



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**Reserved on : 01.02.2021**

**Pronounced on : 04.03.2021**

CORAM

**THE HON'BLE MR.JUSTICE V.PARTHIBAN**

**W.P.(MD) No.16928 of 2020**

**and**

**W.M.P.(MD) Nos.14167, 14169 and 14170 of 2020**

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Minor.Soundarya,  
Represented by her Mother/Natural Guardian Nagavalli,  
W/o.Manivel,  
No.1/115, Adi Dravidar Street,  
Puluderi,  
R.T.Malai Post, Kulithalai Taluk,  
Karur District.

... Petitioner

-vs-

1. The Secretary to Government,  
School Education Department,  
Secretariat,  
Chennai.
2. The Secretary,  
Selection Committee for Medical Education,  
Office of the Directorate of Medical Education,  
162, E.V.R. Periyar Salai,  
Kilpauk,  
Chennai - 600 010.
3. The District Collector,  
Karur District,  
Karur.
4. The Chief Educational Officer,  
Karur District,  
Karur.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the fourth respondent in Na.Ka.No.8014/A1/2019 dated 10.11.2020 and quash the same and consequently, direct the respondents to give the benefits under the Tamil Nadu Admission to Undergraduate Courses in Medicine, Dentistry, Indian Medicine and Homeopathy on preferential basis to the students of the Government Schools Act, 2020 (Tamil Nadu Act No.34 of 2020) to the petitioner's daughter namely Soundarya in the Admission to Undergraduate Courses in Medicine, Dentistry, Indian Medicine and Homeopathy on preferential basis to the students of the Government Schools, 2020-2021.



For Petitioner : Mr.Nirajan S. Kumar  
For Respondents : Mr.M.Sricharan Rangarajan  
Additional Advocate General  
Assisted by Mr.K.P.Krishnadoss  
Special Government Pleader

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**ORDER**

The petitioner's second daughter by name Soundarya was a student of Government run school, as her family was living on a meager income, being a small time agriculturist. She successfully completed her SSLC examination with 452 marks out of 500 marks and secured second rank among the Adi Dravidar students in Karur District. According to the petitioner, despite her daughter's poor economic and social background, she managed to excel in her academic career during her school studies.

2.The State Government has formulated a policy to help the meritorious students belonging to Adi Dravidar community to pursue their school higher education in reputed private schools in order to enhance their academic performance during the crucial years of their school career. As per the Government policy, the Department of Adi Dravidar Welfare used to select top ten students in every District from among the Adi Dravidar community and sponsor them to pursue their higher school education in private schools. In furtherance of the policy, the Government would undertake to pay the entire fees to the students towards their education in private schools.

3.The petitioner's daughter being the second rank holder in the District of Karur, securing very high marks in SSLC was sponsored by the Government to pursue her +2 course in a private school called Chellammal Matric Higher Secondary School. The petitioner's daughter completed her first year +2 course with 72.3% of marks and completed her second year +2 course with 83% of marks. According to the petitioner, her daughter has always been dreaming to become a medical doctor and for realizing her dream, she appeared for National Eligibility-cum-Entrance Test (NEET) for the year 2020. She participated the examination held on 13.09.2020 and has scored 158 marks in the NEET examination of the year 2020.

4.In the meanwhile, the Government has introduced an Act called Tamil Nadu Admission to Undergraduate Courses in Medicine, Dentistry, Indian Medicine and Homeopathy on Preferential basis of Students of Government Schools Act, 2020 (hereinafter called as "the Act 34/2020") providing for 7.5% reservation on preferential basis to students who studied in State Government schools and have qualified in NEET examination for admission to undergraduate courses of MBBS/BDS/Siddha/Ayurvedha, Unani and Homeopathy from the academic year 2020-2021. The Act was introduced vide G.O.No.438, Health and



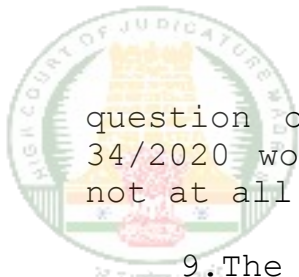
Family Welfare (MCA-1) Department, dated 29.10.2020.

5. In furtherance of the objectives of the above Act, the Government instructed all the District Administration to collect records in respect of the students who studied in Government schools and successfully completed NEET examination. In the process, the petitioner came to know that her daughter's name was not included for the preferential quota of 7.5% in view of the fact that the petitioner's daughter had completed her +2 course in a private school. Having learnt about her exclusion, a representation was submitted on 09.11.2020 seeking the extension of the benefit of 7.5% reservation and as there was no action forthcoming, she approached this Court by filing a Writ Petition in W.P.(MD) No.16362 of 2020 seeking issue of Mandamus directing the respondents to extend the benefit of the reservation provided under the new Act, Act 34/2020.

