



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.08.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.24756 of 2019
& W.M.P.Nos.24399 & 24400 of 2019

Karnan Jayabalan,
S/o. Rajesh Jayabalan,

... Petitioner

/verus/

1. The Vice Chancellor,
Tamil Nadu Veterinary & Animal Sciences University,
Madhavaram Milk Colony,
Chennai - 600 051.

2. The Chairman
Admission Committee (UG),
Tamil Nadu Veterinary & Animal Sciences University,
Madhavaram Milk Colony,
Chennai- 600 051

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records of the respondents relating to list of ineligible Candidates under NRI/NRI Sponsored Candidates hosted on the respondents Official website www.tanuvvas.ac.in and quash the same is so far as the petitioner is concerned and further direct the respondents to consider the petitioner's eligibility as Overseas Citizen of India without insisting on production of proof of employment of NRI (Specimen-III) and NRI bank account by the petitioner and pass order.

For Petitioner : Mr.Hema Muralikrishnan
For Respondents : Mr.S.Vijayakumar

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the respondents.

2. The affidavit of the petitioner and the counter affidavit filed by the respondents along with the respective typed sets were perused.

3. The case of the petitioner is that, while his parents were employed in USA, he was born at New Jersey on 25.07.2001. By birth, he became US Citizen. His parents later migrated to India during November 2006 and settled at Chennai. He pursued his studies in Chennai and completed his 12th standard in March 2019. He applied for admission in Tamil Nadu Veterinary and Animal Sciences University (TANUVAS) which permits Overseas citizen of India (OCI) to apply under NRI Quota, on production of necessary proof.

4. According to the petitioner, as per Section 7A of the Indian Citizenship Act, as amended in the year 2005 he obtained Overseas Citizen of India (OCI) of Indian card. Therefore, he is fully eligible to compete par with NIR for the seat earmarked under the NRI, as per the prospectus issued by the 2nd respondent. However, his application was not considered and rejected by the 2nd respondent, on the ground that he has not produced the proof of employment of NRI (Specimen-III) and NRI Bank Account.

5. According to the petitioner, as per the prospectus, the Overseas Citizen of India (OCI) cardholder/person of Indian Origin (PIO) have been granted parity with NRI's. The prospectus also specifically excludes NRI/OCI/PIO for considering under the Foreign National Quota. While so, having pursued his course throughout in Tamil Nadu but being Citizen of US and OCI Cardholder, his only option is to compete along with NRI/Wards of NRI/NRI sponsored candidates under NRI quota. As per prospectus, necessary documents have been furnished to prove his OCI status which is the OCI card issued by the Government of India. Therefore, rejecting his application for want of proof of employment of NRI (Specimen-III) and NRI Bank account is unreasonable and not applicable to him. Those documents are required only for candidates who opt for seat as NRI/wards of NRI/NRI sponsored.

6. Per contra, the learned Standing Counsel appearing for the respondents would state that the petitioner has applied for admission in BVSC & AH degree course for the academic year 2019-2020 under the NRI category and has submitted his application, without necessary documents as per the prospectus. The necessary documents required are enumerated under Clauses 1.8 and 1.9 of the prospectus. Without those documents, the petitioner application cannot be entertained.

7. Further the learned Standing Counsel appearing for the respondents would submit that the payment of fees should be in U.S Dollar for which the petitioner ought to have been produced some documents to indicate that his parents or sponsor

or have NRI/NRE bank account. In the absence of said document, which only will ensure that the petitioner have capacity to pay the fees in U.S dollar, the petitioner application cannot be entertained. Therefore the Writ Petition is not sustainable.

8. In response the learned counsel for the petitioner submitted that, the petitioner though by birth US citizen, he is living in India for more than 15 years and pursued his course in India. As per the prospectus he can neither be treated as native candidate nor a foreign candidate. His only option is to apply under NRI Quota as OCI as per prospectus. After the amendment of the Indian Citizenship Act 2005, the concept of OCI has been introduced and Section 7A of the Citizenship Act has been inserted, wherein, Section 7A (1)(c) as amended in the year 2015 says that a person, who is a minor child, and whose both parents are citizens of India or one of the parents is a citizen of India, is eligible to get registered as OCI of India. Accordingly, the petitioner has registered himself as OCI of India. Hence he is entitled to compete par with NRI candidates.

