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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.07.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.11203 and 13425 of 2020

W.P.No.11203 of 2020:

M.Karpagam

.. Petitioner

Vs

1. The Home Secretary
Government of Tamilnadu
St George Fort
Chennai - 600 009.
2. The State of Tamilnadu
Rep. by Secretary to Government
Law Department, Fort St George
Chennai - 600 009.
3. The Bar Council of Tamil Nadu
and Pondicherry
rep. by its Secretary
High Court Campus
Chennai- 600 104.
4. Tamil Nadu Dr.Amedkar Law University
rep. by its Registrar
5, Dr.D.G.S.Dinakaran Salai
Chennai - 600 028.
5. The Director
School of Excellence in Law
Tamil Nadu Dr.Ambedkar Law University
MGR Salai, Perungudi
Chennai - 600 113.

.. Respondents

W.P.No.13425 of 2020:

1. S.Anbarasu
2. S.Shanmugam
3. Vigneshwaran



4. Boopathi
5. D.Vinod
6. Afsana Faheem
7. Gopalakrishnan
8. Sankar.S
9. P.K. Suriya
10. SomaAnanthi
11. Monesh Kumar
12. Arunmozhi
13. Aravinth
14. Anand
15. Satheesh
16. Pratheep.R
17. Priyanka
18. Vinith Kumar.M

.. Petitioners

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.. Respondents

Common Prayers: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the first respondent to include the School of Excellence in Law, Chennai, in the impugned G.O. (Ms) No.246, dated 30.06.2020 for availing the benefit of stipend.



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For Petitioners in : Mr.R.Prabhakaran
both writ petitions

For Respondents 1 and : Mr.P.Muthukumar
2 in both writ Counsel for the State
petitions

For 3rd respondent in : Mr.M.R.Jothimanian
both writ petitions

For respondents 4 and : Mr.Vasanthakumar
5 in both writ
petitions

COMMON ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

These writ petitions, filed in public interest, pertain to a State Government notification bearing G.O.(Ms).No.246 dated June 30, 2020 that provides for stipend to junior lawyers.

2. The challenge in the petitions is that the notification is confined to eligible junior lawyers who have only studied in a Government Law College. According to the petitioners, the School of Excellence in Law, which is affiliated to the Tamil Nadu Dr.Ambedkar Law University, ought to be regarded as a Government Law College within the meaning of the expression in the relevant notification for junior lawyers who have obtained Bachelor Degrees in Law from the School of Excellence in Law to also be eligible to obtain the stipend, provided they meet the other criteria.

3. It is submitted on behalf of the State that the stipend is not meant for persons who have obtained a costly education as it will be presumed that persons who can afford to pay in the range of Rs.80,000/- or so per annum for their legal education, as charged by the School of Excellence in Law, would not belong to the needy strata of the society requiring financial assistance. It is submitted on behalf of the State that such stand is clearly spelt out in the counter-affidavit filed by the State.

4. The petitioners, however, submit that the School of Excellence in Law is or ought to be deemed to be a Government Law College since it has been set up by the State Government and is completely controlled and funded by the State Government. The petitioners submit that like some of the premier government law colleges, the School of Excellence in Law has a Vice



Chancellor, has its own syndicate, teaching and non-teaching staff and there is the overwhelming, deep and pervasive government control in its functioning, operation and funding by the State. The petitioners emphasise that the spirit of the relevant notification is that needy junior lawyers fulfilling the other criteria will be entitled to stipend as long as they have obtained their degree from a government institution imparting legal education. The petitioners insist that the School of Excellence in Law must be regarded as a government institution imparting legal education.

5. There is considerable substance in the petitioners' assertion. Indeed, the State does not disagree with the petitioners' suggestion that it is the State which funds and controls the School of Excellence in Law. The State, however, says that the distinction as to the tuition fee must be honoured as a student affording the much higher tuition fee in the School of Excellence in Law cannot be regarded as hailing from a family that requires financial assistance.

6. The distinction that is sought to be made by the State regarding the quantum of tuition fee paid by a candidate to obtain the degree or the legal education is completely irrelevant in the backdrop of the relevant notification and the criteria for obtaining the stipend as indicated therein.

7. At the outset, it is necessary to see the parameters indicated in the relevant government notification as to who may apply and obtain the stipend. Paragraph 9 of the notification details both the eligibility criteria and the grounds which would make an applicant ineligible to apply for or obtain the stipend. The entirety of such conditions needs to be seen:

"9. The Government also declare following guidelines for eligibilities, ineligibilities procedure for application, verification and sanction of stipend:-

Eligibilities:-

- (i) The applicant shall possess Bachelor Degree in Law.
- (ii) He/she should have studied the said Degree in a Government Law College.
- (iii) The applicant must have enrolled in the Bar Council of Tamil Nadu and Puducherry.
- (iv) The applicant shall submit an affidavit attested by his/her senior advocate every six months stating that he/she is still in active practice.
- (v) The applicant shall not exceed 30 years of age on the date of submission of application.