6. In the meanwhile, the fourth respondent passed an order on 10.11.2020 rejecting the claim of the petitioner citing the reason that her daughter had studied in private school in higher secondary first and second year courses. According to the petitioner, the order was passed without appreciating the fact that her daughter was sponsored by the Government because of her outstanding performance in the District in her SSLC examination. The Government, having sponsored the meritorious students like the petitioner's daughter herein with a singular purpose and aim of uplifting them to attain higher achievements, cannot deny the benefit of 7.5% of reservation, is the substance of the grievance of the petitioner and towards redressal of the said grievance, the petitioner is before this Court.

7. The learned Counsel appearing for the petitioner elaborately argued that the purpose for which the Government sponsored the outstanding students hailing from Adi Dravidar community will be lost if the 7.5% reservation is not extended to such of those students. According to the learned Counsel for the petitioner, though the student herein may not come within the definition of Government school student, as defined under the Act in 2(C) and 2(d) but the Government ought to have taken into consideration this category of students who had received the scholarship due to their outstanding performance at the District level and such students cannot be denied the benefit of reservation of 7.5%. Such exclusion would mean that the meritorious students from Adi Dravidar community would be denied a valuable opportunity of pursuing their dream of becoming professional college students and that would ultimately amount to defeating the very purpose and object for which the Act 34/2020 was brought in.

8. Mr. M. Sricharan Rangarajan, learned Additional Advocate General who appeared for the respondents would submit that the definition of Government schools is vivid and clear and the Act has



question of extending the reservation contemplated under the Act 34/2020 would per se be impermissible in law as such extension is not at all envisaged in the Act.

9.The learned Additional Advocate General would painstakingly resist the claim of the petitioner by contending that if such students who have been sponsored by the Government and have undertaken their +2 studies in private schools to be included in the definition, the very policy of the Government of encouraging students from Government run schools would get defeated and undermined. He would submit that no doubt the petitioner's daughter was outstanding and rank holder in the District and was sponsored by the Government, nevertheless the fact of the matter was that she had the benefit of being educated in a private school with a completely different academic environment and in that process, she had enjoyed an edge over students from Government run schools. According to learned Additional Advocate General, the crucial period of school studies namely +2 assumes paramount importance as any marks secured and performance during the period would help the candidate to excel in the competitive NEET examination. The petitioner's daughter having enjoyed the additional advantage of being educated in the private school cannot compare herself with the students who had undertaken their studies right through in Government run schools, as unequals cannot be treated as equals which would be against the spirit of Article 14 of the Constitution of India.

10.The learned Additional Advocate General would also add that if all the rank holders in every District who have had the benefit of Government sponsored education in private schools for +2 courses to be extended the reservation benefit, there would not be any scope for students studied only in Government schools, gaining admission to medical courses, resulting in taking away the core object of the Act itself.

11.By way of reply, the learned Counsel appearing for the petitioner would rely on a recent decision of the Single Judge of this Court in W.P.(MD)No.17835/2020 dated 07.01.2021. In the said decision, the learned Judge has expanded the meaning of Government school as defined under the Act and declared that the student studied in a Government aided schools was also to be construed as student from the Government schools, notwithstanding the fact that the private school which was the subject matter of consideration by the Court was governed by the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and the staff of the school were not Government servants and it was only an aided school. According to the learned Counsel for the petitioner, when the learned Judge of this Court could declare a student from aided institutions to be treated as a Government student, the same principle could be applied in this case as well, as admittedly the petitioner's daughter was sponsored by the Government in order to encourage and enhance the

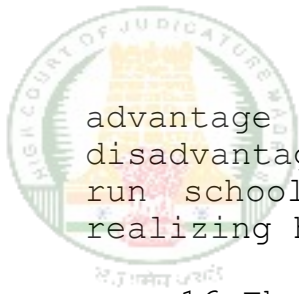
Government

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advantage to the student concerned, has resulted in unfair disadvantage of not being included in the definition of Government run schools, snatching away a valuable and rare opportunity of realizing her dream of becoming a medical doctor.

