

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

CORAM

THE HON'BLE MR.JUSTICE PARESH UPADHYAY
AND
THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.NO.3099 OF 2021
AND
C.M.P.NO.21537 OF 2021

M.Liya (Minor)
Aged about 17 years
Rep., by Febin Basheer
Mother and Natural Guardian
'Almas Lulu', Door No.11/277-B,
Near Juma Masjid, (PO) Naluthara, Palloor,
Mahe-673310. ...Appellant / Petitioner

Vs

- 1.Union of India,
Rep., by the Union Territory of Puducherry,
Rep., by its Chief Secretary,
Goubert Salai, Puducherry.
- 2.Government of Puducherry,
Centralized Admission Committee (CENTAC)
Pondicherry Engineering College Campus,
Puducherry.
- 3.The Deputy Collector (Revenue),
Government of Puducherry,
Sub-Taluk Office, Mahe-673310.
- 4.The Deputy Tahsildar (Revenue),
Government of Puducherry,
Sub-Taluk Office,
Mahe-673310.
- 5.The Village Administrative Officer,
Government of Puducherry,
Palloor, Mahe. ...Respondents

Appeal preferred under Clause 15 of Letters Patent against
the order dated 07.12.2021 made in W.P.No.22318 of 2021.

Prayer in W.P.No.22318 of 2021 : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus after Calling for the concerned records from the 3rd and 4th respondent, quash the order of the 3rd respondent dated 30.09.2021 bearing No.720/DCRM/A.1/2021/690 and the order of the 4th respondent dated 27.07.2021 bearing no.200/STOM/T3/2021 as illegal arbitrary and contrary to law and consequently direct the 3rd and 4th respondent to issue residential / residency certificate pursuant to the online application no.PBMRD0000403701 dated 07.07.2021 within the time frame stipulated by this Hon'ble Court and further direct the 2nd respondent to consider the application of the petitioner for admission to non NEET professional courses on the basis that the petitioner is resident of Union Territory of Pudcherry.

For Appellant : Mr.Balan Haridas

JUDGMENT
(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order dated 7 December 2021 recorded on W.P.No.22318 of 2021. This appeal is by an unsuccessful writ petitioner.

2. Learned advocate for the appellant has submitted that, the dismissal of writ petition was erroneous since the claim of the petitioner was based on documentary evidence. It is submitted that denial of the certificate asked for by the petitioner was on so-called discreet enquiry, a copy of which was not made available to the appellant. It is submitted that it is a fact that the petitioner is staying with her mother at the maternal grandmother's place, which falls within the Union Territory of Puducherry, entitling the appellant to get the certificate as asked for and therefore the relief as prayed for ought to have been granted. It is submitted that this appeal be entertained. Attention of the Court is also invited to the interim order dated 11 November 2021.

3. Having heard learned advocate for the appellant/ writ petitioner and having considered the material on record this Court finds as under.

3.1. The petitioner is a student who seeks admission in the MBBS Course. The claim of the petitioner is qua one of the seats earmarked to the residents of Puducherry. The relevant clause for the purposes of this appeal reads as under:-

"1.8. RESIDENCE CRITERIA (Applicable for Seats in Govt. Colleges and Govt. Quota Seats in Private Colleges)

An applicant is considered to be a Puducherry resident if he/she is an Indian National and satisfies at least one of the following criteria:

1. The candidate or whose parent (either Mother or Father or Both) or Guardian (in 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."

3.2 On behalf of the appellant - student, certificate was asked for which the authorities initially denied. Being aggrieved, a representation was made. The same was rejected vide order dated 27 July 2021. This was further carried in an appeal before the higher authority and the said authority vide order dated 30 September 2021, passed an order holding inter alia as to why the student was not entitled to get the Residence/ Nativity Certificate required for the purpose of getting admission on the post in question.

4. The learned single Judge has considered the reasons recorded by the State Authorities in those orders and has weighed vis-a-vis the stipulation in the admission process. On this consideration, learned single Judge found that refusal to issue certificate by the authorities, in the facts of the case, could not be termed to be erroneous.

5. We have considered the reasons recorded by the Deputy Collector (Revenue) Mahe, Government of Puducherry in the order dated 30 September 2021. We find that the reasons recorded therein reflect proper application of mind and due satisfaction on the part of the competent authority qua the requirement as asked for by the petitioner/ on her behalf. When there were some documents vis-a-vis actual factual fact of the concerned student not being the normal resident of the Union Territory of Puducherry, it would not be open / proper for this Court to interfere in the said satisfaction of the competent authority and / or in the said finding of the learned single Judge. The attempt on the part of the concerned student / her parents to get preference in the medical admission, on the basis of normal place of residence, which the discreet enquiry as relied by the authorities is found to be not genuine, can not be faulted with and the concept of compliance of principles of natural justice can not be permitted to be stretched beyond a point in the facts like this.

6. On overall consideration of the material on record, we find that the denial by the respondent authorities to issue Residence/ Nativity Certificate in favour of the concerned student / appellant, can not be said to be erroneous or perverse in any manner, more particularly considering the reasons

recorded by the Deputy Collector(Revenue), Mahe in his order dated 30 September 2021. The impugned action of the State did not call for any interference, which learned Single Judge has rightly not interfered with. This appeal therefore needs to be dismissed.

7. For the above reasons, this appeal is dismissed. No costs. Consequently, connected miscellaneous petition in C.M.P.No.21537 of 2021 is closed.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

raa/2

To

- 1.The Chief Secretary,
Union of India, Union Territory of Puducherry,
Goubert Salai, Puducherry.
- 2.Centralized Admission Committee (CENTAC)
Government of Puducherry,
Pondicherry Engineering College Campus,
Puducherry.
- 3.The Deputy Collector (Revenue),
Government of Puducherry,
Sub-Taluk Office, Mahe-673310.
- 4.The Deputy Tahsildar(Revenue),
Government of Puducherry,
Sub-Taluk Office, Mahe-673310.
- 5.The Village Administrative Officer,
Government of Puducherry,
Palloor, Mahe.

+1cc to Mr.Balan Haridas, Advocate Sr.No.4994

W.A.No.3099 of 2021

KV(CO)
RVM(03/03/2022)