

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.07.2019

CORAM
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24234 of 2005
And
W.P.M.P.No.26453 of 2005

M.Gokulakrishnan

... Petitioner

Vs.

1.The State of Tamilnadu
rep. by its Secretary,
Education Department,
Fort St.George, Chennai 600 009.

2.The Registrar,
Tamilnadu Dr.Ambedkar Law University,
Poompozhil,
No.5 Greenways Road,
Chennai 600 028.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for records relating to the Clause 10(ii) of the Notification as published in the Information Booklet of Law Entrance Examination & Admission for the academic year 2005-2006, to quash the same in so far as the same denies inclusion of Grand Children of Freedom Fighters are concerned and to consequently direct the respondents to consider the claim of the petitioner within the 1% reserved for children of Freedom Fighters is concerned under the Special category.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.A.Rajaperumal for R1
Additional Government Pleader
Mr.V.M.G.Ramakkannan for R2

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O R D E R

The petitioner has filed this petition seeking issuance of Writ of Certiorarified Mandamus to call for records relating to the Clause 10(ii) of the Notification as published in the Information Booklet of Law Entrance Examination and Admission for the academic year 2005-2006, to quash the same in so far as the same denies inclusion of Grand Children of Freedom Fighters are concerned and to consequently direct the respondents to consider the claim of the petitioner within the 1% reserved for

children of Freedom Fighters is concerned under the Special category.

2.The case of the petitioner is that the petitioner applied for admission into five years B.L. Degree Course for the academic year 2002-03 and as per the instructions thereunder, he claimed consideration in the Special Category of grandchildren of freedom fighters on the ground that he is the grandson of a freedom fighter. However, the petitioner was not granted admission in the five years B.L. Degree Course. Aggrieved by the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the first respondent as well as the learned counsel appearing for the second respondent would submit that only the children of the freedom fighters are eligible for 1% reservation for children of Freedom Fighters under the Special Category and the grandchildren are not eligible for the said benefit and would further submit that the petitioner is the grandson of the freedom fighter.

4.The very same issue has already been dealt with by this Court in the case of V.G.Subramaniyan Vs. The Secretary to Government, Health and Family Welfare Department, Fort St.George, Chennai and others in W.P.No.23104 of 2014 on 10.10.2014 and the relevant portion of which reads as follows:

"8.At the outset, it is to be pointed out that the issue raised by the petitioner is no longer res integra. A candidate by name Selvi.Sree Niranjana Bose appears to have filed a writ petition in W.P.(MD)

No.5050 of 2009 on the file of the Madurai Bench of the Madras High Court, for a declaration of the very same exclusion as invalid, which the petitioner has now challenged. Though the learned single Judge allowed the writ petition, a Division Bench reversed the said order by a judgment dated 25.08.2010 in W.A. (MD) No.133 of 2010. The operative portion of the order of the Division Bench, extracted in para 10 of the counter affidavit of the respondents reads as follows:

If the policy of the Government to extend the benefit of special reservation to the children of freedom fighters is on-workable, the Government may review the same. But, when the policy itself is to confine the benefit only to the children of the freedom fighters,

the Court cannot give a direction to extend such benefit to the grand children of the freedom fighters also and as rightly put in by the learned Additional Advocate general, extension of concession to further categories will certainly reduce the opportunity of the meritorious candidates who compete based on merit.

For the reasons discussed above, we are of the opinion that the order dated 24.09.2009 rendered by the learned single Judge in W.P. (MD) No.5050 of 2009 has to be set aside.

9. Therefore, in the light of the above, the issue is now settled and the petitioner cannot challenge the very same clause. Moreover, a person who applies in terms of a prospectus cannot go beyond the prospectus."

5. In view of the above categorical decision, the petitioner is not eligible for 1% reservation for children of Freedom Fighters under the Special Category. The writ petition is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Education Department,
Fort St. George, Chennai 600 009.

2. The Registrar,
Tamilnadu Dr. Ambedkar Law University,
Poompozhi, No.5 Greenways Road,
Chennai 600 028.

+1cc to Mr. L. Chandrakumar, Advocate, S.R.No.54708

+1cc to the Government Pleader, S.R.No.54947

W.P.No.24234 of 2005
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JP (CO)
RRS (01/08/2019)