



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 15.10.2019	Pronounced on: 18.10.2019
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Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.21860 of 2019
& W.M.P.Nos.21077, 21078, 21080 & 27483 of 2019

R.Siranjith,
S/o.N.Rajendran,
No.9-2-22 G, Kuppanna, Gounder Street,
Kolatur, Mettur Taluk,
Salem District. ... Petitioner

/versus/

1. The Deputy Controller of Examination,
The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai, Guindy, Chennai - 32.
2. The Dean,
Government Pudukkottai Medical College,
Pudukkottai - 622 044.
3. The Tamil Nadu Dr.M.G.R. Medical University,
Rep. by its Registrar,
No.69, Anna Salai, Guindy, Chennai - 32. Respondents

Prayer: Writ Petition is filed under Article 226 of the
Constitution of India, to issue Writ of Certiorari, to call for
the records of the 1st respondent to the 2nd respondent in its
Lr.No.EXI(5)84792/2018, dated 12.07.2019 and quash the same.

For Petitioner : Mr.V.Vijay Shankar

For R1 to R3 : Mrs.P.Rajalakshmi,
Additional Government Pleader

O R D E R

Heard the Learned Counsel for the Petitioners and the
Learned Additional Government Pleader Counsel for the
Respondents.

2. The petitioner herein presently perusing his M.B.B.S course in the Government Medical College, Pudukkottai. Pursuant to the interim direction granted by this Court in W.M.P.No.17880 of 2018 in W.P.No.15120 of 2018, the petitioner was provided provisional admission in the M.B.B.S course under the S.T category, taking into consideration the fact that, his application for issuance of community certificate was pending with the Revenue Divisional Officer, Mettur, since 2016.

3. While fact being so, the petitioner has filed the present Writ Petition challenging the letter of the University, dated 12.07.2019, which has informed the petitioner that till date, he has not forwarded the community certificate, so he will not be permitted to write 1st year examination to be held in the month of August - 2019.

4. The petitioner herein, in his affidavit filed in support of his petition has stated that, he belongs to Konda Reddis Community which is a Scheduled Tribe under the Constitution Scheduled Tribes Order 1950. His mother was issued with community certificate in the year 1989 which is valid till date. Her school records also discloses her community as Konda Reddis. While so, when the petitioner applied for issuance of community certificate in the year 2016, the Revenue Divisional Officer, Mettur, did not issue community certificate. Hence, Writ Petition was filed by Tribal Association before this Court in W.P.No.12850 of 2017, wherein, this Court directed the RDO to consider the application within a period of 8 weeks and disposed the Writ Petition.

5. The Revenue Divisional Officer, pursuant to the direction of this Court, considered the application and rejected all the applications assigned stereotyped reasonings. Hence, the mother of the petitioner has filed W.P.No.12354 of 2019 questioning the order passed by the Revenue Divisional Officer. While so, the petitioner filed W.P.No.15120 of 2018 apprehending that before completion of the selection process, he may not get community certificate. Pending issuance of community certificate, he must be considered for allotment of M.B.B.S. seat under S.T quota during the counselling held in the year 2018.

6. In the said Writ Petition, by way of interim direction issued by this Court, the petitioner candidature was considered under S.T category and also provided admission. In the said circumstances, since the petitioner has not produced the community certificate, ever after lapse of one year, after admission, the University has sent the letter on 12.07.2019 informing the petitioner that he will not be permitted to take

up the examination. The said letter is impugned in this Writ Petition.

7. The Learned counsel appearing for the petitioner submitted that having providing provisional admission, the petitioner cannot be prevented from taking up his examination more so, when the Writ Petition filed by the mother of the petitioner pending for consideration.

