

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

and

THE HON'BLE MS JUSTICE J. UMA DEVI

Writ Petition No.35424 of 2018

Date: 22-10-2018

Between:

A. Siva Datta Sai, S/o A.S. Jalandharachari,
aged about 17 years, Occ: Student,
R/o 7-245, S.T. Colony, Lingamgunta,
Narasaraopet Mandal, Guntur District being minor
Represented by his father A.S. Jalandharachari,
S/o A. Veerabrahmachari,

... Petitioner

Vs.

The State of Andhra Pradesh, represented by its
Principal Secretary, General Administration Department,
Secretariat, Amaravathi, Guntur District and 2 others

.. Respondents

For Petitioner : Mr. C. Raghu

For Respondents : Mr. Taddi Nageswara Rao, standing
counsel for the University

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.35424 of 2018

ORDER: (V. Ramasubramanian, J)

The petitioner, whose child was denied the benefit of reservation under the quota earmarked for local candidates in terms of the Presidential Order, 1975, has come up with the above writ petition seeking appropriate reliefs.

2. Heard Mr. C. Raghu, learned counsel for the petitioner and Mr. Taddi Nageswara Rao, learned standing counsel for the University.

3. In terms of G.O.P.No.646, dated 10-07-1979, a candidate shall be regarded as a local candidate in relation to a local area, only if he satisfies the following criteria.

"If he has studied in an educational institution or educational institutions in such local area for a period of not less than four consecutive academic year ending with the academic year in which he appeared or, as the case may be, first appeared in the relevant qualifying examination; or where during the whole of any part of the four consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared for the relevant qualifying examination, he has not studied in any educational institution, if he has 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 appeared or as the case may be first appeared.

A candidate who is not regarded as a local candidate in relation to any local area shall,

If he/she has studied in educational institutions in the State for a period of not less than 7 consecutive academic years ending with academic year in which he/she appeared or as the case may be first

appeared for the relevant qualifying examination be regarded as local candidate in relation to:

- a) such local area where he/she has studied for the maximum period out of the said period of 7 years;*
- b) where the period of his/her study in two or more local areas are equal such local area where he/she has last studied in such equal periods.*

4. Admittedly, the petitioner’s son does not fall within the four corners of G.O.P.No.646. But, the reason behind the same is that the petitioner was employed as a Graduate Teacher in Mathematics in Kendriya Vidyalaya Sangathan. It is an All India Service and the petitioner was liable to be transferred from place to place. The details of the places where he worked are provided in paragraph 3 of the affidavit in support of the writ petition, which can be summarized as follows:

S.No.	Period of Service	Place of working
1.	18-09-1997 to 13-11-1998	Kendriya Vidyalaya, Yerraguntla, A.P.
2.	16-11-1998 to 07-04-1993	Kendriya Vidyalaya, Ananthapur, A.P.
3.	08-04-2003 to 20-07-2005	Kendriya Vidyalaya, Visakhapatnam, A.P.
4.	27-07-2005 to 11-09-2009	Kendriya Vidyalaya, Silchar, Assam.
5.	14-09-2009 to 16-05-2012	Kendriya Vidyalaya, Kadapa, A.P.
6.	17-05-2012 to 08-02-2018	Kendriya Vidyalaya, Gulbarga Karnataka

5. Thereafter, the petitioner was appointed as Assistant Professor in the Department of Education in the University of Hyderabad, where he has been working from 09-02-2018.

6. The petitioner’s son was born on 26-09-2001, when the petitioner was working in Ananthapur. But, since the petitioner was working in Kendriya Vidyalaya, his son had to go on bharat darshan, when the petitioner got transferred to different places. On account of the transfer of the petitioner, his son did not fall squarely within the parameters of the G.O.P.No.646, dated 10-07-1979. But in cases of

this nature, the letter of the law cannot be applied strictly. One has to go by the spirit of the law. This court had an occasion to consider the case of the daughter of a person working in the Armed Services in W.P.No.29133 of 2016 by a judgment dated 30-08-2016. The claim of the said candidate was allowed. The last paragraph of the said judgment dated 30-08-2016 reads as follows:

“But, we do not agree. A person, who is a native of the State of A.P., but who was made to travel all over the country on account of her father serving the nation, cannot be considered as a non-local. When the persons, who migrated from the State, generations ago to different countries and become successful in life, are celebrated by every State as a native of their own state, persons who serve the nation cannot be disowned. The logic that applies to the people, who succeed in life, should also apply to the people who went to be successful in life. Therefore, the writ petition is allowed directing the respondents to treat the petitioner as a local candidate, in view of her nativity in the State of Andhra Pradesh. There shall be no order as to costs.”

7. The rationale behind the said judgment, applies squarely to the case of the petitioner's son.

Therefore, the writ petition is allowed and the respondents are directed to treat the petitioner as a local candidate for admission to the professional courses, for the academic year 2019-2020. There will be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 22-10-2018

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