

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on: 13.08.2019

Orders Pronounced on : 19.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

and

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.22570 of 2019

and

W.M.P.Nos.22000 and 22002 of 2019

Minor M.Harthi,

Rep. by her father and
natural Guardian L.Moorthi

.. Petitioner

Vs.

1. The Tamil Nadu State Level

Scrutiny Committee,

Adi Dravidar and Tribal Welfare

Department (CV-5),

Namakkal Kavingar Maligai,

Secretariat,

Chennai-600 009,

Rep. by its Chairman.

2. The Director of Tribal Welfare Department,

Chepauk,

Chennai-600 005.

3. Indian Institute of Food Processing Technology,

Thanjavur-613 005,

Rep. by its Associate Professor and Head i/c

Department of Academics and HRD.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of cancellation of admission to the B.Tech (Food Technology) course in proceedings No.IIFPT/B.Tech Admission/HARTHI M/19, dated 24.07.2019 on the file of the third respondent, quash the same and direct the third respondent to permit the petitioner to continue the B.Tech (Food Technology) course under ST category till the disposal of the Revision Petition dated 23.07.2019 by the State Level Caste Scrutiny Committee.

For petitioner : Mr.S.Doraisamy
For respondents : Mr.V.Shanmuga Sundar, Spl.G.P. for RR-1 and 2
No appearance for R-3

ORDER

R.SUBBIAH, J

The petitioner has come forward with the present Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of cancellation of admission to the B.Tech (Food Technology) course in proceedings No.IIFPT/B.Tech Admission/HARTHI M/19, dated 24.07.2019 on the file of the third respondent, quash the same and direct the third respondent to permit the petitioner to continue the B.Tech (Food Technology) course under ST category till the disposal of the Revision Petition dated 23.07.2019 by the State Level Caste Scrutiny Committee.

2. The Writ Petition is filed by the Minor M.Harthi, represented by her father and natural guardian L.Moorthi, who has sworn the affidavit on behalf of his daughter. The petitioner's father's parents and the father of the petitioner belong to Kurichan Community, which is notified as Scheduled Tribe Community. The father's avocation is Agriculture. The petitioner-father's parents are illiterates. The father and his parents did not obtain any Community Certificate, since it was not required for them at that time. The father has studied upto X Std. In all her School Records, the daughter-Minor M.Harthi's community is entered as Kurichan (ST) Community. The father has two daughters, namely (i) M.Sharmila and (ii) M.Harthi (petitioner herein). Since the Community Certificate is required for the daughters, the petitioner-father preferred application to the Revenue Divisional Officer (RDO), Dharmapuri on 02.02.2015 requesting to issue Community Certificate to him as well as to his children stating that they belong to Kurichan (ST) Community. Along with the said application, he had enclosed necessary documents. Since no order was passed, the father filed a Writ Petition in W.P.No.26412 of 2016, in which, this Court, by order dated 28.07.2016, directed the RDO, Dharmapuri to consider his application dated 02.02.2015 within a period of two months. Thereafter, the RDO conducted enquiry, in which the petitioner-father produced all the necessary documents. However, the RDO passed an order rejecting his application on 10.04.2017, as against which, the petitioner filed another Writ Petition in W.P.No.14765 of 2017, in which, this Court, on 24.07.2017, directed the petitioner to file an appeal against the said order of the RDO, before the District Collector. Thereafter, the petitioner-father preferred an appeal

to the Collector, Dharmapuri on 15.09.2017. Subsequently, the District Adi Dravidar and Tribal Welfare Officer issued notice to the petitioner-father on 04.12.2017 to appear for enquiry within 3 days. The said notice was received by the petitioner on 08.12.2017. The petitioner appeared for the enquiry on 08.12.2017, 11.12.2017 and 12.12.2017. But no enquiry was conducted. Again, the District Adi Dravidar and Tribal Welfare Officer issued notice to the petitioner on 06.03.2018 to appear for the enquiry within three days and the above notice was received by the petitioner on 12.03.2018, accordingly, he appeared on 13.03.2018, 14.03.2018 and 15.03.2018. Finally, the petitioner was informed that the enquiry was postponed.

