

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.10907 OF 2018

AND

CONTEMPT CASE No.1433 OF 2018

COMMON ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed requesting to issue a Writ in the nature of Mandamus or other appropriate Writ, declaring the action of the respondents 1 and 2 in allotting the seat meant for 'BC-D Women' Category in Ph.D. (part time) Mechanical Engineering course in AURCET – 2017 in favour of the 3rd respondent, who got a higher rank of 155 than that of the petitioner's rank of 148 in the same category, by treating the petitioner as 'non-local' as illegal, arbitrary and unconstitutional. A consequential relief to direct the respondents 1 and 2 to admit the petitioner into the afore-stated course by allotting the seat meant for BC-D Women category to the petitioner instead of the 3rd respondent is also sought.

2. This Court, on 03.04.2018, having heard the submissions of the learned counsel for the petitioner and of the learned Standing Counsel for the respondents 1 and 2, directed the 2nd respondent to permit the petitioner as well as the 3rd respondent for counseling scheduled on 06.04.2018, and further directed that one seat reserved for 'BC-D Women' category shall not be filled up by allotting the seat either to the petitioner or the 3rd respondent and that the said seat shall be kept unfilled until further orders of this Court.

3. The writ petitioner filed C.C.No.1433 of 2018, complaining that the said interim order is not wilfully implemented and that

therefore, the respondents are liable to be punished for contempt of Court.

4. The respondents 1 and 2 filed I.A.No.2 of 2018 requesting to vacate the afore-stated interim order. A counter is also filed in the contempt case.

5. At the hearing, a request was made to hear and dispose of both the matters finally.

6. I have heard the submissions of *Sri Vedula Srinivas*, learned Counsel for the writ petitioner, of *Sri K. Jyothi Prasad*, learned Standing Counsel for respondents 1 and 2. I have perused the material record.

7. From the pleadings, submissions made and content of the material documents, the following facts are discernable:

“The petitioner and the 3rd respondent, who belong to ‘BC-D category’ applied for admission into Ph.D. (part time) Mechanical Engineering course in the AURCET – 2017. One seat is meant for ‘BC-D Women’ category. The petitioner secured 148th rank, while the 3rd respondent secured 155th rank. Therefore, the petitioner became eligible for admission and allotment of the said seat meant for ‘BC-D Women’ category. However, the respondents 1 and 2 intended to allot the seat to the 3rd respondent by considering the petitioner as a non-local candidate. Hence, the petitioner approached this Court and obtained the afore-stated interim order and later, filed the Contempt Case.”

8. Be it noted that if the petitioner is to be held as a local candidate, she would be eligible for allotment of the seat in question; otherwise, the 3rd respondent would be entitled to allotment of the said seat. Therefore, the short but important question is as to whether the petitioner is a local candidate or a non-local candidate.

9. The petitioner admittedly secured the following educational qualifications from the following institutions: 'She passed intermediate in March, 1996, having studied in St. Joseph's Junior College for Women, Vizianagaram. She did B.Tech. (Mechanical Engineering) from Sri Venkateswara University and passed in first class in June, 2000. In December, 2014, she passed M.Tech. (Machine Design) from JNTU, Kakinada, in first class & with distinction'. Thereafter, she worked as Assistant Professor at various Engineering Colleges. At present, she is working as Assistant Professor in Mechanical Department of Sai Ganapathi Engineering College, Visakhapatnam.

10. The petitioner acquired all her educational qualifications from the educational institutions within Andhra University Area, except her B.Tech. (Mechanical Engineering) Degree, which she obtained from Sri Venkateswara University. For that reason, the respondents 1 and 2 considered the petitioner as a non-local candidate. However, in her application for admission and her AURCET – 2017 Hall Ticket, she was shown as 'Local', but at the time of counseling verification/acknowledgment, her Area was mentioned as 'Non Local'.

11. In this back drop, it is necessary to refer to the relevant provision of Admission Information Brochure of Andhra University Research Common Entrance Test (AURCET) - 2017, which deals with and explains 'Local Candidate' and which reads as under:

"A. LOCAL CANDIDATES:

In every course of study and category (explained in the following section B) 85% of the available seats are reserved in favour of the Local Candidates from the districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Krishna, Guntur and Prakasam belonging to Andhra University Area.

1. A candidate shall be regarded as a local candidate in relation to a local area (AU/OU/SVU);

1.1 If he/she has studied in an educational institution or educational institutions in such local area for a period of not less than four consecutive academic years ending with the academic year in which he/she appeared or first appeared in the relevant qualifying examination as the case may be; OR

1.2 Where, during the whole or any part of the four consecutive academic years in which he/she appeared, or first appeared in the relevant qualifying examination, he/she has not studied in any educational institutions, if he/she resided in that local area for a period of not less than four years immediately preceding the date of commencement of the relevant qualifying examination in which he/she appeared, or first appeared, as the case may be.

