



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD)No.16900 of 2020

and

W.M.P. (MD)No.14121 of 2020

Sivakami

: Petitioner

Vs.

1.The Secretary to the Government of Tamil Nadu,
School Education Department,
Secretariat,
Chennai.

2.The Secretary,
Selection Committee for Medical Education,
Office of the Directorate of Medical Education,
162, EVR Periyar Salai,
Kilpauk, Chennai - 600 010.

3.The Chief Educational Officer,
Theni District,
Theni.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondents to include the petitioner name in the provisional rank lists in all respective categories for admission of MBBS / BDS 2020-21 session, Tamil Nadu, in respective serial numbers and to avail the benefits of "The Tamil Nadu admission to Undergraduate courses in Medicine, Dentistry, Indian Medicine and Homoeopathy on preferential basis to the students of the Government Schools Act, 2020 (Tamilnadu Act No.34 of 2020)" to the petitioner in the Admission of MBBS / BDS 2020-21 session, Tamil Nadu.

For Petitioner : Mr.R.Shankar Ganesh

For Respondents : Mr.Sricharan Rangarajan,
Additional Advocate General
Assisted by
Mr.K.P.Krishnadoss,



Special Government Pleader for R1 and
Ms.Lakshmi Prasanna Government Advocate
for R2 & R3

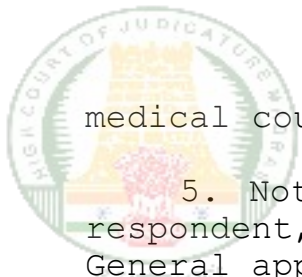
ORDER

The case of the petitioner is that her father is an Agricultural Coolie. When the petitioner's parents were working in Cardamom estate in the State of Kerala, she had studied her schooling upto 6th Standard in Tamil medium from a School in the State of Kerala. Thereafter, from 7th Standard onwards, the petitioner studied in Government Girls Higher Secondary School, Andipatti, in Tamil Nadu and completed her schooling upto Higher Secondary level in the same school.

2. According to the petitioner, she had secured 96% in her SSLC and 79% in her HSC examinations. Her ambition was to become a Doctor and therefore, she appeared in the NEET Examination in the year 2019. As she was not successful, she once again appeared in the NEET Examination in the year 2020 and obtained 233 marks in the examination. The State Government has passed an Act (Act No.34 of 2020), providing for 7.5% reservation for the students who studied from 6th Standard to Higher Secondary in the State Government Schools. Those students would be given a benefit of preferential selection to the extent of 7.5%, in the admission to all medical courses, like, Medicine, Dentistry, Indian Medicine, etc.

3. The grievance of the petitioner herein is that though the petitioner studied in Tamil medium throughout her schooling, the benefit contemplated in the said Act, namely, Act No.34 of 2020, has not been extended to her for the simple reason that she completed her 6th Standard in a Government School situated in the State of Kerala and not in Tamil Nadu. In the absence of extension of the benefit of the preferential allotment to her under the new enactment, the petitioner was deprived of selection for admission to MBBS / BDS Courses in the year 2020-21 and therefore, she is before this Court seeking issuance of a Writ of Mandamus directing the respondents to include her name in the provisional rank list by conferring the benefit contemplated in the Act No.34 of 2020.

4. The learned Counsel appearing for the petitioner would strenuously contend that the aim of the enactment is to extend the benefit of preferential allotment to the Students from Government Schools. The petitioner herein had studied 6th Standard alone, that too in the Government School, in the State of Kerala, because of the employment of her father in Cardamom estate located in the State of Kerala. However, the fact of the matter was that she had completed her 6th Standard in the Government School, though located in a neighboring State. Therefore, she may be treated to be a Student of having studied 6th to 12th Standards in the Government School and be extended the benefit of 7.5% preferential treatment and her name may be treated under the said quota for admission to



medical courses opted by her.

5. Notice was issued to the respondents and on behalf of the respondent, Mr.Sricharan Rangarajan, learned Additional Advocate General appeared.