3. It is the further case of the petitioner that in the meantime, the daughter of the petitioner passed +2 examination in April 2019 and obtained 372 marks out of 600. The daughter of the petitioner preferred an application to the third respondent for admission to B.Tech (Food Technology) course and she appeared for the entrance test on 07.04.2019, and had passed the said test. She opted to the third respondent-College. The provisional seat allotment was published on 18.07.2019, directing the petitioner's daughter to report before the third respondent between 18.07.2019 and 20.07.2019. As per the provisional seat allotment order, she has to produce all the original documents including the Community Certificate at the time of reporting between 18.07.2019 and 20.07.2019. If she does not produce the Community Certificate, the seat allotment will be cancelled. Hence, the daughter through her father-petitioner filed one more Writ Petition in W.P.No.21515 of 2019 for a direction to the third respondent to admit the petitioner's daughter in the said course without insisting upon the Community Certificate. This Court passed interim order on 19.07.2019 directing the third respondent to admit his daughter provisionally for admission to B.Tech course without insisting upon the production of the Community Certificate from the second respondent therein (RDO), pending disposal of the said Writ Petition. On 20.07.2019, the daughter appeared before the third respondent and produced the interim order passed by this Court. Thereafter, the petitioner's daughter was allotted the course, viz., B.Tech (Food Technology) and fees of Rs.80,550/- was remitted. Thereafter, the said W.P.No.21515 of 2019 was listed on 22.07.2019. On behalf of the District Collector, Dharmapuri, the learned Special Government Pleader produced before this Court the rejection order dated Nil.07.2019 passed in the appeal preferred by the petitioner. However, till date, the said rejection order was not received by the petitioner officially. Subsequently, this Court dismissed the said Writ Petition on 22.07.2019 with liberty to the petitioner to file an appeal (Revision Petition) before the competent authority first respondent-Scrutiny Committee as per G.O.Ms.No.147, Revenue (RA-3(2)) Department, dated 17.03.2016. Accordingly, the petitioner

preferred a Revision Petition before the first respondent on 23.07.2019. In view of the decision of the Supreme Court reported in AIR 1995 SC 94 (Kumari Madhuri Patil and another Vs. Addl. Commissioner, Tribal Development and others), it is the case of the petitioner that he is entitled for admission of his daughter to the said course, pending the enquiry before the first respondent. Hence, the petitioner filed another Writ Petition before this Court in W.P.No.22137 of 2019 for a direction to the first respondent-Committee to dispose of the said Revision Petition dated 23.07.2019 and permit the daughter of the petitioner to continue her studies till such time. However, the learned Special Government Pleader wrote to the third respondent on 22.07.2019 not to grant admission to the daughter of the petitioner. On the basis of the same, the third respondent passed the impugned order dated 24.07.2019 cancelling the provisional admission of the daughter. Hence, the said W.P.No.22137 of 2019 was disposed of on 29.07.2019 with a direction to the first respondent-Committee to pass orders on the said Revision Petition, filed by the petitioner, within a period of six weeks from the date of receipt of a copy of the order. Aggrieved by the above order of cancellation of the daughter's provisional admission to the said course, the present Writ Petition is filed for the relief stated supra.

4. The learned Special Government Pleader appearing for the respondents 1 and 2, by filing the counter affidavit of the first respondent-Committee, submitted that the State Level Scrutiny Committee-II had referred the matter to the Deputy Superintendent of Police, Scheduled Castes/Scheduled Tribes Vigilance Cell, Salem Region, vide letter No.12827/CVIII/2019-1, dated 06.08.2019 for obtaining a detailed enquiry report on the claim of the Kurichan Scheduled Tribe Community status of the petitioner before taking a final decision as per the guidelines issued by the Supreme Court of India in the said Kumari Madhuri Patil's case. The RDO, Dharmapuri and the District Collector, Dharmapuri were also requested to send the original records in which the claim of the petitioner was rejected, vide Government Letter No.12827/CVIII/2019-2, dated 06.08.2019. After receipt of the report of the Vigilance Cell from the Deputy Superintendent of Police, Vigilance Cell, Salem Region, through the Director of Tribal Welfare, Chennai-5, and the original records in which the petitioner's community claim was rejected by the District authority, the State Level Scrutiny Committee will examine and finalise the case. Hence, the first respondent-Committee prayed for two months' time for completion of the verification by the said Committee-II.

5. Heard both sides and perused the materials available on record'.

6. The learned counsel for the petitioner submitted that originally, the petitioner's daughter was granted provisional admission to the said course and was allotted a seat and now the

admission of the petitioner's daughter is being denied based on the rejection order of the District Collector. However, the matter is pending before the first respondent-State Level Committee. Further, the Revision Petition preferred by the petitioner, as directed by this Court in the said Writ Petition, is pending before the first respondent-Committee. In the meantime, as it may take some time for the first respondent-Committee to dispose of the Revision Petition, the petitioner has preferred the present Writ Petition, as probably that the petitioner's daughter will lose her course of study.

