175 sports marks along with 290 sports

marks which is already awarded to the petitioner, for the admission to Bachelor of Veterinary Science & Animal Husbandry - BVSc & AH (5 Years), Tamil Nadu Veterinary And Animal Sciences University, Chennai, for the academic year 2018-2019 under Sports Quota, Boys and to place the petitioner accordingly in the ranking list for admission.

For Petitioner : Mr.T.Sai Krishnan

For 1st Respondent : Mr.S.Vijayakumar

For 2nd Respondent : Mr.I.Sathish

R3- given up

For 4th Respondent : Ms.Sunitha Kumari,
Senior Panel counsel

ORDER

The brief facts that are necessary for the disposal of this Writ Petition are as follows:

The petitioner, who is a minor has passed the Higher Secondary examinations in Biology and Maths stream during March 2018 and scored 949 marks out of 1200. He is a soft tennis player and had played at State and National Level Events and had acquired various certificates and medals during the years 2014-2018.

2. It is the case of the petitioner that the sport soft tennis is duly recognized by Tamil Nadu Olympic Association, Indian Olympic Association and School Games Federation of India, Ministry of Youth Affairs and Sports, Government of India. Soft Tennis, being a recognized sport, the petitioner is also entitled to opt under the Sports Quota reserved for eminent sports persons for getting admissions in educational Institutions.

3. The first respondent has issued prospectus for admission to the course of Bachelor of Veterinary Science & Animal Husbandry - BVSc & AH (5 years) in Tamil Nadu Veterinary and Animal Sciences University, Chennai, during the academic year, 2018 to 2019. The prospectus clearly specify the allotment of marks, who seek admission under sports quota. The petitioner has produced certificates, which would indicate that he has participated in two National Events and two State Level competitions between 2014 and 2018. It is stated that as per the certificates, he is entitled to get 465 marks in sports.

4. It is stated that the first respondent, after scrutiny of the petitioner's application, has issued a provincial rank list for the course of B.V.Sc & A.H for category under sports quota (boys) on 06.07.2018. The petitioner's name was placed at 11th rank and he was awarded only 290 marks. Since some of the certificates given by the petitioner were not considered, the

petitioner's father has submitted a representation on 11.07.2018 to the first respondent to consider the certificates issued to the petitioner. Since, it was not considered, the petitioner's father states that he was constrained to move the above Writ Petition.

5. Mr.T. Sai Krishnan, learned counsel appearing for the petitioner has produced the certificates of the petitioner before this Court. There is no dispute about the certificates in relation to the two National Events and the petitioner has been awarded 160 and 130 marks respectively. The dispute is in relation to the two State Level Events, namely, 9th Junior State Level Soft Tennis Championship and the 10th Junior State Level Soft Tennis Championship conducted during the years 2015-16 and 2017-18.

6. The first respondent has filed a counter affidavit. It is the case of first respondent that as per the prospectus, the tournaments conducted by the Association, which are de-recognised by TNOA or SDAT at State Level, for a particular period, will not be considered for award of marks. Since the candidate, who seeks admission under the sports quota for securing marks, ought to have participated in the game conducted by an Association, which is recognised by the Tamil Nadu Olympic Association\Sports Development Authority of Tamil Nadu as State Level for a particular period, it is submitted that the petitioner is not entitled for any mark.

7. It is contended by the learned counsel for the first respondent that the two certificates showing the participation of the petitioner at State Level Tournaments cannot be considered for the reason that the Tournament was conducted by Tamil Nadu Soft Tennis Association, which was not recognised during the relevant period.

8. The second respondent has further stated in the counter affidavit regarding the manner in which the applications received from the candidates under sports quota was considered with reference to clause 4 (c) of the prospectus. It is stated that the scrutiny committee perused the application of the petitioner along with other candidates, who are applied under sports quota for admission to Bachelor of Veterinary Science & Animal Husbandry course. It is stated that the application for admission under sports quota was considered by a committee of experts, consisting of four members from TANUVAS and two expert members of Sports Development Authority of Tamil Nadu.

9. It is stated that the said committee had examined the certificates produced by the petitioner and awarded only 290 marks. It is further stated that in so far as the State Tournaments are concerned, the certificates are not valid nor in accordance with clause 4(c) of the prospectus and that therefore, the petitioner was not awarded any marks for his participation in the State Level Tournaments.

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10. The learned counsel appearing for the second respondent has also filed a counter affidavit. In paragraph No.4 of the

counter affidavit, same reasons were stated by the second respondent also. It is also the case of the second respondent that the Tournaments conducted by the Tamil Nadu Soft Tennis Association was not considered during the academic year 2015-16, 2017-18 because the said association was de-recognised by the Amateur Soft Tennis Federation of India from the academic year 2015. Since the Tamil Nadu Soft Tennis Association has not been recognised by the sports development authority of Tamil Nadu, it is stated that the marks should not be awarded to the petitioner for participating in the State Level Events.

11. The learned counsel appearing for the first respondent has produced the assessment sheet showing how the scrutiny of certificates by the committee consisting of six members including the two experts deputed by second respondent was done. Regarding the certificates for the participation in the State Level Events in 2015-16 and 2017-18, the remarks found in the sheet is that during the year 2017-2018, the State Soft Tennis association was not recognised and in bracket it is mentioned as ''dispute''. Similarly, the certificate, which was issued during the year 2015-16 was also discarded. It is mentioned that the State Association is not recognised by the second respondent.