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- (vi) The applicant is eligible for a stipend of Rs.3000/- per month for 2 years only.
- (vii) The applicant shall have an Aadhar Card/id proof.
- (viii) The applicant should be a resident of Tamil Nadu.
- (ix) Family income of the applicant should be below Rs.2.5 lakhs per annum.
- (x) Only one member of a family can avail this stipend ("Family" means Husband, wife and their children)

Ineligibilities:-

- (xi) The applicant who has completed three years of practice are not eligible.
- (xii) The applicant possessing a four wheeler in his/her name is not eligible.
- (xiii) Non-Practicing Advocates are not eligible.
(Non-practicing Advocate means an Advocate enrolled with Bar Council of Tamil Nadu, but is not in actual practice of Law and is engaged in some other public or private job, business contract etc.)
- (xiv) The Practicing Advocate, if engaged in other business is not eligible."

8. For a start, it must be noticed that the further condition sought to be introduced by the State in its counter-affidavit and as a part of its submission at the hearing does not find any place in the ten counts of eligibility detailed in paragraph 9 of the notification. Equally, such additional condition is not included as a ground for ineligibility as indicated in the eleventh to fourteenth clauses of paragraph 9 of the notification.

9. There is no doubt that each of the ten conditions must be individually complied with by a candidate to be eligible to obtain the stipend and merely meeting some of the conditions and not meeting the others would not entitle the person to a stipend. However, if a candidate possesses any of the grounds detailed as a condition for being ineligible, the candidate would be ineligible to receive the stipend.

10. The second clause pertaining to the eligibility criteria mandates that the candidate should have studied the course for obtaining the Bachelor Degree in Law "in a Government Law College." The expression "Government Law College" is not defined in the notification. If a law college is set up or run or managed by the State, such law college would be a "Government Law College" within the meaning of such definition, particularly



in the absence of it being indicated that a candidate having obtained a degree from the School of Excellence in Law would not be eligible.

11. The loose and generic wording of the second eligibility criterion implies that any person who has obtained a Bachelor Degree in Law from an institution which can be loosely regarded as a Government Law College in ordinary parlance would be eligible, subject to meeting the other conditions. A Government Law College, in such sense, would imply a Law College which is run or organised or funded by the Government. Since the School of Excellence in Law is also funded, controlled and managed by the Government of the State of Tamil Nadu, in the light of the casual reference to "Government Law College" in the second of the eligibility criteria, the School of Excellence in Law would also be counted within the fold of Government Law Colleges covered by the notification.

12. Thus, it is evident that the quantum of tuition fee paid by a candidate to obtain a Bachelor Degree in Law is of no relevance as long as a candidate seeking the stipend fulfills all the conditions. While it is possible that most junior lawyers who have obtained their Bachelor Degrees in Law from the School of Excellence in Law may not hail from families which have a total income below Rs.2.5 lakh per annum, if there is any lawyer who fulfills the ninth criterion as to family income, but has attended the School of Excellence in Law, such lawyer would also be eligible to obtain the stipend, subject to fulfillment of the other conditions.

13. Since the claim and the underlying basis of the petitions is that eligible junior lawyers who have obtained Bachelor Degrees in Law from the School of Excellence in Law should not be excluded and be seen to be eligible to obtain the stipend under the relevant notification, the writ petitions succeed.

14. W.P.Nos.11203 of 2020 and 13425 of 2020 are disposed of on the basis of the above finding that merely because a junior lawyer meeting the other eligibility criteria obtained the Bachelor Degree in Law from the School of Excellence in Law established and run by the Tamil Nadu Dr.Ambedkar Law University would not imply that such lawyer had obtained the Bachelor Degree in Law from an institution other than a government law college within the meaning of the expression in the notification dated June 30, 2020.

15. Accordingly, the State should extend the benefit of the stipend to all eligible junior lawyers meeting the other eligibility criteria and not falling foul of any of the



ineligibility criteria, even if such lawyer has obtained the Bachelor Degree in Law from the said School of Excellence in Law run by the Tamil Nadu Dr.Ambedkar Law University.

There will be no order as to costs. Consequently, W.M.P.Nos.13661 and 16570 of 2020 are closed.

Sd/-
Assistant Registrar(CS)
//True Copy//

Sub Assistant Registrar

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To

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JPL (CO)
R.K. (15.07.2021)