



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE **N.KIRUBAKARAN**
AND
THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P. (MD) No.16375 of 2020

and

W.M.P. (MD) Nos.13684 & 13686 of 2020

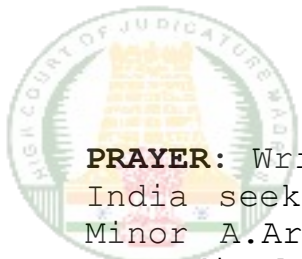
Minor A.Arivika,
Rep. by Father and Natural Guardian
R.Arivazhagan

: Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St.George,
Chennai.
- 2.The Director of Medical Education,
O/o. Directorate of Medical Education,
Chennai - 600 010.
- 3.The Additional Director of Medical Education /
Secretary, Selection Committee,
Office of the Director of Medical Education,
Chennai - 600 010.
- 4.The Directorate of Indian Medicine and Homeopathy,
Chennai - 600 106.
- 5.The Director of School Education,
Chennai - 600 010.
- 6.The State Nodal Officer-cum-
Chief Education Officer,
Appointed under G.O.34461,
Chennai.
- 7.The Chief Educational Officer,
Thanjavur District,
Thanjavur.
- 8.The Head Master,
Govt. Girls Hr.Sec.School,
Peravurani,
Thanjavur District.

: Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Declaration declaring that the petitioner Minor A.Arivika is a "Student studied in Government Schools" and accordingly eligible to be considered against the seats reserved on preferential basis (7.5 percentage) as per the Tamil Nadu Admission to Under Graduate Courses in Medicine, Dentistry, Indian Medicine and Homeopathy on preferential basis to students of Government Schools Act, 2020 (Tamil Nadu Act No.34 of 2020) in the ensuing admission to MBBS / BDS degree courses in Tamil Nadu Government Medical / Dental Colleges, Government Erode Medical College and Hospital, Perundurai, Erode and Government Seats in Self Financing Medical / Dental Colleges affiliated to the Tamil Nadu Dr.M.G.R.Medical University & Rajah Muthiah Medical / Dental College affiliated to Annamalai University, Chidambaram, ESIC Medical College and PGIMSR, K.K.Nagar, Chennai and all further years and allot one seat in the medical courses to the petitioner in accordance with the marks obtained by her in NEET against the appropriate reservation of SC-Adidravidar.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.K.Chellapandian,
Additional Advocate General
Assisted by
Mr.M.Muthugeethaiyan,
Special Government Pleader

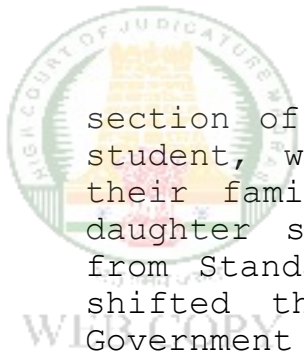
ORDER

(Order of the Court was made by **N.KIRUBAKARAN, J.**)

The petitioner, R.Arivazhagan, representing his minor daughter, A.Arivika, has filed this petition seeking a Writ of Declaration that his daughter studied in Government Schools and accordingly, eligible to be considered against the seats reserved on preferential basis (7.5%) as per the Tamil Nadu Admission to Under Graduate Courses in Medicine, Dentistry, Indian Medicine and Homeopathy on preferential basis to students of Government Schools Act, 2020 (hereinafter referred to as 'the Act').

2. According to the petitioner, his daughter studied from Standard I to Standard XII in Government Schools, except in Standard VI, which class, she studied in a Private Aided School. Though she got 270 marks out of 720 in the National Eligibility cum Entrance Test (hereinafter referred to as 'NEET Exam'), she is not permitted to avail the 7.5% reservation meant for the Government School Students. Therefore, the petitioner has come before this Court.

3. Mr.N.Dilip Kumar, learned Counsel appearing for the petitioner would submit that the petitioner belongs to the weaker



section of the Society and the petitioner's daughter is the first student, who completed Higher Secondary (Standard XII) Course in their family. According to the learned Counsel, the petitioner's daughter studied in Panchayat Union Primary School, Navakkollai, from Standard I to Standard V. Due to family circumstances, they shifted their residence to Punnavasal and since there was no Government School at Punnavasal, the petitioner's daughter was admitted for Standard VI in St.Anne's Girls Higher Secondary School, which is an Aided Minority Educational Institution. Thereafter, she was admitted in Government Girls Higher Secondary School, Peravurani, where she studied from Standard VII to Standard XII.

4. The learned Counsel would submit that only because of the non-availability of any Government High School, the petitioner's daughter was constrained to get admission in an Aided Institution. In fact, in the NEET Examinations, she secured 270 marks and she secured 25th place in the communal ranking. Therefore, he contends that the petitioner's daughter should be declared to be a Student studied in Government Schools, eligible to be considered against the 7.5% reservation, as per the Act.

5. The learned Counsel appearing for the petitioner would point out from Section 2(n) of the Right of Children to Free and Compulsory Education Act, 2009, that the Government Aided Schools should also deemed to be a Government School, which will satisfy paragraph No.8(2) of the Government Order in G.O.(Ms)No.438, Health and Family Welfare (MCA.1) Department, dated 29.10.2020. Therefore, he contends that the petitioner's daughter should be deemed to be a Student studied in the Government Schools and prays for appropriate orders.

