IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.16532 OF 2021
AND
W.M.P.NOS.17501 AND 17502 OF 2021

Drisya D.Nambiar

... Petitioner

Vs.

1. The Government of Puducherry
   Rep. by the Secretary to Government,
   Department of Revenue and Disaster Management,
   Government of Union Territory of Puducherry.

2. The Regional Administrator Cum Deputy Collector (Revenue)
   Government of Puducherry,
   Mahe, Puducherry - 673 310.

3. The Deputy Tahsildar (Revenue),
   Sub Taluk Office,
   Government of Puducherry,
   Mahe, Puducherry - 673 310.

4. The Convener,
   Centralised Admission Committee [CENTAC]
   Government of Puducherry,
   Puducherry.

... Respondents

Prayer:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned Notification of the 1st respondent in Note No. 1 - 4/SS(Rev.)/DRDM/PA/2010 dated 07.01.2010 and the consequent Order of Dismissal by the 2nd respondent in Order of Dismissal by the 2nd respondent in No. 293 / DCRM / A.1 / 2021 / 289 Dated 25.06.2021 based on the Order of Rejection by the 3rd respondent in No. 381/STOM/T32/2021 dated 21.05.2021 and to quash the same with a direction to the 3rd respondent to issue Residence / Nativity Certificate to the petitioner as the resident of Mahe in the

Union Territory of Puducherry to enable the petitioner to avail Government Quota Seat in Post Graduate Dental Course in Government / Private Dental Colleges of Union Territory of Puducherry for the academic year 2021 - 2022.

For Petitioner	:	Mr.V.Radhakrishnan Senior Counsel for M/s.S.Kadarkarai
For Respondents	:	Ms.N.Mala Government Pleader (P)

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned Notification of the 1st respondent in Note No. 1 - 4/SS(Rev.)/DRDM/PA/2010 dated 07.01.2010 and the consequent Order of Dismissal by the 2nd respondent in Order of Dismissal by the 2nd respondent in No. 293 / DCRM / A.1 / 2021 / 289 Dated 25.06.2021 based on the Order of Rejection by the 3rd respondent in No. 381/STOM/T32/2021 dated 21.05.2021 and to quash the same with a direction to the 3rd respondent to issue Residence / Nativity Certificate to the petitioner as the residence to issue Residence / Nativity Certificate to the petitioners as the resident of Mahe in the Union Territory of Puducherry to enable the petitioner to avail Government Quota Seat in Post Graduate Dental Course in Government / Private Dental Colleges of Union Territory of Puducherry for the academic year 2021 - 2022.

2.The case of the petitioner is that the petitioner and her parents hail from Mahe within the Union Territory of Puducherry and did her School studies and Graduation of B.D.S at Mahe within the jurisdiction of Puducherry. She got married on 22.06.2020 and her husband and his family are also residents of Mahe. The petitioner applied for PG - MDS Course 2021 and intended to avail CENTAC admission during the academic year 2021 - 2022 vide online application dated 12.05.2021 for which she sought for Residence / Nativity Certificate vide online application dated 12.05.2021 from the third respondent and vide order dated 21.05.2021, the said application was rejected by the third respondent. Thereafter, the petitioner filed appeal before the second respondent and vide order dated 25.06.2021, the said appeal was also dismissed on the ground that she had shifted her residence to Mysore along with her husband after her marriage. Hence, this writ petition.

3.The learned Senior Counsel appearing for the petitioner reiterated the facts stated in the affidavit filed in support of this petition and would submit that there is a procedure for issuance of Residence / Nativity Certificate vide G.O.Ms.No.48, Revenue Department, Government of Puducherry, dated 12.12.2002 and vide the consequent Circular of the Revenue Department No.6260/C2/Rev/ 2003 dated 06.10.2003, the UT Government had enumerated the criteria for determining persons as residence of the Union Territory.

4.The learned Senior Counsel appearing for the petitioner would further submit that as per the guidelines, inorder to ascertain the physical residence, the Revenue Officials are vested with the power to conduct physical verification in the locality apart from the documents produced by the petitioner like ration card, aadhar card etc. However, in the impugned order it is observed that the petitioner's father - in - law is a retired Assistant Engineer at Karnataka Electricity Board and is a resident of Karnataka and the petitioner had shifted her residence to Mysore along with her husband after her marriage.

5.The learned Senior Counsel appearing for the petitioner would further submit that there is no discussion about the petitioner's parents in the impugned orders. The petitioner is a permanent resident of Mahe. Infact, her father is working as Headmaster in Government School, Mahe and such employment and residence was ignored by the Revenue Officials. Further, even after marriage the petitioner is living along with her parents as her husband got employment in Netherlands.

6.The learned Senior Counsel appearing for the petitioner would further submit that as per the Clause 2 (i) of Circular of the Revenue Department No.6260/C2/Rev/ 2003 dated 06.10.2003, while computing the period of actual residence, temporary absence for education, job etc., shall be ignored. Hence, the orders impugned in this writ petition are non est in law. Accordingly, he prayed for allowing the writ petition.

