

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2020

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.11072 of 2020
and W.M.P.Nos.13481 and 19168 of 2020

T.C.Neeraja Rajeev

..Petitioner

Vs.

1. Union of India
Rep. by the Union Territory of Puducherry,
Rep. by its Chief Secretary,
Goubert Salai, Puducherry.
2. Government of Puducherry,
Centralized Admission Committee (CENTAC),
Pondicherry Engineering College,
Puducherry.
3. The Regional Administrative Officer,
Government House, Mahe-673 310.
4. The Deputy Tahsildar (Revenue),
Mini-Civil Station,
Mahe-673 310.
5. The Village Administrative Officer,
Palloor, Mahe.

..Respondents

* * *

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus after calling for the concerned records from the fourth respondent, quash the order of the fourth respondent dated 07.08.2020 bearing No.490/STOM/T3/2020/84, as illegal, arbitrary, contrary to law and consequently, direct the third respondent to issue residential/residency certificate pursuant to the application number PEMRD0000161431 dated 22.01.2020 within the time frame stipulated by this Court and further direct the second respondent to consider the application submitted by the petitioner on 23.07.2020 for admission to Non-NEET Professional Courses on the basis that the petitioner is resident of Union Territory of Puducherry.

* * *

For Petitioner : Mr.Balan Haridass
For Respondents : Mr.A.V.Ramalingam,
Additional Government Pleader
(Puducherry)

O R D E R

The petitioner, who is an aspirant of medical education, has filed the above writ petition for quashing the order of the fourth respondent dated 07.08.2020 as illegal and arbitrary and consequently, directing the third respondent to issue residency certificate based on the application made by the petitioner on 22.01.2020.

2. The petitioner is a native of Palloor, Mahe, where she has been continuously residing ever since her birth. She has been living along with her mother in Palloor, which is a part of the Union Territory of Puducherry. The petitioner had schooling in Kendriya Vidyalaya, Chembra, Mahe, till 10th standard. After completing 10th standard, she had joined Excel Public School, Chalakkara, Mahe, which is also recognized by the Government of Puducherry. She had secured 1180 marks out of 1200 in the Plus two examination in March 2020. The petitioner also had appeared for NEET Professional Course Examination. As she is claiming a seat in the reservation for professional courses under the Puducherry quota, she had applied with the fifth respondent for residential certificate on 22.01.2020. Even after six months of applying the same, the fourth respondent had not considered the application of the petitioner constraining her to approach this Court by filing W.P. No.9169 of 2020. This Court also ordered on 13.07.2020 directing the fourth respondent to consider the application of the petitioner on merits and pass appropriate orders on the same within a period of four weeks.

3. In the meanwhile, the second respondent had invited applications for non-NEET Professional Courses, for which, the petitioner was forced to apply without the residential certificate. While so, the fourth respondent had rejected the application of the petitioner by a non-speaking order. When the petitioner requested the fourth respondent to furnish the copy of the order, the impugned order dated 07.08.2020 was forwarded to her. In the said order, it has been specifically stated that the petitioner's application was disposed of on merits on 28.06.2020, after conducting verification of records and after due enquiry, and based on the enquiry report, wherein, it has been noted that the petitioner is not residing in the address given at Palloor, but residing with her parents at Azhiyur and therefore, the application was rejected.

4. The petitioner had produced (i) the Transfer Certificate issued by the Kendra Vidyalaya Sangathan, where she had been studying from second standard at Palloor, Mahe ; (ii) school Identity Card containing the address that she is residing at Palloor ; (iii) the Aadhar Card, which bears the same address ; (iv) the ration card also containing the petitioner's name, which is also in the same address ; and (v) the voter's ID card of the petitioner's mother, which also shows the same address as the place of residence. Despite the fact that the petitioner had enclosed all the above documents in proof of residence, the fourth respondent rejected her application simply stating that the petitioner was residing only in Azhiyur and not in Palloor.

5. Though the impugned order states that an order in the petitioner's application was passed on merits on 28.06.2020, the said order has not been produced before this Court, despite the direction given by this Court to the learned Additional Government Pleader to produce the above order. Therefore, it is not known as to how the Deputy Tahsildar (Revenue), Mahe, had arrived at the conclusion that the petitioner was not residing in Palloor and residing only at Azhiyur with her parents.