6. Heard Mr.N.Dilip Kumar, learned Counsel appearing for the petitioner and Mr.K.Chellapandian, learned Additional Advocate General assisted by Mr.M.Muthugeethaiyan, learned Special Government Pleader, who took notice on behalf of the respondents.

7. Taking into consideration the fact that the Students, who have studied in the Government Schools are not getting adequate admission in the Medical / Dental Colleges, the State Government, in order to assess and analyze the reasons and to suggest remedial measures, constituted a Commission under the Chairmanship of Hon'ble Mr.Justice P.Kalaiyarasan (Retired High Court Judge). The Commission, after due consideration of various factors, has filed its report that only single digit Students, who have studied in Government Schools, are getting admission in the Medical / Dental Colleges for the past three academic years, due to cognitive gap created by socio economic factors, such as, caste, wealth, parental occupation, parental education, gender, etc., and thereby, recommended that ten percentage of seats for admission can be set apart on preferential basis to Students, who studied from Standard



have qualified in the NEET Exam.

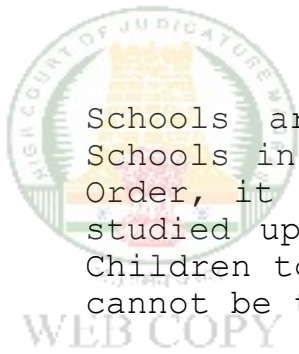
8. After careful consideration of the recommendations of the Commission, the State Legislature, in order to bring about real equality between the Students who studied in Government Schools and in Private Schools, by unanimous resolution, passed the Act, namely, Tamil Nadu Admission to Under Graduate Courses in Medicine, Dentistry, Indian Medicine and Homeopathy on preferential basis to students of Government Schools Act, 2020 (Tamil Nadu Act No.34 of 2020) and subsequently, assent has also been given, setting apart 7.5% on preferential basis to the Students, who have studied from Standard VI to Standard XII in State Government Schools and qualified in NEET Exam. To this effect, the Government has also passed the Government Order in G.O.(Ms)No.438, Health and Family Welfare (MCA.1) Department, dated 29.10.2020.

9. The term "Government Schools" is defined in Paragraph No.8 (ii) of the said Government Order and the same is extracted as under:

"The 'Government Schools' mean and includes Panchayat Union Primary and Middle Schools, Adi-Dravidar Welfare Schools, Municipal / Corporation / Tribal Welfare Schools, Kallar reclamation BC / MBC / Differently-Abled Welfare / Forest / Social Defence (Borstal Schools) Department Schools and Residential - Access Schools. Further, children belonging to weaker section and disadvantaged group who have studied upto eighth standard in a specified category school or an unaided school, as per clause (c) of sub-section (1) of Section 12 of the Right of Children to Free and Compulsory Education Act, 2009 and studied all remaining standards upto Higher Secondary Course in the Government School shall be deemed to be 'Students studied in Government Schools'."

10. Any Student, who seeks admission under the Act, has to satisfy paragraph no.8 of the aforesaid Government Order. It is an admitted case that the petitioner's daughter, except in Standard VI, has studied all other classes in Government Schools. The study undertaken by the Child in a Aided Private School in Standard VI would definitely be a bar for the petitioner's daughter to claim admission under the preferential quota for Government School Students, as she cannot be termed as a Student studied in Government Schools.

11. The learned Counsel appearing for the petitioner further contended that when the Students, who have studied upto Standard VIII in a specified category school or an unaided school under the Right of Children to Free and Compulsory Education Act, 2009, and studied the remaining standards upto Higher Secondary in Government



Schools are accepted to be Students studied in the Government Schools in general, satisfying paragraph no.8(ii) of the Government Order, it is clearly a discrimination to bar the Students, who have studied upto Standard VIII in an aided school under the Right of Children to Free and Compulsory Education Act, 2009. But, this issue cannot be taken into consideration.

12. This Court sympathizes with the petitioner's daughter. However, if any relaxation is given in this petition, it will open up a pandora's box and there will not be any limit. Therefore, the argument put forth by the learned Counsel appearing for the petitioner stands rejected.

13. In fine, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gk

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Fort St.George, Chennai.
- 2.The Director of Medical Education,
O/o. Directorate of Medical Education,
Chennai - 600 010.
- 3.The Additional Director of Medical Education /
Secretary, Selection Committee,
Office of the Director of Medical Education,
Chennai - 600 010.



4.The Directorate of Indian Medicine and Homeopathy,
Chennai - 600 106.

5.The Director of School Education,
Chennai - 600 010.

6.The State Nodal Officer-cum-
Chief Education Officer,
Appointed under G.O.34461,
Chennai.

7.The Chief Educational Officer,
Thanjavur District,
Thanjavur.

8.The Head Master,
Govt. Girls Hr.Sec.School,
Peravurani,
Thanjavur District.

+1 CC to M/s.SGP (SR-22214[F] dated 19/11/2020), (SR-22339[F]
dated 20/11/2020)

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-22158[F] dated
19/11/2020)

W.P. (MD) No.16375 of 2020
18.11.2020

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