

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WP No.2053 of 2021
W.M.P.No. 2329 & 2328 of 2021

A.B.Mayuri

.... Petitioner

-Vs-

1. Indian Counsel of Agricultural Research (ICAR),
Represented by its Secretary (DARE) and
Assistant Director General (ICAR),
Krishi Bhavan, Dr. Rajendra Prasad Road,
Opp.Rail Bhavan, New Delhi - 110001.,

2. Tamil Nadu Agricultural University,
Rep.by its Registrar,
Coimbatore.

3. The Vice Chancellor,
Tamil Nadu Agricultural University,
Coimbatore.

.... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India
praying for the issuance of a Writ of Certiorarified Mandamus to call for
the records pertaining to the impugned order F.No.Agril.Edn.1(9)/2012-

Exam Cell-Part(1) dated 08.01.2021 issued by the 1st respondent as 2nd respondent university concern and quash the same and further direct the 1st respondent to allot one seat in 2nd respondent's university-Tamil Nadu Agricultural University, Coimbatore to the petitioner either in B.Sc(Hons) Agricultural or B.Sc(Hons) Horticulture, Coimbatore under the Indian Council of Agricultural Research(ICAR), New Delhi under National Quota in vacant seats.

For Petitioner : Mr. R.Venkatesulu

For Respondents : M/s.Dr.S.R.Sundaram
Standing counsel for R1
Mr.Abdul Saleem for R2 and R3

ORDER

The subject matter in the present writ petition was captured by this Court when an order was passed on 24.08.2021 and the same is extracted hereunder :-

The subject matter of challenge in the present writ petition pertains to the proceedings of the 1st respondent dated 08.01.2021 and for a consequential direction to the respondents to allot the seat to the petitioner either in B.Sc.(Hons) Agriculture or B.Sc.(Hons) Horticulture at

Coimbatore under the Indian Council of Agricultural Research (ICAR) quota.

2.Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents and also perused the counter affidavit filed by the 1st respondent and the 2nd and 3rd respondents.

3.It is seen from records that the petitioner had applied under SC quota and she had given three choices viz., B.Sc.(Hons) Agriculture, Coimbatore, B.Sc.(Hons) Horticulture, Coimbatore and B.F.Sc., at Nagapattinam. As per the rank card, the over all rank of the petitioner was 91,050 and under the SC category, her rank was 9485. It is also seen from the rank card that she was informed that she is eligible for registration and choice filling.

4.The brochure that was issued by the 1st respondent clearly states that those candidates who scored zero or negative marks in the All India Examination alone are not eligible to participate in counselling and others are eligible to participate. It is clear from the rank card given to the

petitioner that she will be eligible to participate in the counselling. Insofar as the choice filling is concerned, it will be relevant to take note of two Clauses from the brochure viz., Clause 3.1 and Clause 3.1.2.1 B(6). Clause 3.1 provides for the method of selection and admission which contains a heading "Declaration and Undertaking by the Candidates". Clause 6 under this head is extracted hereunder:

6.I will save my choices well in time before closure of choice filling on the portal and I am aware that my SAVED choice list will automatically be locked, if not done by me earlier, once the due date and time of choice filling is over. The same list will be considered for further counselling process. I shall keep a printout of the choices finally exercised by me as a documentary proof.

5.It will also be relevant to extract Clause 3.1.2.1 B(6) hereunder.

6.Candidate can update his/her choices any number of times before the last date/until the choices are locked by the candidate. On the last day of choice filling his/her last saved choices will be automatically locked and the same list will be considered for further counselling process. The registered candidates who do not fill any choice or fail to save them by 16:59 hrs IST of the last day of choice filling will not be considered for seat allotment and admission. The candidate

has to keep a printout of the choices finally exercised by him/her as a documentary proof.