2. A candidate who is not regarded as local candidate under clause (1.1) above in relation to any local area shall be regarded as a local candidate of AU/OU/SVU.

2.1 If he/she has studied in the educational institutions in the state for a period of not less than seven consecutive academic years ending with the academic year in which he/she appeared or first appeared for the relevant qualifying examination as the case may be, be regarded as a local candidate in relation to (i) Such local area where

he/she has studied for the maximum period out of the period of seven years; or (ii) Where the period of his/her study in two or more local areas is equal, such local area where he/she studied last in such equal periods;

2.2 If during the whole or any part of the seven consecutive academic years ending with the academic year in which he/she appeared or first appeared for the relevant qualifying examinations, he/she not studied in the educational institutions, in any local area, but has resided in the State during the whole of the said period of seven years, be regarded as a local Candidate in relation to (i) Such local area where he/she has resided for the maximum period out of the said period of seven years; or (ii) Where the period of his/her residence in two or more local areas is equal, such local area where he/she has resided last in such periods.”

12. As per the above provision, 85% of the available seats are reserved in favour of local candidates from the above mentioned Districts belonging to Andhra University Area. Further, a candidate will be regarded as a ‘local candidate’ of a University Area, if he or she studied in educational institution/s in such local area for a period of not less than four consecutive Academic Years ending with the Academic Year in which he or she appeared or first appeared in the relevant qualifying examination, as the case may be. Since the petitioner studied her B.Tech., in Sri Venkateswara University Area, it is necessary to examine her case under Clause 1.2 and Clause 2 of the above provision. Under Clause 1.2, if he or she has not studied in any educational institutions in the University Area, yet he or she shall be regarded as local candidate in relation to local area of the University, if he or she resided in that local area for a period of not less than four years immediately preceding the date of commencement of the relevant qualifying examination in which he

or she appeared, or first appeared, as the case may be. Similarly, under Clause 2.2, if he or she has resided in the State during the whole of the said period of seven years, he or she shall be regarded as a local candidate in relation to such local area where he or she has resided for the maximum period out of the said period of seven years.

13. Therefore, the petitioner has to establish that she resided at a place falling within the area of the University. The petitioner produced Nativity Certificate issued by the Tahsildar, Badangi Mandal, Vizianagaram District, showing that she is a native of Mugada Village of Badangi Mandal of Vizianagaram District of Andhra Pradesh. She also produced Resident Certificate in the proforma issued by the Tahsildar, Badangi, for ten years immediately preceding the commencement of the subject examination. The same reflects that she resided at her aforesaid native place from 2007 - 2008 till 2016 - 2017 continuously. Be that as it may. It is not in dispute that the petitioner is a native of Mugada Village and that she resided at places within University Area during the period prescribed in the provision. Though the learned Standing Counsel and the learned counsel for the 3rd respondent contended that the above Clauses of the provision are not applicable to the petitioner and that the same are applicable to the candidates who pursued education by distant mode, a plain reading of the provision does not admit any such interpretation of the provision and hence, such a contention merits no countenance.

14. Viewed thus, this Court finds that the petitioner sufficiently established that she is a 'Local Candidate' and that, therefore, she

is entitled for allotment of the seat as prayed for in preference to the 3rd respondent, as she admittedly secured a better rank than the 3rd respondent and is also otherwise eligible for admission into the course in question. Accordingly, this Court holds that her Writ Petition deserves to be allowed.

15. Before parting, it is necessary to deal with the Contempt Case. In the Contempt Case, wherein it was alleged that the interim order is not implemented by the respondents 1 and 2, the 2nd respondent filed a counter affidavit, *inter alia* stating that they permitted the petitioner as well as the 3rd respondent for counseling, on 06.04.2018, and that one seat is reserved for BC-D (W) without filling it either with the petitioner or the 3rd respondent and that the said seat is kept unfilled and that there is no disobedience on the part of the respondents 1 and 2 in implementing the interim orders of this Court. It is stated by the learned Standing Counsel that the counseling is only for verification of the documents and that the said exercise was only done. Having regard to the submissions of the learned Standing Counsel and in view of the finding in the preceding paragraph, this Court is of the considered view that no orders need be passed and the Contempt Case can be closed.

16. In the result, the Writ Petition is allowed as prayed for and the Contempt Case is closed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending shall stand closed.

M.SEETHARAMA MURTI, J

August 09, 2018.
MD