



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.08.2019**

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.17030 of 2019
and
W.M.P (MD) .No.13595 of 2019

L.Sivagama Sundari
D/o.V.Lakshmi Naraian
rep., by her Mother and Natural Guardian
L.Vaidhehi

...Petitioner

-Vs-

- 1.Union of India,
Rep., by its Secretary,
Department of Higher Education,
Ministry of Human Resource Development,
Jeevan Deep Building,
Parliament Street,
R.K.Puram, New Delhi-110 001.
- 2.Joint Secretary,
Department of Higher Education,
Ministry of Human Resource Development,
Shastri Bhawan, New Delhi-110 001.
- 3.Chairperson,
Joint Seat Allocation Authority 2019,
National Institute of Technology,
Tiruchirapalli-620 015.
- 4.Reporting Centre Module Officer,
Joint Seat Allocation Authority 2019,
National Insitute of Technology,
Tiruchirapalli-620 015.
- 5.Reporting Centre Incharge,
Joint Seat Allocation Authority 2019,
National Institute of Technology,
Tiruchirapalli-620 015.
- 6.Director,
National Institute of Technology,
Tiruchirapalli-620 015.



7.Registrar,
National Institute of Technology,
Tiruchirapalli-620 015.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned Seat Cancellation Letter dated 05.07.2019 issued by the respondents 4 and 5 and quash the same as illegal and consequently direct the respondents to readmit the petitioner's daughter Sivagama Sundari forthwith to study Metallurgical and Materials Engineering (4 years, Bachelor of Technology) at National Institute of Technology, Tiruchirapalli.

For Petitioner : Mr.B.S.Meltiue
For Respondents : Mr.Nandakumar (for R1 & R2)
Central Government Standing Counsel
Mrs.Maria Roseline (for R3 to R7)

ORDER

Challenging the impugned Seat Cancellation Letter, dated 05.07.2019 of the respondents 4 and 5 and for a consequential direction to the respondents to readmit the petitioner's daughter, namely, Sivagama Sundari, to study Metallurgical and Materials Engineering (4 years, Bachelor of Technology) at National Institute of Technology, Tiruchirapalli, this writ petition has been filed.

2.Heard Mr.B.S.Meltiue, learned counsel appearing for the petitioner, Mr.Nandakumar, learned Central Government Standing Counsel appearing for the respondents 1 and 2 and Ms.Maria Roseline, learned counsel appearing for the respondents 3 to 7.

3.The issue raised in this writ petition is in a very narrow compass, which is given in nutshell hereunder:-

That the petitioner/daughter, represented by her mother, in order to get admission in any one of the National Institute of Technology, made an application to write Joint Entrance Examination (JEE) conducted by the concerned examination authority in March-2019 and written the examination. Thereafter, based on merits, the petitioner applied for B.Tech (Metallurgical and Materials Engineering) at National Institute of Technology, Tiruchirapalli/third respondent Institution on 16.06.2019 under 10% Economically Weaker Section (EWS) quota.

Based on the said application and credentials as well as the mark obtained by the petitioner, she had been selected for admission to the said course and accordingly, selection order had been given on 03.07.2019. However, subsequently, on 05.07.2019 through the impugned order issued by the respondents 4 and 5, the said admission given to the petitioner was cancelled for the reason that, the



Economically Weaker Section (EWS) certificate obtained and produced by her is dated 25.03.2019, whereas, as per the checklist annexed with the brochure, such Economically Weaker Section (EWS) for General Category Certificate, should have been obtained on or after 01.04.2019 for the previous financial year.

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Challenging the said cancellation order, this writ petition has been filed.

4.I have heard the learned Standing Counsel appearing for the respondents 3 to 7, who would submit that, as per the check list annexed along with the brochure concerned, the Economically Weaker Section (EWS) for General Category Certificate should be dated on or after 1st April-2019. The relevant portion of the said check list details reads thus:-

".....

d.The GEN-EWS certificate should be dated on or after April 1, 2019.

....."

5.Whereas, the petitioner since obtained a certificate on 25.03.2019 for the financial year 2017-2018, the said certificate was not accepted and accordingly, the admission given already to the petitioner has been cancelled.

6.I have gone through the Constitution (One Hundred and Third Amendment) Act, 2019, which enable the Educational Institutions to have a 10% reservation for Economically Weaker Section, who are not given the benefit for Scheduled Caste and Scheduled Tribes and other Backward Class reservation and the said amendment ie., Constitution (One Hundred and Third Amendment) Act, 2019, came into effect from 12.01.2019.

7.Therefore, if at all, the 10% quota for Economically Weaker Section (EWS) should be given, it was possible only because of the said amendment, which came into effect from 12.01.2019. Therefore, as far as the academic year 2019-2020 is concerned, for which year only since the admission has been given to the petitioner, which has subsequently been cancelled, the necessary certificate required by the respondents ie., General Economically Weaker Section (EWS) Certificate should have been obtained on or after 1st April-2019, which means such certificate should certify the parents/guardians of the candidature that, they do not have income more than Rs.8,00,000/- (Rupees Eight Lakhs only) per year for the financial year ended prior to the issuance of the certificate.