16.The submissions put forth by the learned Additional Advocate General in this regard that rightly or wrongly the student had the benefit of undergoing crucial +2 courses in a private school and in that process, she ceased to be considered as Government school student for the purpose of availing the reservation of 7.5%, in the opinion of this Court may not be correct. The Government cannot lose sight of the fact that the petitioner's daughter was a rank holder from Adi Dravidar community and only as being a rank holder at the District level, she was omitted to be included as a beneficiary of the Act 34/2020. It is a paradoxical situation as to who should be blamed for this poor student who could have otherwise been in contention for admission to the medical courses by availing the 7.5% reservation under Act 34/2020 but not to be treated as a preferential candidate by the very Act of the Government in helping her to excel in academic pursuit in school final and robbing her of the ultimate fruition of all the help by the Government and the efforts of the student. This Court also cannot brush aside the fact that the student herein had indeed enjoyed the benefit of a completely different academic atmosphere during her crucial period of school career and in that view of the matter, she may not be placed on par with students who had gone through their entire schooling upto +2 level in Government run schools.

17.Be that as it may, a well-intended policy of the Government to sponsor candidates hailing from Adi Dravidar community to get educated in private schools in +2 courses has eventually turned out to be her nemesis in the case of the petitioner's daughter herein for the reason that by virtue of her sponsorship earned through merit she permanently lost her right to avail the reservation benefit under Act 34/2020. It is a cruel irony that the avowed objects of the Government to encourage meritorious students from Government schools have appeared to have failed at least on one aspect in regard to the present claim of the petitioner herein. This Court is also conscious of the fact that the Government could not have taken into consideration such category of students when they defined students of Government run schools under the Act as their focus was primarily to provide a level playing field for the students from the Government run schools. But, at the end of the day, from the standpoint of the student herein is concerned, being meritorious and rank holder from Adi Dravidar community pursuing her dream to become a Doctor has hit the road block shattering her dream and the sordid cause for the roadblock is her merit which became unfortunately her undoing.

18.In the explanation to the definition of Government schools  
<https://hcservices.courtserv.in/hcserv2/c> and 2 (d) of the Act, the following is stated:



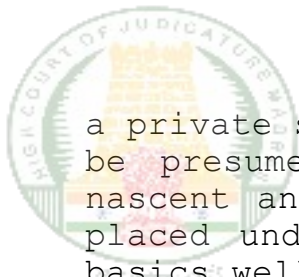
"(c) "Government Schools" means and includes Government schools, Corporation schools, Municipal schools, Adi Dravidar and Tribal Welfare schools, Kallar Reclamation schools, Forest Department schools and other schools managed by Government department;

(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.

Explanation - For the purpose of this definition, children belonging to weaker section and disadvantaged group who have studied up to eighth standard in a specified category school or an unaided school, as per clause (c) of sub-section (1) of Section 12 of the Right of Children to Free and Compulsory Education Act, 2009 and studied all remaining standards upto Higher Secondary Course in a Government school and qualified in the National Eligibility-cum-Entrance Test, shall be deemed to be 'Students studied in Government schools'; and"

19.The above explanation clearly provide for an inclusive definition wherein students belonging to marginalised section and who had been admitted to private schools under the provisions of Right of Children to Free and Compulsory Education Act, 2009 and had gone through the courses upto 8<sup>th</sup> standard have been included within the ambit of the definition of Government student. In such scenario, what way, a student like in the present case, can suffer a disadvantage from being included in such definition as well? Although the learned Additional Advocate General attempted to distinguish when this issue was raised by the Court that the students studied in a private school upto 8<sup>th</sup> standard under RTE Act is different from students studied in +2 Courses in a private school. According to him, the most crucial stage of a student choosing his or her career would happen only at +2 level and undergoing the +2 Courses in a private school would be qualitatively different from studying 1 to 8<sup>th</sup> standard in private school under RTE Act. He therefore submitted that the classification is intelligible and rationale and the exclusion of the petitioner's category would not be hit by Articles 14 and 16 of the Constitution of India.

20.Although the above submission of the learned Additional Advocate General appears to be seemingly plausible and attractive at a precipitous understanding but if the issue is analyzed little incisively, the difference which is sought to be driven home by the learned Additional Advocate General may not stand the test of judicial scrutiny. The rationale so advanced could also be put conversely namely that a student having the advantage of studying in

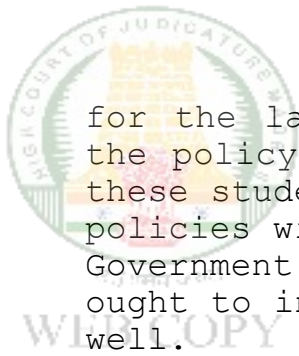


a private school under RTE Act from 1<sup>st</sup> standard to 8<sup>th</sup> standard, can be presumed to have had a strong foundation and grounding from nascent and budding years of schooling. Such well groomed students placed under envious tutelage from primary standards having their basics well cemented could continue to excel in their remaining part of the schooling after 8<sup>th</sup> standard. In that view of the matter also the students who studied upto 8<sup>th</sup> standard in private under RTE Act cannot be compared with students who have had their complete school education in Government school for the purpose of extension of the benefit of preferential reservation. The RTE student therefore cannot be said to suffer any disadvantage in comparison to the student from Government schools, requiring concessional upliftment.

