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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.711 of 2022

&

W.M.P.Nos.776 & 777 of 2022

Divya Dinesh

...Petitioner

Vs

1. The Government of Puducherry,
Rep. by the Special-Secretary-Cum-District
Collector
Department of Revenue and Disaster
Management,
Govt. 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,
Centralized Admission Committee [CENTAC]
Government of Puducherry,
Puducherry.

... Respondents

Prayer: Writ 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 No.1918/DCRM/A1/2022/979 dated 08.01.2022 based on the order of rejection by the 3rd respondent in Letter No.1034/STOM/T3/2021 dated 12.11.2021 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 Medical Course in Government/Private Medical Colleges of Union Territory of Puducherry for the academic year 2021-22.

For Petitioner : Mr.V.Radhakrishnan
Senior Counsel
for S.Kadarkarai

For Respondents : Mr.J.Kumaran
Additional Government Pleader

O R D E R

The petitioner is an aspirant to a Post-graduate seat in the Union Territory of Puducherry in the Government quota. The prospectus issued by the Government of Puducherry, Directorate of Higher & Technical Education for admission to Post Graduate Medical Degree Courses for the year 2021-22, where the counselling agency is CENTAC, prescribes several eligibility criteria for the candidates, specific to Government seats and Government quota seats in private medical colleges.

2. Inter alia, it is mandated that an aspirant must be a 'resident' of the Union Territory of Puducherry and furnish a certificate of residence, issued by a competent authority. This is the only issue that requires resolution in this case, as the eligibility of the petitioner on all other fronts is not in question.

3. The petitioner had had her education from Kindergarden to the XII Standard in Mahe while living with her parents. She has completed her graduation in MBBS from the Arupadai Veedu Medical College & Hospital, Puducherry, having been allotted a seat in the CENTAC quota in the year 2015.

4. She served as a Resident Medical Officer at Tely Medical Centre, Telicherry, Kerala and joined the Indian Army on 22.10.2018, serving as a Captain in Madhya Pradesh. While in military service, she married, on 10.03.2019, a medical doctor, a resident of Madurai.



5. She resigned from the Army and was relieved therefrom on 10.01.2020 and moved to Coimbatore setting up home with her husband. Thereafter, she travelled to Mahe for prenatal purposes, delivering a child on 21.11.2021. She would state that at the time of filing this Writ Petition, she was in Mahe with her parents.

6. The trajectory of events as above reveals that after completion of the MBBS Course in 2015, till return to her parental home in 2021, she has not been staying at Mahe. She applied for the Post Graduate course believing that she satisfies the definition of 'resident' for the purposes of the same.

7. The Government of Puducherry, Revenue Department has issued an order bearing No.6260/C2/Rev/2003 dated 06.10.2003 prescribing guidelines for the issuance of residence certificate in the Union Territory of Puducherry. These guidelines were necessitated by virtue of a Writ Petition filed by one M.P.Thaquiya in W.P.No.18615 of 2003 in which directions were given by this Court for framing regulations with regard to the issuance of resident certificate.

8. Point (1) thereof titled Determination of the 'Residents' in the Union Territory of Pondicherry prescribes the criteria for determining residents 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 the 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 at least five years preceding the date of application.

(ii). Those who have passed SSLC/HSC or any other public examination and for that purpose had undergone academic studies continuously for five successive classes immediately preceding the qualifying examination (including the year of qualifying examination) in recognized educational institution(s) located in Pondicherry UT and having their residence



in Pondicherry UT for 5 years continuously during that period.

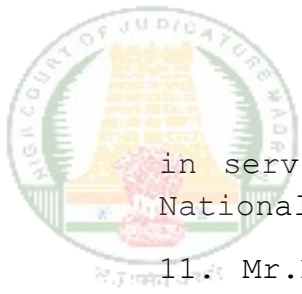
(iii). Children of Central/State Government Servants/Defence Personnel/Central Paramilitary Forces/Employees of Public Sector Undertakings wholly or substantially run either by the Central Government or by the Pondicherry UT Administration posted and serving in the Pondicherry UT for at least a minimum period of one year prior to the last date of submission of application.

(iv) Children of Defence Personnel who were killed or disabled in action and children of Central Government Servants/Pondicherry UT Government Servants/Defence Personnel/Employees of Public Sector Undertakings as referred in category (iii) who died while in service in the Pondicherry U.T.

(v). French Nationals residing in the Pondicherry UT and covered by the terms of the Treaty of Cession shall be treated on par with the candidates who produce the prescribed Pondicherry UT residence certificate. Such French Nationals will not be required to produce residence certificate, instead they should produce a certificate of registration issued for the purpose from them.

9. Each of the aforesaid classes of persons forms a distinct stand-alone category for the determination of 'residents'. Category (i) deals with candidates, their parents or grant parents (in case of children who have lost both the parents) who have been residing continuously in the Union Territory for at least 5 years preceding the date of application. Category (i) also takes note of minors as there is reference to a 'guardian' therein.