8.In this context, it is the case of the respondents, as projected by the learned Standing Counsel, that, if the certificates should have been dated on or after 1st April-2019, the financial year should be only the previous year, that means, the financial year ends on 31 March-2019 ie., from 01.04.2018 to 31.03.2019, whereas, the certificate produced by the petitioner states that, the



petitioner does not have the income more than the ceiling to get benefit on Economically Weaker Section (EWS) only for the financial year 2017-2018 and not 2018-2019. Therefore, on that score also, it is the objection on the part of the respondents that, the certificate in question cannot be accepted.

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9.The said reason given by the respondents is unjustifiable or unworkable, because, assuming that, the candidate must get the certificate on or after 1st April for the academic year 2019-2020, if the candidate is required to get a certificate after 1st April-2019 and if the certificate is given either 1st or 2nd April 2019, it is thoroughly impossible to certify the economical status to state that, the person, who gets the certificate, is not having the income more than Rs.8,00,000/- (Rupees Eight Lakhs only) for the financial year ends on 31.03.2019, as the detail with regard to the income of the person for financial year ends on 31.03.2019 would never be made available to any authority on the very next day morning.

10.Therefore, the possible interpretation would be that, the certificate of Economically Weaker Section (EWS) to be obtained by the candidate on or after 1st April for a particular year shall be for the previous financial year, which means, the financial year ends one year prior to that 1st April of the year mentioned for issuing the certificate.

11.It is the only possible way of interpretation of the requirement of Economically Weaker Section (EWS) Certificate for the previous financial year for getting benefit of 10% reservation of EWS quota, as per the Constitution (One Hundred and Third Amendment) Act, 2019. In that view of the matter, insofar as the objection raised by the respondents with regard to the financial year is concerned ie., 2017-2018 instead of 2018-2019 cannot be sustained and therefore, in that respect, the certificate issued to the petitioner for the financial year 2017-2018 ends on 31.03.2018 is for a correct financial year.

12.However, insofar as on the date of certificate is concerned, as the check list specifically mentioned that, the certificate of Economically Weaker Section (EWS) General Category should have been obtained, only on or after 1st April, that means, 1st April 2019 for the purpose of getting admission for the academic year 2019-2020, such certificate should have been obtained only on or after 1st April 2019 and here, admittedly, the certificate of Economically Weaker Section (EWS) obtained by the petitioner was dated 25.03.2019 ie., few days prior to the said cut of date. Necessarily the petitioner has to get a fresh certificate from the very same authority and in this regard, if the petitioner is able to get a fresh certificate, by surrendering the earlier one, dated 25.03.2019, from the concerned authority and produce the same before the respondents institution, this Court feels that, there can be no further impediment for the petitioner to sustain her admission for the first year B.Tech (Metallurgical and Materials Engineering) (4 years,



Bachelor of Technology)) course for the academic year 2019-2020 in the third respondent institution.

13. In that view of the matter, to meet the ends of justice, this Court is inclined to dispose of this writ petition with the following directions:-

"that the petitioner shall obtain General Economically Weaker Section (EWS) Income Certificate from the authority concerned, who already granted such certificate on 25.03.2019 to her for the financial year 2017-2018 ie., the year ending 31.03.2018 and produce the same before the third respondent, within a period of two weeks from the date of receipt of a copy of this order and on such production of certificate by the petitioner, the admission already given to her by order dated 03.07.2019 referred to above shall be protected and the petitioner shall be permitted to get admission in the third respondent institution for the said course.

14. In view of the above directions, the impugned order, dated 05.07.2019 shall not be given effect to. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar

To

1. The Secretary,
Union of India,
Department of Higher Education,
Ministry of Human Resource Development,
Jeevan Deep Building,
Parliament Street,
R.K. Puram, New Delhi-110 001.

2. Joint Secretary,
Department of Higher Education,
Ministry of Human Resource Development,
Shastri Bhawan, New Delhi-110 001.

3. Chairperson,
Joint Seat Allocation Authority 2019,
National Institute of Technology,
Tiruchirapalli-620 015.

4. Reporting Centre Module Officer,
Joint Seat Allocation Authority 2019,
National Institute of Technology,
Tiruchirapalli-620 015.



5.Reporting Centre Incharge,
Joint Seat Allocation Authority 2019,
National Institute of Technology,
Tiruchirapalli-620 015.

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6.Director,
National Institute of Technology,
Tiruchirapalli-620 015.

7.Registrar,
National Institute of Technology,
Tiruchirapalli-620 015.

+1 CC to M/s.B.S.MELTUE, Advocate (SR-80442[F] dated 07/08/2019)

+1 CC to M/s.J.MARIA ROSELINE, Advocate (SR-80434[F] dated 07/08/2019)

+1 CC to M/s.R.NANDA KUMAR, Advocate (SR-80691[F] dated 08/08/2019)

W.P. (MD) No.17030 of 2019
07.08.2019

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