

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.3234 of 2019 and C.M.P.No.20478 of 2019

K.Krithika

... Appellant /Petitioner

Vs.

1. The District Collector,
I - Floor, New Revenue Complex,
Pondicherry District,
Vazhudavoor Raod,
Pettaiyanchathiram,
Puducherry.
 2. The Deputy Collector (Revenue) North cum
Sub-Divisional Magistrate (North),
Villianur, Puducherry.
 3. Jawaharlal Institute of Post-Graduate
Medical Education & Research (JIPMER),
Rep. by its Registrar,
III - Floor, Academic Section,
JIPMER Academic Centre,
Dhanvantri Nagar P.O.
Puducherry - 605 006.
- ... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 17.09.2019 in W.P.No.26529 of 2019.

WP.26529/2019: Writ Petition praying to issue a writ of Certiorari, to call for the records pertaining to the proceedings of the 2nd Respondent in proceeding No.4845/DCR(N)/A2/2019/2075 dt.23/8/2019 and to quash the same as illegal, incompetent and Ultra vires and for any other further orders as this Hon'ble Court deem it.

For Appellant : Mr.V.Raghavachari for
Mr.Jayaprakash

For Respondents: Mr.Stalin Abimanyu for R1 & R2
Mr.M.T.Arunan for R3

JUDGMENT

[made by P.VELMURUGAN, J.]

This writ appeal has been directed to set aside the order dated 17.09.2019 passed in W.P.No.26529 of 2019.

2 The appellant got admission in the third respondent Institute called JIPMER on 28.06.2019 under the quota reserved for residents of Puducherry and thereafter, on receipt of complaints from public, the second respondent The Deputy Collector (Revenue) North cum Sub-Divisional Magistrate (North), Villianur, Puducherry, has conducted enquiry and found that the residential certificate issued to one Mr.K.Kumar, who is father of the appellant, by the Tahsildar, Taluk Officer, Oulgaret, was based on false informations given by Mr.Kumar. Therefore, the second respondent vide proceedings dated 23.08.2019 cancelled the residential certificate bearing C.No.2023/TOO/TLK/2019 dated 06.05.2019 issued in favour of Mr.K.Kumar, since it had been issued based on false informations. Assailing the above order of the second respondent, dated 23.08.2019, the appellant has filed writ petition in W.P.No.26529 of 2019 seeking to quash the above proceedings. The learned Single Judge, by order dated 17.09.2019, dismissed the writ petition directing the third respondent Institute/JIPMER to cancel the admission given to the appellant and return all her certificates forthwith. Aggrieved against the order dated 17.09.2019, the appellant has filed the present writ appeal.

3 According to learned counsel appearing for the appellant, the appellant secured 479 marks out of 500 in her ICSE 10th Board Examination in the year 2017 and 491 marks out of 500 in her ISC 12th Board Examination in the year 2019 and she stood School first both in her 10th and 12th Board examinations. Thereafter, the appellant appeared for various entrance examinations for Medicine such as NEET, JIPMER and AIIMS with her present address in Chennai and for JIPMER she has claimed reservation as a resident of Pondicherry, as her father is working and residing at Pondicherry for about 22 years. The appellant's father Mr.K.Kumar is working in Pondicherry Engineering College, Pillaichavady, Puducherry - 605 014 and is presently holding the post of Professor in the Department of

Electronics and Communication Engineering and he had been residing at E/1 type IV quarters Pondicherry Engineering College, Pillaichavady, Puducherry, from 15.10.1995 to 31.08.2005. During the year 2000, he got married and the appellant was born on 16.01.2002. In the year 2005, the appellant's father was deputed on duty by PEC to pursue Ph.D at Anna University, Chennai, and therefore, he moved to Chennai and after completing his higher studies, he again moved to a private house in Pondicherry and is still working at Pondicherry. In the year 2019, the appellant's father has applied for residential certificate as he is working and residing at Pondicherry for more than 22 years and based on the same, the appellant has got admission in JIPMER. While she is studying, the impugned order in the writ petition has been passed by the second respondent cancelling the residential certificate of the father of the appellant, which is illegal and has to be quashed.

4 The learned counsel would further submit that the appellant is a meritorious student and even she got admission in AIIMS also. The appellant has not suppressed any facts and she disclosed all the particulars in the application itself, even showing her address at Chennai. Further, rental agreement of her father has also been produced to show that the appellant's father is residing at Puducherry. Therefore, the appellant has no intention to cheat the third respondent Institute claiming reservation under the quota meant for residents of Pondicherry by giving false information. The learned Single Judge, without appreciating the above facts, only based on the fact that the second respondent has cancelled the residential certificate, dismissed the writ petition, which warrants interference.

5 The learned counsel appearing for the first and second respondents has filed a counter reiterating the contentions raised before the writ Court. The records of the second respondent would clearly show that the appellant's father is not a resident of Pondicherry. The appellant's father has vacated the quarters as early as on 31.08.2005 and claiming H.R.A., since 01.09.2005, which clearly proves that he is not residing at Pondicherry. The learned Single Judge, has considered all the aspects and the records of the second respondent and found that the appellant has obtained the residential certificate by giving false information and she has usurped the admission of one genuine candidate. The appellant's father attempted to prove his claim by producing an unregistered rental agreement dated 27.03.2019 for residing at No.2, Mettu Street, Chinnakalapet, Pondicherry, wherein it was stated that he is residing in the said address for the past 10 years. But, he obtained residential certificate in the year 2019 showing the

address as E/1, Type IV Quarters, Pondicherry Engineering College Campus, Chinnakalpet, which itself shows the bad intention of the appellant and her father to obtain admission in JIPMER.