7.The learned Government Pleader (Pondicherry) appearing for the respondents would submit that it is true that there is no discussion with regard to the petitioner's parents, however, after marriage on 22.06.2020, her husband went to Netherlands and she started living along with her father - in - law and mother - in - law who are residents of Gundulpet in Mysore, Karnataka. She would further submit that mere marriage is not a bar for issuance of Residence / Nativity Certificate, however, the petitioner was physically residing along with her father - in - law and mother - in - law in Gundulpet in Mysore, Karnataka and hence her application was rejected. Accordingly, she prayed for dismissal of the writ petition.

8.Heard the arguments advanced on either side and perused the materials available on record.

9.The facts in the case is not in dispute. The issue involved is in narrow compass. There is mechanism provided for determination of the residents in the Union Territory of Pondicherry in Circular of the Revenue Department No.6260/C2/Rev/ 2003 dated 06.10.2003 and the relevant portion reads as follows:

> "(1)DETERMINATION OF THE "RESIDENTS" IN THE UNION TERRITORY OF PONDICHERRY.
>
> The following shall be the criteria prescribed for determining persons as Residents of this Union Territory:-
>
> (i)The candidate or whose parent(either Mother or Father or Both) or Guardian (in the case of Children who have lost both the parents) has been residing continuously in this Union Territory for atleast five years preceding the date of application.
> ....
> ....
> ....
>
> (2)Further the certificate-issuing authorities are instructed to strictly adhere to the following instructions in deciding the resident status of the applicants, namely:-
>
> (i)While computing the period of actual residence, temporary absence for education, job etc., shall be ignored. In cases where the parents have gone abroad for the purpose of employment, then the residence of Grand parents in the U.T. of Pondicherry may also be taken for the issue of Residence Certificate for study purpose only to their Grand Children in exceptional and genuine cases, where the children reside with grand parents and are studying in recognized educational institutions in the U.T. Of Pondicherry.
>
> (ii)The actual and physical residence of the applicant/parent/ Guardian is essential. But, mere possession of evidences like Ration Card, EPIC Card or previous certificate etc. are not the sole criteria for issuance of the Residence Certificate. At the same

time, such evidences should not be totally ignored. After detailed enquiry, if it is found that such evidences are false or obtained on false representation of facts, immediate action has to be taken by the certificate-issuing authorities (Tahsildar/ Dy.Tahsildar) to inform the appropriate authorities to cancel them. It shall also be brought to the knowledge of the concerned Deputy Collector (Revenue)/ Joint Secretary (Revenue) for follow up action.

(3)For getting Nativity/Residence certificate, the application has to be submitted by the applicant to the concerned Tahsildar of Taluk Office or Dy.Tahsildar of Sub-Taluk Office and it will be forwarded to the Village Administrative Officer of the concerned revenue village through the Revenue Inspector for discreet enquiry and report. If the applicant or parent or guardian resides in the concerned revenue village, as per the criteria mentioned in pre-paras, the Village Administrative Officer shall make a report and it shall be verified by the Revenue Inspector. After considering the reports of the VAO and RI, the Dy.Tahsildar or Tahsildar of concerned Sub-Taluk or Taluk may issue the certificate to the applicant."

10.Admittedly, the petitioner is a permanent resident of Mahe. Her father is working as Headmaster in Government School, Mahe and her mother is also residing at Mahe. The said fact is not disputed by the respondents.

11.This Court perused the Circular of the Revenue Department No.6260/C2/Rev/ 2003 dated 06.10.2003 wherein it is stated that while computing the period of actual residence, temporary absence for education, job etc., shall be ignored. After her marriage on 22.06.2020, the petitioner went to Gundulpet in Mysore, Karnataka and again after her husband went to Netherlands, due to employment, she started living along with her parents in Mahe. Therefore, it is clearly evident that but for the short duration after marriage, the petitioner has all along been a resident of Union Territory of Pondicherry. Such being the undisputed position, rejecting the petitioner's claim for issuance of Residence / Nativity Certificate is not acceptable as it is not in consonance with Circular of the Revenue Department No.6260/C2/Rev/ 2003 dated 06.10.2003, issued by the Pondicherry Government.

12.Hence, this writ petition is allowed. The respondents are directed to issue Residence / Nativity Certificate in favour of the petitioner, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Government of Puducherry
   Rep. by the Secretary to Government,
   Department of Revenue and Disaster Management,
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   Centralised Admission Committee [CENTAC]
   Government of Puducherry,
   Puducherry.

+1cc to M/s.S.Kadarkarai, Advocate, S.R.No.61320

+1cc to the Government Pleader(Puducherry), S.R.No.62027

W.P.No.16532 of 2021
And
W.M.P.Nos.17501 and 17502 of 2021

GSM(CO)
RLP(23/12/2021)