8. On perusing the affidavit and considering the facts, this Court found that by multiple litigation, the petitioner is trying to protect his provisional admission. As on date, the Revenue Divisional Officer has rejected the application of the petitioner seeking Konda Reddis community certificate. The Writ Petition No.15120 of 2018 filed for securing admission without community certificate is still pending. The petitioner was provided admission only by virtue of the order passed in the above said Writ Petition. If at all, he had any difficulty in taking the exams, he should have filed Miscellaneous Petition in that Writ Petition (W.P.No.15120 of 2018) seeking for further relief instead fresh Writ Petition. That apart, the Writ Petition (W.P.No.12354 of 2019) filed by the mother of the petitioner for issuance of community certificate was also pending, at the time of filing this present Writ Petition.

9. In the course of hearing, the Learned Counsel appearing for the petitioner would submit that the Division Bench of this Court had disposed W.P.No.12354 of 2019 filed by the petitioner's mother, on 05.09.2019, with the following observation.

12. Moreover, there is an alternative statutory remedy of appeal as against the impugned order. Hence, it is open for the petitioner to file appeal as against the impugned order, before the appropriate authority and in such event of filing of appeal, the concerned authority shall conduct enquiry only as to whether the children of the petitioner had been brought up by the petitioner-mother, and if really the children of the petitioner were brought up by the petitioner-mother, then provisional Community Certificates shall be issued to the children of the petitioner, and on such provisional Community Certificate, an endorsement shall be made therein to the effect that the same is subject to verification by the State Level Scrutiny Committee. After issuing such provisional Community Certificate, the authority concerned shall refer the same to the

State Level Scrutiny Committee for testing its veracity and genuineness. If the said Committee finds that the said provisional Community issued to the petitioner's children, is genuine, then a permanent Community Certificate shall be issued to the children of the petitioner by the concerned authority.

and pursuant to said order, the petitioner has preferred an appeal before District Collector, on 04.10.2019.

10. In the light of the above facts, this Court is of the view that the Writ Petition has to be dismissed for the reasons stated below:-

a). The Petitioner ought to have obtained proper community certificate within a reasonable time before seeking admission. For some reasons, he was not able to get certificate and he has approached this Court and Court has also granted interim relief.

b). His mother has approached this Court by filing another Writ Petition for seeking community certificate which has been disposed of by this Court, pointing that when there is an alternate remedy, the petitioner ought not to have filed Writ Petition and should have preferred appeal before the Authority, challenging the order of Revenue Divisional Officer.

c). When those Writ Petitions are pending, this Writ Petition is filed which is an ancillary relief to the main relief sought in the other two Writ Petitions, more particularly in the Writ Petition No.15120 of 2018 filed by the petitioner.

d). This is obviously an attempt to subvert the enquiry process and enjoy the interim relief without furnishing the Community Certificate.

11. The Learned Counsel appearing for the petitioner submitted that the petitioner may be permitted to take up the examination but result shall be withheld subject to the outcome of the Writ Petition. If such plea is entertained, it will only lead to a vicious cycle of filing Writ Petitions one after another without getting the community certificate, but complete his course. A person who seeks privilege, has to submit himself for enquiry and get proper certificate before availing the privilege. He cannot keep on filing Writ Petitions and survive through interim directions, enjoy the privilege without proving his eligibility to get the said privilege.

12. In this case, as pointed out earlier, the petitioner has not obtained the community certificate. Only on 04.10.2019, after direction of the Division Bench of this Court, he has preferred appeal before the District Collector challenging the order of District Revenue Officer refusing to given his S.T certificate. His admission to the Medical College is provisional by virtue of the interim direction, if he is allows to take up the examination without community certificate, it will tantamount to providing admission without community certificate. Later he may even plead legitimate expectation of getting degree. This Court cannot be privy to such tactics.

13. Hence, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

Copy to,

1. The Deputy Controller of Examination,
The Tamil Nadu Dr.M.G.R.Medical University,
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2. The Dean,
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Pudukottai - 622 044.
3. The Registrar,
The Tamil Nadu Dr.M.G.R. Medical University,
No.69, Anna Salai, Guindy, Chennai - 32.

+1cc to Mr.V.Vijay Shankar, Advocate sr.87212

Writ Petition No.21860 of 2019

mp(co)
nr 21/10/2019

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