6 The learned counsel appearing for the third respondent/ JIPMER has also filed counter stating that after due verification of original certificates, the appellant was asked to pay the fees and later, in order to verify the genuineness of the residential certificate, the same was forwarded to Government of Pondicherry and the cancellation of the residential certificate issued to the appellant was reached JIPMER on

03.09.2019. Thereafter, a show cause notice was issued to the appellant calling for an explanation and the appellant has also submitted her explanation stating that a writ petition has been filed and requested JIPMER to wait till the disposal of the same. The above writ petition was dismissed on 17.09.2019 directing the JIPMER to cancel the admission of the appellant.

7 We have heard the rival submissions made on either side and perused the original records placed before us.

8 It is seen from the records that admittedly, the appellant is a meritorious student and it is not necessary for her to cheat the Institute for the purpose of getting admission. It is also an admitted fact that the appellant's father is still working at Pondicherry. The main contention of respondents 1 & 2 is that the appellant's father has vacated the quarters as early as on 31.08.2005 and claiming H.R.A. since 01.09.2005, but, he obtained residential certificate in the year 2019 showing the address E/1, Type IV Quarters, Pondicherry Engineering College Campus, Chinnakalpet and the appellant's father has now produced unregistered rental agreement dated 27.03.2019 for residing at No.2, Mettu Street, Chinnakalpet, Pondicherry.

9 Further, it is seen from the records that admittedly in the year 2005, the appellant's father was deputed on duty by PEC to pursue Ph.D at Anna University, Chennai, and therefore, he moved to Chennai and after completing his higher studies, in the year 2008, he was repatriated to Pondicherry Engineering College and is still working at Pondicherry in the very same College continuously without any break. Even though, he obtained residential certificate showing the address of Government quarters, the fact remains that he has been residing in Pondicherry for the past 22 years except the interregnum period of three years for pursuing higher studies. The respondents 1 &

2 have contended that the rental agreement produced by the appellant's father was unregistered. It is seen that the above rental agreement is only for a period of 11 months and it is not necessary to register the said agreement, which is not exceeding 11 months. If at all the appellant's father is not residing in Pondicherry and is residing out of Pondicherry, as per the Government Servants' Conduct Rules, the appellant's father, being an employee of Pondicherry Government, should have obtained necessary permission from the Institution to reside outside the Headquarters. But in this case there is no such document produced by respondents 1 & 2 to show that the appellant's father is not residing in Pondicherry and he obtained permission to reside outside Pondicherry. The respondents only contended that the appellant's father is not residing in the Quarters and he is claiming HRA and also he has obtained residential certificate showing his earlier address, i.e. address of the Government Quarters and hence the residential certificate was cancelled. Even respondents 1 & 2 did not seek for any clarification from the Institution where he is working at present as to whether the appellant's father has obtained any permission to reside outside Headquarters and therefore the contention raised by the respondents is not acceptable. Even otherwise, in this case, father of the appellant is working at Pondicherry Engineering College since 1995 and from the year 1995 to 2005 he was residing in Pondicherry at Government Quarters and only for three years, he was residing outside Pondicherry and again he was repatriated in the year 2008 and is continuing his job in the same College. The only change is that he is not residing in the Government Quarters and is residing in a private house, for which rental agreement has been produced. Further, party to the said rental agreement has not stated that the appellant's father is not residing in the said house. However, the learned Single Judge has disbelieved the rental agreement and directed to cancel the admission of the appellant. Even though, the appellant's father has suppressed certain facts, the appellant has not suppressed anything. The appellant is a meritorious student and she also got admission in AIIMS, but, she wanted to pursue her studies in JIPMER since she felt that it is one of the prestigious Institutions in the medical field.

10 In our considered view, merely because the appellant's father has obtained residential certificate showing his earlier address at Pondicherry, the appellant, who has secured impressive scores, should not suffer. Moreover, the appellant's father is still working and residing at Pondicherry and he can obtain a new residential certificate by showing the present address, where he is residing. At any cost, a meritorious

student should not suffer for the mistake committed not on her part. Considering the peculiar nature of facts and circumstances of this case on hand, we are inclined to set aside the order of the learned Single Judge dated 17.09.2019. However, this order may not be a precedent for any other case.

11 In the result, the writ appeal is allowed and the order of the learned Single Judge dated 17.09.2019 passed in W.P.No.26529 of 2019 is hereby set aside and the appellant is allowed to pursue her course at JIPMER. The third respondent/JIPMER is directed to allow the appellant to continue her studies. Consequently, connected CMP is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
I - Floor, New Revenue Complex,
Pondicherry District, Vazhudavoor Raod,
Pettaiyanchathiram, Puducherry.
2. The Deputy Collector (Revenue) North cum
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3. The Registrar, Jawaharlal Institute of Post-Graduate
Medical Education & Research (JIPMER),
III - Floor, Academic Section, JIPMER Academic Centre,
Dhanvantri Nagar P.O.
Puducherry - 605 006.

Copy to:

The Section Officer

Writ Section, High Court, Madras-104.

+1cc to Mr.R.Jayaprakash, Advocate SR.8239

+2cc to Mr.M.T.Arunan, Advocate SR.8211

+1cc to the Government Pleader SR(Pondy) SR.8056

W.A.No.3234 of 2019 and
C.M.P.No.20478 of 2019

CA(CO)

CB(05/02/2020)