6.A reading of the above two Clauses shows that a candidate is expected to save the choices well in time before the closure of the choice of filling on the portal on the designated day and time. In the present case, the candidate has to fill the choice and save the same on or before 11.11.2020 by 16:59 hrs. It is further provided that if a candidate has chosen the choice of course, the last saved choices will be automatically locked even if the candidate fails to lock the choice before the stipulated date and time. In the present case, the petitioner had given three choices and even assuming that the petitioner had not locked these choices, the same gets automatically saved by virtue of the above Clause 3.1.2.1 B(6). Only in cases where the candidate does not fill any choice or fails to save them within the date and time stipulated in the brochure, they will not be considered for seat allotment and admission. In the present case, the petitioner has given her choice and therefore, the last saved choice made by the petitioner will be automatically locked and the same must be considered for further counselling process.

7.The counter affidavit filed by the 1st respondent does not even whisper as to why the name of the petitioner was not considered during the counselling in the 15% quota for ICAR and whether it was not considered due to non-fulfillment of the requirement under Clause 3.1.2.1 B(6). Therefore, there must be clarity on this issue.

8.The petitioner had applied under the SC quota. It is seen from the seat matrix published by the 1st respondent that insofar as the B.Sc.(Hons) Agriculture is concerned, there were totally 13 left over seats that was transferred to the Tamil Nadu Agricultural University, Coimbatore and out of those 13 seats, one seat pertained to the SC category. There is absolutely no explanation in the counter as to why the SC quota for this course viz. B.Sc.(Hons) Agriculture was not filled up in the 15% quota of the 1st respondent. Either it should have been filled up with some other candidate who has a higher rank than the petitioner or the counter must at least explain as to why the petitioner was not considered under that category. There is no clarity in the counter filed by the 1st respondent in this regard.

9. In view of the above, the learned counsel for the 1st respondent shall take instructions from the 1st respondent and file an additional affidavit explaining the query that has been raised by this Court.

10. When this Court entertained this writ petition, an interim order was passed on 03.02.2021 to the effect that the 2nd respondent should keep one seat vacant if it has not already been filled up. The learned counsel for the petitioner based on the information received under the RTI Act, submitted that, there is a vacancy position in which the petitioner can be accommodated. The learned counsel for the petitioner shall serve the relevant information to the learned Standing Counsel appearing on behalf of the 2nd and 3rd respondents and the learned Standing Counsel shall take instructions in this regard and report before this Court.

11. Post this case under the caption 'For Passing Final Orders' on 09.09.2021 at 2.15 p.m. Interim order already granted by this Court shall stand extended till then.

2. Pursuant to the above order, the matter was taken for hearing on 09.09.2021 and an Additional counter statement was filed by the 1st respondent. On going through the Additional counter statement and the documents filed on the side of the first respondent, this Court passed the following order :-

Pursuant to the orders passed by this Court on 24.08.2021, the Additional Counter statement has been filed by the 1st respondent and a counter affidavit has been filed by the respondents 2 and 3.

2. *A careful reading of the Additional Counter statement filed by the 1st respondent shows that the query raised by this Court has been answered at Paragraph No.7. Along with the Additional Counter statement, two documents have been filed explaining the manner in which the selection had taken place during the counselling conducted by the 1st respondent. The particulars found in the document is not correlating with the particulars provided at Paragraph No.7 of the Additional Counter statement. The learned Standing*

counsel appearing on behalf of the 1st respondent shall take instructions and clarify the same.

3. *Post this case under the same caption on 17.09.2021 at 2.15 p.m.*

4. *The Interim order already granted by this Court shall stand extended.*

3. The matter was taken up for hearing today and the 1st respondent has filed the 2nd Additional counter statement explaining the query made by this Court. For proper appreciation, Paragraph No.4 and 5 are extracted hereunder :-

4.This Respondent No.1 humbly submits that as per the prescribed process of counselling, the allotment of seats to the candidates was done on the basis of their overall merit rank and not on the category rank basis. (Para 6 of Additional Counter Statement dated 07.09.2021 of Respondent No.1) Whether during regular or Mop-up round of counselling and also considering other instructions/ guidelines delineated in the

respective Information Bulletin and counselling Brochure.

