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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.5414 OF 2020

AND

W.M.P.NOS.6338 OF 2020 & 8013, 27475 OF 2021

S.Raju

...Petitioner

Vs.

- 1.The Secretary to Government
Higher Education Department
Secretariat
Fort St. George,
Chennai - 600 009.
- 2.The Director
Government of Tamilnadu
Collegiate Education Department
Chennai - 600 006.
- 3.The Secretary
Nursing Council of India
8th Floor, NBCC Center
Plot No.2, Community Center
Okhla Phase-I
- 4.Academic Officer (FAC)
Dr. M.G.R. Medical University
No. 69, Anna Salai
Guindy, Chennai - 600 032.
- 5.Sri Rangaboopathi College of Nursing
Alampoondi, Senji Taluk
Villupuram - 604 151.

...Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order dated 13.01.2020 in reference No. AC.II (3/77642/2019) passed by the fourth respondent and quash the same and consequently, direct the respondents 4 and 5 to continue the studies of the petitioner's daughter R.Srimathi in B.Sc., Nursing 1st year and further studies at the fifth respondent college.



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For Petitioner : Mr.W.M.Abdul Azeez
For Respondents : Mr.C.Jayaprakash (For R1 & R2)
Government Advocate
Mr.R.Imayavaramban (For R4)
For M/s. Ramalingam Associates
Mr.P.Srinivas (For R5)

O R D E R

This Writ Petition has been filed challenging the impugned order dated 13.01.2020 in reference No. AC.II (3/77642/2019) passed by the fourth respondent and consequential direction directing the respondents 4 and 5 to continue the studies of the petitioner's daughter R.Srimathi in B.Sc., Nursing 1st year and further studies at the fifth respondent college.

2. The case of the petitioner is that the petitioner belongs to Hindu Adi-Dravidar Scheduled Tribe community and hails from a very poor family. His elder daughter viz., R.Srimathi completed her higher secondary schools during the month of March 2019 and thereafter, she joined B.Sc., Nursing C in the August 2019 for the Academic Year 2019-2020 at the 5th respondent College. Further, on light of the fact that the petitioner's daughter has not completed 17 years, which is the pre-requisite criteria for admitting into the said course, to which, the 5th respondent College directed the petitioner's daughter to submit a representation to the 4th respondent University to relax the shortage of 17 days to attain 17 years of minimum age for admission into the said course.

3. Upon which, the petitioner made a representation dated 19.12.2019 to the 4th respondent University for the relaxation of the 17 days to attain 17 years of his daughter. However, the 4th respondent rejected the petitioner's claim vide proceedings dated 13.01.2020. Aggrieved over the same, the petitioner filed the present writ petition before this Court.

4. The learned counsel for the petitioner submitted that the petitioner's daughter has not completed 17 years which is a pre-requisite criteria for pursuing the said course. Therefore, as directed by the fifth respondent college, the petitioner's daughter made a representation to the 4th respondent university to relax 17 days to attain the age of 17 years. The 4th respondent stoutly refuted to entertain the claim of the petitioner's daughter that the candidate does not satisfy the minimum age of requirement as prescribed by the 4th respondent University. Further, he submitted that if the petitioner is put



to halt in consonance with the age requirement, then she will be put to anguish in waiting for one more year. Therefore, he prayed this court to set aside the the impugned order passed by the 4th respondent.

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5. The learned counsel for the third respondent submitted that the petitioner has clearly admitted that her daughter is not in confirming with the minimum age criteria viz,. 17 years and he made aware of the minimum age criteria as prescribed by the third respondent. The age criteria adopted by the third respondent has resulted in uniform regulations for all the candidates. If granting any relief in favour of the petitioner will tantamount to violation of the Article 14 of the Constitution of India. Accordingly, the petitioner's daughter was rightfully denied the admission since she had not fulfilled the minimum age requirement.

6. The learned Standing Counsel appearing for the 4th respondent submitted that the similar issue that was settled by this Court vide order dated 10.09.2019 made in W.P. No.18310 of 2019. Accordingly, the learned counsel prays to dismiss the writ petition.

7. Heard the learned counsel on either side and perused the materials available on record. Admittedly, the petitioner's daughter has completed 12th standard in the month of March 2019 and she has joined B.Sc., Nursing course in 5th respondent college in August 2019. The said 5th respondent college is affiliated with the fourth respondent university viz., Tamil Nadu Dr.M.G.R. Medical College and University, wherein the said university has fixed the minimum age eligibility criteria for admission into the aforesaid course is 17 years. However, the petitioner's daughter has not completed her 17 years and she completes the same on 31st December of this year. Hence, the fifth respondent college directed the petitioner to submit a representation to the fourth respondent university with regard to the aforesaid issue in minimum age eligibility criteria. This court, by order dated 10.09.2019 passed in W.P.No. 18310 of 2019 has elaborately dealt with a similar issue. For better appreciation, the relevant paragraphs of the aforesaid order is extracted below:-

'11. In N.Anandan Case, the Court observed; "Whatever the case may be with regard to the examination written by him, the fact remains that as on the date of admission into the first year degree course, admittedly, she has not completed the age of 17 years as required under the Regulations. Therefore, such admission is certainly an irregular admission, even though it was not due to any misrepresentation or fraud played upon by the



petitioner's daughter. Irregular admission, made in violation of Rules, cannot be sustained".

12. In the said judgment the Learned Judge has referred the Hon'ble Supreme Court decision reported in 2008(4) CTC 741 - Mahatma Gandhi University and another Vs. Gis Jose and others, (1993) 4 SCC 401- Guru Nanak Dev University Vs. Parminder KR.Bansal and others, the unreported decisions of this Court passed in W.P.No.12698 of 2009, dated 13.07.2009 and in W.P.No.12531 of 2009, dated 05.08.2009 besides the decision of Rajasthan High Court reported in AIR 1987 Raj 174 - Gautam Kapoor Vs, State of Rajasthan and another.