7. It is seen that one of the above said Writ Petition was dismissed by this Court with liberty to the petitioner to file Revision Petition before the first respondent-Committee based on the above said G.O., according to which, the petitioner has preferred the Revision Petition, and when the said Writ Petition is pending, the petitioner preferred W.P.No.22137 of 2019 to dispose of the said Revision Petition and to permit the daughter of the petitioner to continue her studies till such time. This W.P. was disposed of on 29.07.2019 directing the first respondent-Committee to pass orders on the said Revision Petition filed by the petitioner within a period of six weeks. As on date, the petitioner's application seeking issuance of Community Certificate to the petitioner's daughter was rejected by the District Collector stating that the petitioner / his daughter do not belong to Kurichan ST Community and when that being the position, this Court cannot give a direction to give admission to the petitioner's daughter under ST category, that too when the said Revision Petition is pending before the first respondent-Committee.

8. Therefore, we do not find any merit in the present Writ Petition and the same is liable to be dismissed. Accordingly, this Writ Petition is dismissed. However, the first respondent-Committee is directed to dispose of the said Revision Petition, dated 23.07.2019 as directed in W.P.No.22137 of 2019, by order dated 29.07.2019, within the time stipulated therein. No Costs. Consequently, W.M.Ps. are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

CS

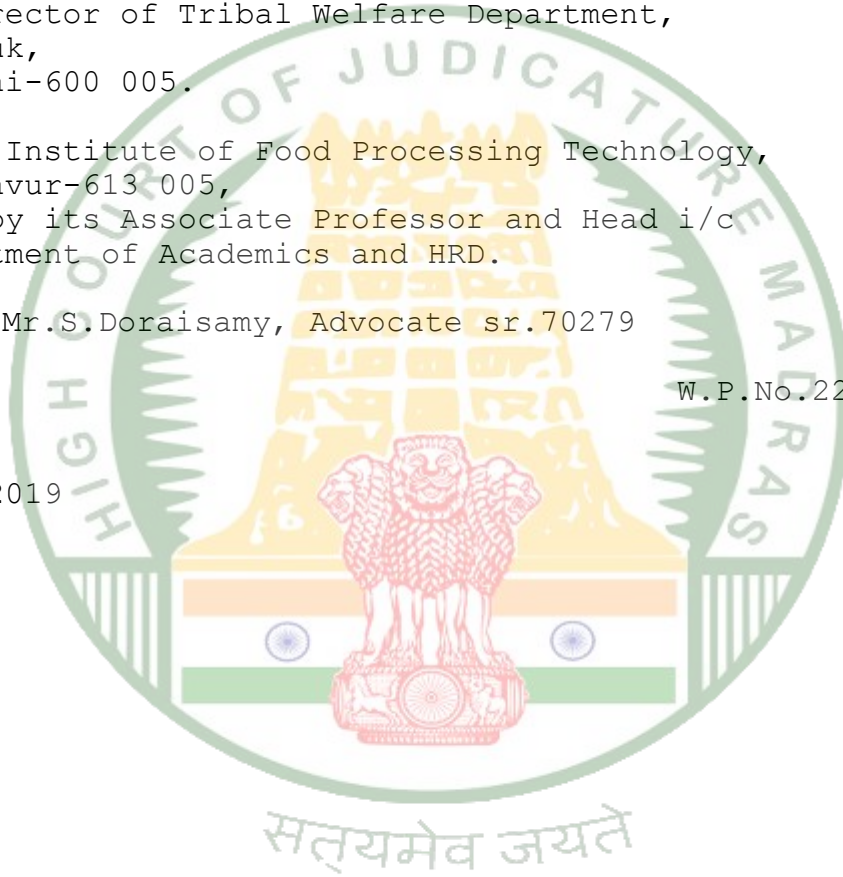
To

1. The Tamil Nadu State Level
Scrutiny Committee,
Adi Dravidar and Tribal Welfare
Department (CV-5),
Namakkal Kavingar Maligai,
Secretariat,
Chennai-600 009,
Rep. by its Chairman.
2. The Director of Tribal Welfare Department,
Chepauk,
Chennai-600 005.
3. Indian Institute of Food Processing Technology,
Thanjavur-613 005,
Rep. by its Associate Professor and Head i/c
Department of Academics and HRD.

+1cc to Mr.S.Doraisamy, Advocate sr.70279

W.P.No.22570 of 2019

sj(co)
nr 21/08/2019



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