9. Perusing the prospectus of the respondents, this Court finds that while listing out eligible criteria for an applicant under the NRI Quota, the prospectus says that the Overseas Citizen of India (OCI) cardholder/Person of Indian Origin (PIO) have been granted parity with NRI in the field of Education. To avail the opportunity necessary proof should be submitted along with the application. At the same time, it is also specifically states that OCI will not be considered under Foreign National category for the Educational purposes. While drawing parity with NRI, the prospectus except generally mention of necessary proof does not say about any specific documents required for OCI candidates. Whereas, Clauses 1.8 and 1.9 of the prospectus are in respect of documents required to be produced by candidates belonging to the NRI/Wards of NRI/NRI sponsored category respectively. Therefore, the contention of the learned Counsel for the respondents that the required document listed in clause 1.8 and 1.9 also applies to OCI/PIO is not sustainable. The OCI/PIO are different from NRI. The necessary document to prove OCI is primarily, the OCI card issued by the Union of India.

10. The other submission of the learned Counsel for the respondent is that the intention to earmark seats for NRI is to augur finance through foreign exchange and in the absence of proof that the petitioner has wherewithal to pay the fees through US Dollar, he automatically become ineligible to compete in the NRI quota.

11. This submission regarding payment in US dolloar through NRI/NRE bank account can apply only for NRI/wards of

NRI/NRI sponsored category candidates and it cannot be extended to PIO or OCI candidates.

12. As pointed earlier, the OCI candidates are treated par with the candidate only for the purpose to provide opportunity to get seat in Indian Educational Institutes. As far as this case is concerned, unless and until, the petitioner is considered under NRI quota, he will be deprived of participating in the admission process in the respondent Institute since he being a foreign National by birth, he cannot compete under Foreign National quota in view of his OCI status. The purpose of amendment to Citizenship Act, as amended by Act 1 of 2015 could be understood from reading the Statement of Objects and Reasons, which reads as below:-

Amendment Act 1 of 2015 - Statement of Objects and Reasons:-

2. The Citizenship Act has been amended, from time to time, inter alia, making enabling provisions for registration of Overseas Citizen of India Cardholder, conferment of certain rights on such citizens, renunciation of overseas citizenship and cancellation of registration as Overseas Citizen of India Cardholder.

3. The proposed amendments to the Citizenship Act are required due to certain lacunae that were noticed during its implementation and review of provisions in the Citizenship Act.

13. After due deliberations, in order to accommodate the Indian Diaspora the above amendment were brought in to accord the OCI cardholders certain rights who fulfil the criteria under Section 7A. As a consequence to provide education for PIO and OCI candidates, parity drawn along with NRI. The documents necessary to prove a NRI is entirely different from the document necessary to prove a PIO/OCI. The respondents have rightly enlisted necessary documents in clauses 1.8 and 1.9 for NRI's. Whereas, the prove of status of PIO/OCI, is the card issued by the Union of India. This is the one and only proof which could establish the PIO/OCI status. For the said reason, the prospectus does not say anything about other documents required for proof of OCI/PIO.

14. The Learned Counsel appearing for the respondent would submit that the prospectus is drawn in line with the Government Order issued by the Higher Education Department on 02.06.2009 in respect of filling up the NRI in the Higher Education.

15. No doubt, these guidelines of Government of Tamil Nadu is scrupulously followed by the respondents. The Government Order dated 02.06.2009 is prior to amendment of Citizenship Act. After the amendment to the Citizenship Act and introduction of Section 7A in the Act, the respondent is permitting OCI and PIO candidates to compete along with NRI. But then, because OCI candidate is treated par with NRI's, the respondent cannot insist OCI to produce same set of documents required to prove NRI status. As per the prospectus, what is required is the candidates who apply for the seat under the OCI is to produce necessary proof of his/her OCI status.

16. Regarding payment of fees in U.S Dollar, the source of payment may not be relevant for OCI candidate as long as they pay the fees in US dollars. The reason for rejecting the petitioner's application appears to be improper. Hence, the Writ Petition is Allowed. The respondent herein is directed to issue hall ticket to the petitioner and permit to write the examination which is scheduled to be held on August 30.08.2019. The respondent shall get an undertaking from the petitioner that if he is selected he will pay the required fees in U.S Dollar and not the Indian currency equivalent to it. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To,

1. The Vice Chancellor,
Tamil Nadu Veterinary & Animal Sciences University,
Madhavaram Milk Colony, Chennai - 600 051.
2. The Chairaman
Admission Committee (UG),
Tamil Nadu Veterinary & Animal Sciences University,
Madhavaram Milk Colony,
Chennai- 600 051.

+1cc to Mr.L. Muralikrishnan, Advocate sr.73948

+1cc to Mr.S.Vijayakumar, Advocate sr.73979

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