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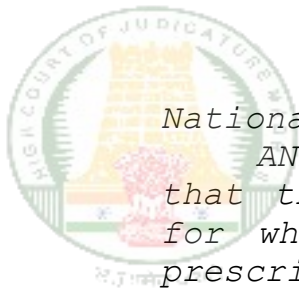
6. The learned Additional Advocate General would submit that the provisions of the new enactment are very clear that a person, who is claiming the preferential allotment, ought to have studied from 6th to 12th Standard from a Government school within the State of Tamil Nadu. Though the petitioner may have studied in a Government School in her 6th Standard, in the State of Kerala, nevertheless, she does not fulfil the requirement for her to be conferred with the benefit of the new enactment. When the provisions of the Act and the definition of Government School are very clear and did not leave any room for any ambiguity, the claim of the petitioner cannot be countenanced either in law or on facts. In fact, the learned Additional Advocate General would submit that the writ petitioner is merely seeking issuance of a Writ of Mandamus and not challenging the provisions of the Act.

7. This Court has considered the submissions made by the learned Counsel appearing for the petitioner and the learned Additional Advocate General appearing for the respondents.

8. The Act No.34 of 2020 contemplates grant of 7.5% quota by way of preferential basis only to the Students, who studied from 6th to 12th (Higher Secondary level) in Government run Schools, in the State of Tamil Nadu. When the Act confines the benefit only to certain category of students, only from Government Schools of Tamil Nadu, the question of consideration of the petitioner's candidature did not arise, for the reason that she admittedly had studied her 6th Standard in the State of Kerala. Whether she had studied in Tamil medium or any other medium of instruction would not be material at all, as she failed to fulfil the mandatory requirement of being a student of Government Schools run by the State of Tamil Nadu from 6th to 12th Standard.

9. It is useful to refer to the objects and reasons on the substratum of the policy of the Government in transforming the same into an Act, viz., Act No.34 of 2020, which reads as follows:

"AND WHEREAS in view of the cognitive gap created by socio economic factors such as caste, parental occupation, parental education, parental income, gender, etc., the said Commission concluded that the Government school students form a separate class and are in a disadvantageous position as compared to private school students and therefore recommended that ten per cent of seats in the admission to M.B.B.S. course can be set apart on preferential basis to students who studied from Sixth Standard to Higher Secondary course in State Government schools and qualified in the



National Eligibility-cum-Entrance Test;

AND WHEREAS the said Commission has also recommended that the above reservation can be extended to all courses for which National Eligibility-cum-Entrance Test has been prescribed as an eligibility criterion;

AND WHEREAS Articles 14 and 15 of the Constitution permit reasonable classification on intelligible differentia and thereby permits different treatment to unequals;

AND WHEREAS the Government, after careful consideration of the recommendation of the said Commission, have decided to set apart seven and a half per cent of seats in the admission to M.B.B.S. course and other medical courses, for which, the National Eligibility-cum-Entrance Test is prescribed as the qualifying examination, on preferential basis to students of the State Government schools who have qualified in the said Test;"

10. Further, the definitions of 'Government Schools' in Section 2(c) and 'Students studied in Government Schools' in Section 2(d) of the Act, read as under:

"2.(c) "Government schools" mean and includes Government schools, Corporation schools, Municipal schools, Adi Dravidar and Tribal Welfare schools, Kallar Reclamation schools, Forest Department schools and other schools managed by Government Departments;

(d) "Students studied in Government schools" mean children who have studied from Sixth Standard to Higher Secondary Course in a Government school and qualified in the National Eligibility-cum-Entrance Test."

11. As rightly pointed out by the learned Additional Advocate General, the petitioner cannot seek a Mandamus from this Court and on such pretext, cannot seek to enlarge the scope of the Act itself, wherein the object of the Act is clearly delineated in the Statement and Objects of the Act. Moreover, the definition of 'Government Schools' and 'Students studied in Government Schools' makes it very clear as to what class of students are entitled to be covered under the purview of the Act.

12. When the Government has disclosed its intention as to the basis of bringing-in the enactment, the same cannot be diluted by an order of this Court, by extending the scope of the benefit contemplated in the Act. It is not for this Court to grant any direction, which would run contrary to the specific provisions of the Act.

13. In the said consideration, this Court finds that the writ petition is devoid of merits and the same is accordingly, dismissed. There shall be no order as to costs. Consequently,



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connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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To

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+1 CC to M/s.R.SHANKAR GANESH, Advocate (SR-1489[F] dated
20/01/2021)

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