13. In the Mahatma Gandhi University case, the Apex Court has held that the misplaced sympathies should not be shown in total breach of the Rules.

14. In Regional Officer, CBSE Vs. Ku. Sheena Peethambaran and others reported in 2003(7) SCC 719 at paragraph No.6 of the Judgement, Hon'ble Supreme Court observed, "this Court has on several occasions earlier deprecated the practice of permitting the students to pursue their studies and to appear in the examination under the interim orders passed in the petitions. In most of such cases, it is ultimately pleaded that since the course was over or the result had been declared, the matter deserves to be considered sympathetically. It results in very awkward and difficult situations. Rules stare straight into the face of the plea of sympathy and concessions, against the legal provisions."

15. In Guru Nanak Dev University case, reported in 1993(4) SCC 401 the Hon'ble Supreme Court has at paragraph Nos. 6 and 7 has observed, "Learned counsel for the respondents, however, sought to maintain that the two candidates had now completed the 12 months of their internship and it would be hard on them if their internship is reckoned from the date of their passing the MBBS examination.

"We are afraid that this kind of administration of interlocutory remedies, more guided by sympathy quite often wholly misplaced, does no service to anyone. From the series of orders that keep coming before us in academic matters, we find that loose, ill-conceived sympathy masquerades and interlocutory justice exposing judicial discretion to the criticism of degenerating into private benevolence. This is subversive of academic discipline, or whatever is left of it, leading to serious



impasse in academic life. Admissions cannot be ordered without regard to the eligibility of the candidates.
(emphasis added).

Decisions on matters relevant to be taken into account at the interlocutory stage cannot be deferred or decided later when serious complications might ensue from the interim order itself. In the present case, the High Court was apparently moved by sympathy for the candidates than by an accurate assessment of even the prima facie legal position. Such orders cannot be allowed to stand. The Courts should not embarrass academic authorities by themselves taking over their functions."

16. When issue similar to this case came up for consideration in W.P.No.12698 of 2009, the learned Judge in his order, dated 13.07.2009 observed:

"The minimum age limit prescribed in the prospectus issued by the first respondent, for admission to the M.B.B.S/B.D.S., course, for the academic year 2009-2010, is based on the policy decision of the Medical Council of India. The Medical Council of India has not been made a party to the present writ petition. The age limit prescribed for admission to the M.B.B.S/B.D.S courses cannot be relaxed, merely for the reason that the candidate had been permitted to write the 10th standard examinations, by relaxing the age limit prescribed for writing the said examinations."

17. In another unreported decision made in W.P.No.12531 of 2009, dated 05.08.2009, the Learned Single Judge of this Court has observed at paragraph No.15 as follows:

"Since the petitioner would not be completing 17 years of age, on or before 31.12.2009, he is not qualified to apply for the M.B.B.S./B.D.S Courses, for the academic session 2009-2010. Merely for the reason that the petitioner had been permitted to write the 10th Standard and the plus two examination, it cannot be a ground for granting the exemption in favour of the petitioner, in respect of the age limit prescribed under Clause 4 of the prospectus issued by the second respondent. In view of the decisions cited supra it is clear that the Courts of law ought to be reluctant to interfere in matters relating to education, especially, when certain conditions of admission to medical courses are prescribed by the experts in the medical and its allied fields. In such view of the matter, this Court is not inclined to grant the relief, as prayed for by the petitioner. As the writ petition is



devoid of merits, it stands dismissed. No costs. Consequently, connected writ petition misrepresentation petition is closed."

18. In Gautam Kapoor Vs, State of Rajasthan and another - AIR 1987 Raj 174, the Full Bench of Rajasthan High Court has observed at paragraph No.4 that minimum age limit prescribed for entering into the Medical College as 17 is being followed throughout the Country for a long time and there is no invalidity attached to the provisions prescribing the minimum age of 17 years.

19. Following the above dicta, this Court holds that the plea of the petitioner to relax the minimum age cannot be entertained.

20. Before parting, it is necessary to state that, the minimum age criteria fixed decades ago requires reconsideration in view of vast change in Education pattern and methodology after introduction of New Education Policy (NEP) and the Right to Education Act. Possibility of bright and brilliant children completing the qualifying examinations few months or days earlier has become more and in future it will be still more. Those students cannot forced to have a break and be deprived of their right of continuous Education because of minimum age prescribed. It is time for the authorities to take a call on this issue at the earliest. With the above observation and request for a timely consideration of the departments concern, the Writ Petition is dismissed. No costs.'

8. This Court, in para-20 of the aforesaid extract had reiterated that the the power of fixation of minimum age for admission of the students into the college is vested only with the State Government. Further, the same cannot be reckoned with, judicially reviewed or interfered by this Court under Article 226 of the Constitution of India.

9. In view of the above, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

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To

1.The Secretary to Government
Higher Education Department
Secretariat
Fort St. George
Chennai - 600 009.

2.The Director
Government of Tamilnadu
Collegiate Education Department
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Alampoondi, Senji Taluk
Villupuram - 604 151.

+1cc to Mr.V.M.Abdul Azeez, Advocate Sr.No.64646

+1cc to Mr.P.Srinivas, Advocate Sr.No.65175

+1cc to the Government Pleader Sr.No.64869

W.P. No. 5414 of 2021
and

W.M.P. Nos.6338 of 2020 & 8013, 27475 of 2021

MT (CO)
RVM(17/03/2022)