10. Categories (ii) to (v) are independent, and deal with different classes of candidates, category (ii) with those who have passed their SSLC/HSC or other public examination or pursued other academic courses in Puducherry, category (iii) with children of Central/State Government servants/Defence Personnel/Central Paramilitary Forces/Employees of Public Sector Undertakings, category (iv) with children of Defence Personnel who were killed or disabled in action/children of Central Government Servants/Pondicherry UT Government Servants/Defence Personnel/Employee of Public Sector Undertakings who died while



in service in the Union Territory and category (v) with French Nationals residing in the Union Territory of Puducherry.

11. Mr.Kumaran urges that the categorization should be read as cumulative, such that categories (i) and (ii) are read together. If accepted, the petitioner should also have resided continuously for five years prior to the date of application in order to be eligible for admission in the Post Graduate Course.

12. I am unable to accept this contention, since, each of the categories as set out above, are specific and distinct and there is nothing to indicate that they are to be read cumulatively or in conjunction with any of the other categories so mentioned.

13. Thus, and on the basis of category (i), candidates such as the petitioner, whose parents residing continuously in Puducherry for five years preceding the date of application, would have to be determined as 'residents' for the purpose of issuance of resident certificate.

14. It is to be noted that there is no dispute on the position that both parents of the petitioner are permanent residents of Puducherry. Her father is a Teacher in a Government School in Mahe and her mother is also, unquestionably, a resident of Mahe.

15. That apart, my attention is drawn to point (2)(i) of proceedings dated 06.10.2003, which stipulates the methodology for computing the period of 5 years. Point (2) to the extent it is relevant to this case, is extracted below:

(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. Pondicherry.



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16. In terms of point (2)(i) extracted above, the period of 5 years would also include period of temporary absence for the purpose of education, job etc. In cases where the parents of the candidate are employed abroad, the residential status of the grand parents in Puducherry will be taken into account in exceptional and genuine cases, where the children are shown to be residing with their grand parents.

17. The relaxation granted in point (2)(i) above is not required to be applied to the case on hand as it is not the case of the respondents that the parents have been temporarily absent from Mahe at any point in time. However, I take note of this position merely to illustrate the patent intention of the Union Territory to grant the benefit of 'residence' to candidates where the parents or in exceptional cases, even the grand parents, are residents of the Union Territory of Puducherry.

18. My attention is drawn to a Note dated 07.01.2020, which deals with the subject of issuance of residence certificate to women who are married away from Puducherry to other States. The petitioner had admittedly moved after marriage to the State of Tamil Nadu and thus, the respondents argue, she has given up and lost her residence in Puducherry. According to the respondents, Government Order dated 06.10.2003 should be read in conjunction with Note dated 07.01.2010.

19. I do not agree. The purpose of the 2010 Note is clearly to address the problem of women who moved post their marriage outside the State, but whose names continue to be reflected in family ration cards even thereafter. To this effect, paragraphs 2 and 3 of the Note specifically refer to the rights of those persons who have shifted from Puducherry, but continued to retain their names in the family ration card.

20. In such circumstances, the Government has, and rightly, taken a view that there should be a proper enquiry in appropriate cases to determine whether those persons whose names are reflected in the family ration cards, continue to reside in Puducherry at all as they draw material benefits on this account. In my view, the 2010 Note does not impact the present case at all, as the situation contemplated therein is entirely different from the one with which I am presently concerned .



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21. Incidentally, the petitioner's sister was also an aspirant for a Government medical seat and had approached this Court and succeeded in W.P.No.16532 of 2021, order dated 25.11.2021. The residence certificate has thereafter been issued to her, I am told.

22. In light of the discussion as above, the impugned order rejecting the petitioner's request for issuance of 'resident' certificate is liable to be set aside and I do so. The petitioner passes muster as a 'resident' of Mahe for the purposes of admission and a certificate of residence to this effect will be issued to her within a period of one (1) week from today.

23. Insofar as learned counsel for the petitioner states that the mop-up and stray counselling is scheduled for 30.03.2022, the contents of this order shall be conveyed by Mr.Kumaran, learned Additional Government Pleader to the concerned authorities, in order to enable the petitioner to participate in the counselling.

24. The Writ Petition is allowed. No costs. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-IV)

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Sub Assistant Registrar

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To

- 1.The Special-Secretary-Cum-District Collector
The Government of Puducherry,
Department of Revenue and Disaster Management,
Govt. 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,
Centralized Admission Committee [CENTAC]
Government of Puducherry,
Puducherry.

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+1cc to M/s.S.Kadarkarai, Advocate SR.21190
+1cc to the Government Pleader, SR.21590

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NK(CO)
CB(11/04/2022)