5.This Respondent No.1 humbly submits that it is incorrect to compare the cut off of overall rank secured by the admitted candidates in the SC category rank 9485 and overall merit rank 91050, and therefore, she could not be allotted the seat. Her SC category rank 9485 is not over and above the candidates already admitted in the SC category . Their cut off ranks indicated are overall ranks 13135, 15503, 19702, 21526 and 20643 with corresponding ranks under SC category being 461, 633, 969, 1112 and 1038, respectively (Exhibit.1-ACS-R1). Between the overall rank of A.B. Mayuri and the last candidate admitted in mop up round, there are 540 SC category candidates (Exhibit.2-ACS-R1) having higher ranks.

4. It is clear from the above that the petitioner was nowhere near the zone of consideration right through the entire counseling and persons who had secured higher marks were accommodated and allotted seats during the counseling. It is also seen that apart from

those persons who got the seats, there are 540 candidates belonging to the SC category, who are above the petitioner and even they did not secure any seat.

5. The only other issue that was raised by the learned counsel for the petitioner is that if there are sufficient candidates who fall under the SC category, there was absolutely no reason as to why one seat was not filled under this category and it was reverted back to the university under the unfilled seats quota. The learned counsel appearing on behalf of the 1st respondent submitted that whichever candidate was available upto the Mop-up counseling were considered and they were allotted seats based on their rank. If ultimately, a candidate is not available at the time of counseling, the 1st respondent cannot endlessly wait since the process has to be completed within a time frame. Therefore, one seat which was not filled up during the Mop-up counseling was reverted back to the University.

6. The learned counsel for the petitioner submitted that such a

procedure adopted by the 1st respondent is illegal and to substantiate his submissions, the learned counsel relied upon the judgment of the Kerala High Court in W.P.No. 3519 of 2021 dated 23.03.2021. The learned counsel submitted that when a candidate is available under the SC category and inspite of the same, the seat is not filled up, whichever candidate satisfies the requirements must be accommodated and in the present case, the petitioner was very much available during the counseling and if no other candidate was coming forward, at least the petitioner should have been given the seat, since she was qualified to be considered for the selection.

7. In the considered view of this Court, the judgment that was cited by the learned counsel for the petitioner may not apply to the facts of the present case for the simple reason that there were huge number of seats that were not filled up and were kept vacant in spite of candidates being available and therefore, the Division Bench of the Kerala High Court had given appropriate directions to accommodate the petitioner therein in one of the 20 seats that was available to be filled

up.

8. In the present case, the petitioner is no where near the zone of consideration and if at all, any one is aggrieved, the 540 candidates who fall under the SC category above the petitioner should be the real aggrieved persons and not the petitioner. The petitioner cannot be allowed to bye pass 540 candidates falling under the SC category. There may be many reasons for those candidates not approaching the Court. That by itself will not be a ground for this Court to direct the seat to be given to the petitioner and if any such direction is given, this Court will be compromising on the merits since the petitioner will be allowed to overtake 540 SC category candidates, who are having a higher rank than the petitioner.

9. It is not as if the petitioner never had an opportunity to participate in the counseling that was conducted by the University. In fact, the petitioner had participated in the counseling process and her merit rank was 25,697 under the SC category and whereas, the

admission under SC category was completed by the University till the rank of 16791.

10. In the considered view of this Court, there is absolutely no ground to grant the relief as sought for the petitioner, since the rank secured by the petitioner both in the All India Category as well as under the SC category was much lower than the candidates who actually secured the seats under this category.

11. In the result this writ petition is dismissed. No costs. consequently the connected miscellaneous petitions are also closed.

17.09.2021

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To

1. Indian Counsel of Agricultural Research (ICAR),
Represented by its Secretary (DARE) and
Assistant Director General (ICAR),
Krishi Bhavan, Dr. Rajendra Prasad Road,
Opp.Rail Bhavan, New Delhi - 110001.,

2. Tamil Nadu Agricultural University,
Rep.by its Registrar,
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3. The Vice Chancellor,
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Coimbatore.



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N.ANAND VENKATESH, J.

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