12. In the counter affidavit though it is stated that the Amateur Soft Tennis Federation of India has not recognised the Tamil Nadu Soft Tennis Association, no document has been produced by the second respondent to that effect. It is admitted that the Tamil Nadu Soft Tennis Association has fielded the team for the National Level Event conducted at Ahamadabad between 21.05.15 to 24.05.15. The petitioner has participated in the said event.

13. Tamil Nadu Soft Tennis Association was active and there is no document to prove that it was de-recognised or disaffiliated subsequently and the contention of respondents is not supported by any document. It appears that there is some dispute among the office bearers of T.N. State Soft Tennis Association. As a matter of fact, the Sports Development Authority of Tamil Nadu has recognised the Tamil Nadu Soft Tennis Association with the office bearers. It has permitted the Tamil Nadu Soft Tennis Association to conduct the election in the presence of an observer deputed by the authority. Therefore, there cannot be a dispute with regard to the functioning of Tamil Nadu Soft Tennis Association and the eligibility of the Association to give a certificate for the participation of the event conducted by the Association on 13.06.2015 and 14.06.2015.

14. The second respondent has deputed an observer, to attend the election meeting of general body of the Tamil Nadu Soft Tennis Association scheduled on 30.09.2015. Hence, it cannot be said that the association was not recognised by it when it conducted an event three months earlier.

15. The nature of dispute regarding the election of office bearers is also relevant. The certificates produced by the petitioner was issued by Tamil Nadu Soft Tennis Association,

represented by the office bearers, who are the plaintiffs in the suit in O.S.No.135/2016. The said suit was filed by the office bearers for/ declaration that they are the duly elected office bearers of the Tamil Nadu Soft Tennis Association, represented by its president K.Arjunan. Pending of the suit, the elected office bearers has obtained an order of permanent injunction restraining the rival groups from in any manner functioning as Governing body of the first plaintiff Society and sought other reliefs.

16. In I.A.No. 169 of 2016, the learned Second Additional District Judge, Salem, has granted an order of temporary injunction and the same was also confirmed in C.M.A.No. 2429 of 2017. The order of injunction was granted on 09.06.2017. The election, according to the plaintiff in the suit, was held on 08.06.14 and on the basis of the election, representations were sent to the authorities concerned.

17. It is seen that several documents have been produced by the plaintiffs in the suit, which would also show the State Level and District Level events were conducted by them after their election. It is evident that the office bearers, who succeed ultimately in the suit, has conducted events. It was only because of the dispute, probably the authorities like the second respondent, could not recognise the events. Now it is reported by the petitioner's father that the suit itself has been decreed. However, he has not produced any Judgment of the trial Court. However, it is seen that the events conducted by the Tamil Nadu Soft Tennis Association and the certificates issued by the Association cannot be ignored merely because there was some dispute in the association and that the second respondent or the other statutory did not recognise the State Association. There is no document or proof to show that the Association was derecognised at any point of time.

18. The question before this Court is about the bona fide of the claim of the petitioner. When the question is about the eligibility of the petitioner to get the marks under sports quota for his talents shown in State level events cannot be denied to him based on surmises. The petitioner's son is entitled to get 80 marks for his participation in 9th Junior State level Soft Tennis Championship conducted during 2015-16 and 10th Junior State Level Soft Tennis Championship conducted during 2017-18. It is not in dispute that the petitioner is entitled to get 80 and 95 marks respectively and therefore, the total marks, which ought have been awarded to the petitioner is 465.

19. As a result, the Writ Petition is allowed and the first respondent is directed to award 175 marks in addition to 290 marks, which has already been awarded to the petitioner for the admission to Bachelor of Veterinary Science & Animal Husbandry, Tamil Nadu Veterinary And Animal Science University, Chennai, during the academic year, 2018-2019 under sports quota (Boys) and to place the petitioner in the correct rank position. The first respondent is also directed to consider the petitioner's admission to the course on the basis of the marks, which has now been awarded by order of this Court.

20. Contention of the learned counsel for the first respondent is that only limited students are in the Sports Quota and that they must have been given admission. The said submission is taken note of. However, this Court find that the Writ Petition was filed on 13.07.2018. Hence, this Court has also to mould the relief taking with account the situation as it was in existence at the time of filing the Writ Petition. Hence, the first respondent will do the needful rather than taking the stand to throw the Writ Petition on the ground that it has become infructuous.

Tsg/v

Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

To

- 1.The Chairman,
Admission Committee(UG),
TANUVAS, Madhavaram Milk Colony,
Chennai-600 051.
- 2.The Member Secretary
The Sports Development Authority of Tamil Nadu
No.116-A, Periyar E.V.R.High Road,
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3. The Secretary
The Union of India,
Ministry of Youth Affairs and Sports,
Shastri Bhavan, New Delhi - 110 001.

+1cc to MR.T.Saikrishnan, Advocate SR.NO.59100
+1cc to Mr.S.Vijayakumar, Advocate SR.NO.59005
+1cc to Ms.Sunithakumari, Advocate SR.NO.58954
+1cc to Mr.I.Sathish, Advocate SR.NO.59253

SV(CO)

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