



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.4559 of 2021

Minor.Hemalatha Sri

D/o. V. Sriramasundaram Rep by her father
and natural guardian V. Sriramasundaram
No. 1, Sivashanmugam Street, Chidambaram,
Cuddalore District.

... Petitioner

-Vs-

- 1 The Secretary to Government,
School Education Department,
Fort St. George, Chennai - 9.
- 2 The Chief Educational Officer,
Penniyarusalai, Manjakuppam,
Cuddalore Town and District. Pin - 607001.
- 3 The District Educational Officer,
Government Girls Higher Secondary
School Campus, Railway Feeder Road ,
Chidambaram - 608001.
- 4 The Director,
Directorate of Matriculation School,
DPI Campus, Nungambakkam, Chennai - 600034.
- 5 The Principal,
Kamaraj Matriculation Higher Secondary School,
No. 70, Vengan Street,
Chidambaram Pin - 608001.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 5th respondent to give admission to the petitioner namely Hemalathasri daughter of Sriramasundaram in Commerce group of higher secondary course (Plus 1) and also direct the 3rd respondent to list the petitioners name for enrollment of candidature for higher secondary course based on petitioners fathers representation dated 15.02.2021.



For Petitioner : Mr.D.Ramesh Kumar
For Respondents: Mr.A.Selvendran,
Government Advocate - for RR 1 to 4
Mr.P.Nagaraju - for R5

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O R D E R

This writ petition has been filed for the issue of a writ of Mandamus directing the fifth respondent to give admission to the petitioner in Commerce Group of First Year Higher Secondary Course (Plus 1) and enroll the name of the petitioner for the Higher Secondary Course.

2. The case of the petitioner is that, he was studying in the fifth respondent school from 6th standard to 10th standard. While the petitioner was studying in 10th standard during the academic year 2019-20 and was preparing for the public examination, the pandemic struck and as a result of the same, the Government had issued a Government Order by declaring all the students in the 10th standard as passed. Accordingly, the petitioner was also declared as passed.

3. The further case of the petitioner is that, she wanted to continue her studies in the fifth respondent school and had applied for Commerce Group in the First Year Higher Secondary Course. According to the petitioner, she was orally informed by the fifth respondent that she has been given admission in the Commerce Group. The petitioner was not able to attend the on-line classes since she was not having proper facilities to attend the classes. Ultimately, when the physical functioning of the school was attempted to be commenced during February 2021, the petitioner went to the school and at that point of time, she was informed that she has not been enrolled in First Year Higher Secondary Course and accordingly the petitioner was not allowed to pursue the course. The representation made by the petitioner on 15.02.2021 in this regard also did not evoke any response. Left with no other alternative, the present writ petition has been filed before this Court.

4. The fifth respondent has filed a counter affidavit. The relevant portion in the counter affidavit are extracted hereunder.

" 5. I further submit that there is no oral admission procedure followed in our School. Such oral admission, if any is not at all permitted by School Education Department. The list of students admitted in XI Std will be finalised when particulars for Nominal Roll were called for along with Parent's declaration regarding name in Tamil & English, Father's / Mother's name in Tamil &



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English, Date of Birth, Caste, Community, Group, Subjects, Address and Phone Number etc., The last date for admitting student fixed by the School Education Department was on 17.08.2020. The Directorate of Government Examination sent a circular to upload the Nominal Roll of the student for XI Std., Government Exam and payment of Exam Fee was sent to all schools as early as 27.01.2021 and subsequently the time was extended by its letter dated 11.02.2021 and 23.02.2021. Even at that time, the petitioner did not approach the school for admission in XI Std., So, the petitioner's statement that she approached the school authorities for physical permission is false, misleading and frivolous one.

6. I submit that 136 out of 160 students who were studied in our school and 43 students from other schools were admitted in XI Standard totally 179 students are studying among them more than 75 students so far have not paid any fees till today almost the academic year is going to be over. In that circumstance, the petitioner's statement that she was not permitted to sit in the class room is a concocted story. She is liable to prove the same. Since the petitioner failed or ignored to get admission initially, the subsequent procedure for the petitioner's name inclusion in the Nominal Roll could not be carried out. The petitioner's parent did not care about their daughter's further study. After the Directorate of Government Examinations closed the Nominal Roll date, they awakened and filed this writ petition with false and frivolous allegations to get back door entry by sending mere representation without any materials to substantiate their stand.

7. I further submit the list of students with EMIS number which is automatically generated by the School Education Department in which the petitioner student name was not found. The students who completed Secondary Education Course, the EMIS number will be exited therewith and be enlisted in the common pool. After new admission in XI Std., the EMIS number and date of admission. Since the petitioner did not apply for admission in XI Std., she could not study in XI Class in the School because of the carelessness of the parent."



5. Learned counsel for the petitioner submitted that, considering the pandemic situation and also the fact that the petitioner comes from an economically weaker section, the fifth respondent school ought to have shown more leniency by permitting the petitioner to undergo the course during the academic year 2020-21. The learned counsel submitted that, the petitioner has lost one valuable year and she will not be able to get into the XII Standard during this academic year and therefore requested this Court to issue appropriate directions to the fifth respondent School.