6. The fourth respondent had filed a counter-affidavit, wherein, it is stated that the house in the address given by the petitioner at "Kalabham", Naluthara P.O., Palloor, is owned by the brother of the petitioner's mother one T.C.Valasarajan. The mother of the petitioner Mrs.Shalini has her own house at Azhiyur, which is near the border of Mahe. It is stated that in the enquiry, it is found that the house in Palloor is not owned by the petitioner or her parents. At this juncture, it is to be stated that it is only the certificate of the residence, which has been sought for and not the certificate of the ownership of the house. It may be true that the mother of the petitioner owns her house at Azhiyur. When the petitioner had produced several documents, which were issued by various Government authorities, to show that her residence is in Palloor, merely because the house, in which, they are residing is not owned by one of the parents, it cannot take away her status of a resident, as a person can reside within the Mahe Region in rental premises without owning a house. Therefore, one cannot be said to be not a resident of Mahe, merely because he/she does not own a house. The petitioner also studied all through her education within the Mahe region.

7. The learned Additional Government Pleader produced the voters identity lists of the Mahe Assembly Constituency dated 15.09.2015 and 07.02.2020 in Malayalam, without even the translated copies of the same. Since all the contents of the same are in Malayalam, the same cannot be appreciated by this Court in the absence of translated copies.

8. Though a physical report is said to be submitted by the Tahsildar, nothing has been brought before this Court by the learned Additional Government Pleader.

9. Considering the pandemic situation, when the students are applying online for the certificates, as required by the authorities, the authorities are taking least interest in disposing them on time, causing unnecessary anxiety in the minds of the students. In this case also, though the petitioner had applied in the month of January 2020, only after a direction from this Court, she could know the result of the application. Though it is stated that there was a field verification, the revenue officials, whoever had visited the house at Kerala had not filed any report or recorded any statement of the mother of the petitioner or that of the petitioner herself.

10. The residence criteria, as per the corrigendum issued on 14.05.2019 by the Centralised Admission Committee (CENTAC), is "those who have passed SSLC/HSC or any other public examination and for that purpose had undergone academic studies continuously for five successive classes immediately preceding the qualifying examination, including the year of qualifying examination, in a recognized educational institution, located in the Pondicherry Union Territory and having their residence in Pondicherry Union Territory for 5 years continuously during that period. Mere stay in places such as residential hostel would not amount to residence."

11. In this case, the petitioner is residing within the territory of Mahe, though not in her own house, but in her uncle's house. There is no prohibition that one cannot stay in his/her uncle's house for a continuous period of more than five years for the purpose of education. Even presuming that the petitioner studied from her uncle's resident, it cannot be deemed to be a hostel to dis-entitle her the certificate of residence.

12. In this case, the authorities have not acted in exercise of their powers from the beginning. Though it is mentioned in the impugned order that a detailed order was passed on 28.06.2020, there is no such order being produced till today. When it involves the education of an individual especially for professional courses, the officials can bestow at least a little more prompt attention and take action by passing any order with utmost care. The callous attitude of the officials/respondents had driven the petitioner herein twice to invoke the jurisdiction of this Court for the purpose of residence certificate with no fault of her.

13. As the petitioner qualifies the condition No.2 of the General Information (Para 1.8 page No.19) issued by the CENTAC dated 14.05.2019, she is entitled for the residential/residency certificate, considering the urgency.

14. In the result, the impugned order dated 07.08.2020 and also the order said to be passed by the fourth respondent on 28.06.2020 (not placed before this Court, nor served on the petitioner) are set aside and the fourth respondent is directed to issue the residential/residency certificate to the petitioner within a period of one week from the date of receipt of a copy of this order.

15. This Court vide order dated 19.08.2020 directed the second respondent to keep the petitioner's application alive until further orders from this Court. Accordingly, the petitioner shall produce the residential/residency certificate to be issued by the fourth respondent within a period of two weeks from the date of receipt of a copy of this order, which shall be considered by the second respondent in accordance with law. To enable the parties to comply with the above directions, the said interim order dated 19.08.2020 is extended for a period of three weeks.

16. In fine, this writ petition is allowed. However, there shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chief Secretary, सतयमेव जयते
Union Territory of Puducherry,
Goubert Salai, Puducherry.
2. The Centralized Admission Committee (CENTAC),
Government of Puducherry,
Pondicherry Engineering College,
Puducherry.
3. The Regional Administrative Officer,
Government House, Mahe-673 310.
4. The Deputy Tahsildar (Revenue),
Mini-Civil Station, Mahe-673 310.

5. The Village Administrative Officer,
Palloor, Mahe.

+1cc to the Government Pleader, S.R.No.37129

+1cc to Mr.Balanharidas, Advocate, S.R.No.37110

W.P.No.11072 of 2020

PM(CO)
RV(02/12/2020)



WEB COPY