21.As a matter of illustration, a student from unaided school or any school run by private management enjoying a very high reputation in the perception of majority segment of the society and who had the advantage of being in a supposedly better academic environment and the pedagogical pattern of qualitative kind as provided by the school during the formative years of schooling by virtue of operation of RTE Act would continue to derive the past benefit of having competed with other students in that school with cutting edge curriculum and the foundational learning of the student upto 8<sup>th</sup> standard which would definitely put him or her in a good stead for the remaining part of his or her school education.

22.In fact, this Court is of the view that Right To Education from 1<sup>st</sup> to 8<sup>th</sup> standard in a private school is far more superior in edifying the academic fundamentals and talent of the students concerned than the students who make a lateral entry at +2 level for a period of two years course only. In these circumstances, this Court is unable to appreciate the difference that was sought to be drawn by the learned Additional Advocate General that a student merely by virtue of being educated in a private school for two years can over night become disqualified to be treated as a student from Government schools, for the purpose of being included within the definition of Government School students, as per Act 34/2020.

23.In the above circumstances, when the Government appended an Explanation to the definition of students from Government school by including the RTE students, this Court does not see any palpable, qualitative or intelligent reason for excluding the students like in the present case. No doubt, the learned Additional Advocate General submitted that in view of the present Act, Act 34/2020, there may not be any takers for the sponsorship in future and the scholarship for Adi Dravidar students would lose its relevance and importance, nevertheless such prediction may or may not happen, as there would be still a possibility of some takers and avail the sponsorship of the benefit in realising their lifetime dream of spending their studenthood in a private school for at least two years, as such opportunity could not have come in their way in the normal times but



for the laudable policy of the Government. Therefore, it is upto the policy makers to come up with a kind of equitable solution for these students as well, as the ultimate purpose of implementing such policies with inclusive social agenda of uplifting the students from Government schools to achieve higher academic growth and prospects ought to include meritorious students from Adi Dravidar community as well.

24.In the light of the above discourse and the narrative, this Court is of the considered view that the Government is under an obligation to rethink on this beneficial policy, as this is a stark case that being meritorious the student had lost valuable opportunity of availing the 7.5% reservation under Act 34/2020. The Government may consider the unfortunate predicament of the student like in this case in consultation with its administration and the educationists addressing the woes of this class of students for their inclusion in the definition without derailing the kernel of the object at least from the next academic year. The Government in the process should ensure such injustice may not be repeated, as at the end of the day a student despite being from a disadvantaged section securing meritorious marks in the SSLC ultimately denied recognition pathetically allowing her merit to become a dampener on her future during the crucial period of her educational pursuits.

25.As far as the relief prayed for in this case is concerned, the Act and the provisions as it stand today do not contemplate inclusion of the petitioner's category and therefore, the rejection of the petitioner's claim by the fourth respondent dated 10.11.2020 is not to be interfered with, as the decision was taken in consonance with the scheme of the Act. In any case, technically the Act is not under challenge and the impugned order is only a decision taken by the authority in terms of the Act and therefore, the relief as prayed for cannot be granted in this case. Therefore, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

26.This Court hopes and trusts that the Government will take the above observation into consideration and may come up with a solution at least from the next academic year onwards. The educationists and authorities concerned may in their collective wisdom would bring about an inclusive reservation in the circumstance of the case to prevent such patent injustice befalling any student of this nature in future.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar(CS)



SRM  
To

1. The Secretary to Government,  
School Education Department,  
Secretariat,  
Chennai.
2. The Secretary,  
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3. The District Collector,  
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4. The Chief Educational Officer,  
Karur District,  
Karur.

+1 CC to M/s.SPL GP ( SR-9259[F] dated 05/03/2021 )

+1 CC to M/s.NIRANJAN S.KUMAR, Advocate ( SR-8621[F] dated 04/03/2021 )

**W.P. (MD) No.16928 of 2021**  
**04.03.2021**

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