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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2021

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.15844 of 2021

and W.M.P.Nos.16730, 16731 & 17382 of 2021

Dr.P.S.Sujith Kumar

... Petitioner

Vs.

1.The Director of Higher and Technical Education,
rep. by its Director,
PIPMATE Complex,
Lawspet, Puducherry.

2.The Principal,
Kendriya Vidyalaya No.2,
Pondicherry University Campus,
Kalapet, Puducherry - 605 014.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in his proceedings in F.No.1802.../K.V.No.2/Pondicherry 2020-21 dated 8.07.2021 and to quash the same and consequently direct the 2nd respondent to grant admission in Class 1 to the petitioner's daughters under SGC (Anupama P. S and Athulya P. S) as per Category III of Guidelines for admission in Kendriya Vidyalayas.

For Petitioner : Ms.M.N.Sumathy

For Respondents: Mrs.V.Usha
Additional Government Pleader
(Pondy) R1

Mr.M.Vaidhiyanathan for R2

O R D E R

This writ petition has been filed challenging the proceedings of the 2nd respondent dated 08.07.2021 and for a consequential direction to the 2nd respondent to grant admission to the petitioner's daughters as per Category III of the Guidelines for admission in Kendriya Vidyalayas.



2.The case of the petitioner is that he is working as an Assistant Professor of Economics in Kanchi Mamunivar Government Institute for Post Graduate Studies and Research, Puducherry. According to the petitioner, there are two broad categories of Colleges that comes within the control of the Directorate of Higher and Technical Education (DHTE). The first category of Colleges are those which are directly controlled and administered by the DHTE and the second category of Colleges are those which are fully funded and administered by DHTE but they are run as an autonomous body by Pondicherry Society for Higher Education. According to the petitioner, the College where he is working as an Assistant Professor, falls under the first category viz., the one which is directly controlled and administered by the DHTE.

3.The petitioner has twin daughters and he applied for admission for Class 1 in the 2nd respondent Institution, under Category III of the Guidelines for admission in Kendriya Vidyalayas. For proper appreciation, the Category III is extracted hereunder:

3.PRIORITIES IN ADMISSION

....

(A) KENDRIYA VIDYALAYAS UNDER CIVIL /
DEFENCE SECTOR

.

.

3.Children of transferable and non-transferable
State
Government employees.

4.The request made by the petitioner was rejected by the 2nd respondent by virtue of the impugned letter dated 08.07.2021 on the ground that the College where the petitioner is working comes under Category IV of the Guidelines. Aggrieved by the same, the present writ petition has been filed before this Court.

5.The 2nd respondent has filed a counter affidavit. The 2nd respondent has taken a categorical stand that the institution where the petitioner is working is an autonomous institution and therefore, it falls under Category IV of the Guidelines. For proper appreciation, Category IV of the Guidelines is extracted hereunder:

3.PRIORITIES IN ADMISSION

....

(A) KENDRIYA VIDYALAYAS UNDER CIVIL
/DEFENCE SECTOR

.



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4.Children of transferable and non-transferable employees of Autonomous Bodies/Public Sector Undertakings/Institute of Higher Learning of the State Governments.

6.Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.

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

8.The short issue that arises for consideration in the present writ petition is as to whether the institution where the petitioner is working as an Assistant Professor will fall under Category III or under Category IV of the Guidelines for admission in Kendriya Vidyalayas. Both the Clauses have been extracted supra.

9.It is seen from records that there are totally seven Government Colleges which directly fall under the administration of DHTE and out of the same, there are two colleges which have been conferred with academic autonomy. Kanchi Mamunivar Government Institute for Post Graduate Studies and Research, Puducherry is one such college falling under this category. The petitioner was initially working in the Arignar Anna Government Arts and Science College, Karaikal and thereafter was transferred to Bharathidasan Government College for Women, Puducherry and ultimately, the petitioner got transferred to the Kanchi Mamunivar Government Institute for Post Graduate Studies and Research, Puducherry. All these colleges come within the direct administrative control of DHTE.

10.Insofar as conferring an academic autonomy is concerned, the colleges falling under this category are permitted to frame their own syllabi, conduct examinations and award marks internally. This academic autonomy is actually conferred by the Pondicherry University for certain colleges of excellence. It must be kept in mind that the academic autonomy has nothing to do with the functional autonomy and even these colleges are directly controlled and administered by DHTE.

11.The above finding given by this Court can be substantiated by the letter given by the Institution dated 01.07.2021, where the petitioner is working, wherein, it has been categorically stated that Kanchi Mamunivar Government Institute for Post Graduate Studies and Research, Puducherry is a Government Institution under Government of Puducherry and it is under the control of the 1st respondent. The above finding is



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further substantiated by the letter dated 09.07.2021 issued by the 1st respondent, wherein, it is reiterated that the institution is fully owned and controlled by the Government of Puducherry and the petitioner will fall under Category III of the Guidelines.

12.The 2nd respondent seems to have been carried away by the usage of the expression "Autonomous". On seeing this expression, the 2nd respondent seems to have straight away come to a conclusion that the petitioner will fall under Category IV of the Guidelines. The 2nd respondent failed to notice the fact that the Institution where the petitioner is working as an Assistant Professor is directly controlled and administered by the 1st respondent and the autonomy offered to the institution is only for the purpose which has been explained supra.

13.In view of the above discussion, this Court has no hesitation to come to a conclusion that the petitioner clearly falls under Category III of the Guidelines and hence the daughters of the petitioner ought to have been considered for admission under this category. In view of the same, the impugned rejection letter dated 08.07.2021, issued by the 2nd respondent is hereby quashed and there shall be a direction to the 2nd respondent to consider the admission to the petitioner's daughters in Class 1 under Category III of the Guidelines for admission in Kendriya Vidyalayas.

14.In the result, this writ petition is allowed with the above directions. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ssr

To

1.The Director of Higher and Technical Education,
PIPMATE Complex,
Lawspet, Puducherry.



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2.The Principal,
Kendriya Vidyalaya No.2,
Pondicherry University Campus,
Kalapet, Puducherry - 605 014.

+lcc ot Mr.M.N.Sumathy, Advocate Sr.43266
+lcc to Mr.M.Vaidhiyanathan, Advocate Sr.43354

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gmr[col]
srg 27/08/2021