6. Per contra, Mr.Nagaraju, learned counsel appearing for the fifth respondent submitted that, the claim made by the petitioner is not sustainable. The learned counsel submitted that, it is true that the petitioner had undergone her studies in the fifth respondent School from 6th Standard to 10th Standard. On completion of the 10th Standard, the petitioner ought to have applied for the marks statement and also for the Transfer Certificate and thereafter made a fresh application for admission to the First Year Higher Secondary Course and the fifth respondent would have surely given admission to the petitioner, if she had adopted this process. The learned counsel submitted that the petitioner never approached the school to receive the marks statement or the transfer certificate and the petitioner also did not make an application for admission to the First Year Higher Secondary Course. The learned counsel further submitted that totally 160 students were admitted in the First Year Higher Secondary Course and out of the same, 136 students were from the same school and 43 students were newly admitted in the First Year Higher Secondary Course. The learned counsel further submitted that, the allegation made by the petitioner as if she was not allowed to attend the school due to non payment of fees is not correct. The learned counsel submitted that, out of the total students who studied First Year Higher Secondary Course, nearly 75 students did not pay any amount even towards the tuition fees and in spite of the same, the fifth respondent school allowed them to pursue with the studies. Therefore, the allegation made by the petitioner is totally untenable. The learned counsel further submitted that, the academic year itself is going to get over and the list of students with EMIS Number has already been submitted by the fifth respondent School and the same is already generated by the Department and since the petitioner did not apply for the admission to the First Year Higher Secondary Course, her name does not find place in the list. The learned counsel therefore submitted that the claim made by the petitioner is totally unsustainable and the present writ petition is liable to be dismissed.



7. This Court has carefully considered the submissions made on either side and the materials available on record.

8. A careful reading of the affidavit filed by the father of the petitioner shows that, after the results were declared for 10th standard, there is nothing to show that the petitioner actually made an application to join First Year Higher Secondary Course in the fifth respondent school. Even in the typed set of papers, the 10th standard marks statement has not been filed. That apart, even the Transfer Certificate for the 10th standard has not been filed in the typed set of papers. This shows that the petitioner is not having the marks statement and the Transfer Certificate issued by the fifth respondent school. Only after receiving the marks statement and transfer certificate, the petitioner could have applied for First Year Higher Secondary Course in the fifth respondent school. That has not been done in the present case. The stand taken by the petitioner as if she was not allowed to attend the classes for First Year Higher Secondary Course due to non payment of fees, also may not be sustainable, since it is seen from records that nearly 75 students who are studying in the fifth respondent school have not paid any fees during the First Year Higher Secondary Course and in spite of the same, they have been allowed to continue in the fifth respondent school and their names are found in the nominal roll. It is clear that for some reason, the petitioner did not get the marks statement and the Transfer Certificate from the fifth respondent school and did not apply for the First Year Higher Secondary Course in the fifth respondent school and therefore, the petitioner cannot make any complaint against the fifth respondent school for not being allowed to continue with the First Year Higher Secondary Course during the academic year 2020-21. The fact that the petitioner has filed this writ petition only during February 2021 shows that, no effective steps were taken by the petitioner to join the First Year Higher Secondary Course during the academic year 2020-21. Hence, there is no scope for giving any direction to the fifth respondent to admit the petitioner in the First Year Higher Secondary Course during the academic year 2020-21.

9. This Court however takes a lenient view, considering the pandemic situation and also considering the claim made by the petitioner that she is coming from an economically weaker section. Hence, there shall be a direction to the petitioner to approach the fifth respondent school and seek for the 10th standard marks statement and Transfer Certificate. The same shall be immediately given by the fifth respondent school to the petitioner. Thereafter, if the petitioner wants to continue in the fifth respondent school, she may make a fresh application to the fifth respondent school seeking for admission in the First



Year Higher Secondary Course during the academic year 2021-22. The same shall be considered by the fifth respondent school and admission shall be given to the petitioner in the First Year Higher Secondary Course for the academic year 2021-22. Insofar as the fees payable by the petitioner is concerned, the Government has already issued guidelines in that regard and this Court also passed appropriate orders. The fifth respondent shall collect the fees in accordance with the guidelines and the orders passed by this Court. The petitioner shall be permitted to complete her Higher Secondary Course in the fifth respondent school, if she so desires.

10. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

KST

To

- 1 The Secretary to Government,
School Education Department,
Fort St. George, Chennai - 9.
- 2 The Chief Educational Officer,
Penniyarusalai, Manjakuppam,
Cuddalore Town and District. Pin - 607001.
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- 5 The Principal,
Kamaraj Matriculation Higher Secondary School,
No. 70, Vengan Street, Chidambaram- Pin - 608001.

+1cc to Mr.D.Ramesh Kumar Advocate, S.R.No. 40828

+1cc to the Government Pleader, S.R.No.41102

W.P.No.4559 of 2021

NR(CO)

KM(18/08/2021)