



W.P.No.33098 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.33098 of 2022
and
W.M.P.No.32500 of 2022

M.Vasumathi

..Petitioner

Vs.

- 1.Union of India,
Rep. by Secretary to Department of Education,
No.124-C, Shastri Bhawan, New Delhi.
- 2.Government of Puducherry,
Under Secretary to Government (Health),
Health Secretariat, Pondicherry.
- 3.The Centralized Admission Committee,
Government of Puducherry,
The Co-ordinator (Administration),
CENTAC,
Pondichery Engineering College Campus,
Pillai Chavadi, Pondicherry.
- 4.The Director,
Directorate of Health and Family Welfare Services,
Government of Puducherry,
Puducherry.

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5. The Director,
IGMC & RI,
Vazhudavur Road,
Kathikaman, Puducherry – 605 009.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus, directing the respondents to treat the petitioner as schedule caste candidate and provide the allotment under Government quota for the MBBS course for the academic year beginning 2022-2023.

For Petitioner : Ms.Vedavallikumar
For Respondents : Mrs.M.E.Saraswathy,
Central Government Standing Counsel for R1
Mr.S.Raveekumar,
Government Pleader (Puducherry)
for R2 to R5

ORDER

The petitioner seeks a mandamus directing the respondents to treat the petitioner as the scheduled caste candidate and provide an allotment to her under the Government quota for the MBBS course for the Academic Year 2022-23.



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2. The Government of Puducherry denied the petitioner the benefit of reservation for Scheduled Caste on the ground that she is not a Native of Puducherry and her father had migrated to Puducherry after the cut off date viz., 05.03.1964.

3. Ms.Vedavallikumar, learned counsel appearing for the petitioner would contend that the attempt made by the Government of Puducherry to substitute the word 'Resident' by the word 'Origin' in the Presidential Order was set aside by the Hon'ble Supreme Court in ***Puducherry S.C. People Welfare Association Vs. Chief Secretary to Government in Civil Appeal Nos.10829 and 10830 of 2010***. Therefore, the claim of the Government that a person has to be the origin or resident of Puducherry on 05.03.1964 cannot stand legal scrutiny.

4. Mr.S.Ravee Kumar, learned Government Pleader, Puducherry would submit that the judgment of the Hon'ble Supreme Court relied upon by the learned counsel for the petitioner may not strictly apply and this



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Court had considered the judgment of the Hon'ble Supreme Court and held that the word 'resident' in the Presidential Order would mean only resident as on 05.03.1964 and a migrant thereafter would not qualify for reservation under the quota meant for Scheduled Caste or Scheduled Tribe community in Puducherry. He would also rely upon the judgment of this Court in ***The Pondicherry Scheduled Caste People's Welfare Association Vs. Union of India*** reported in **2015 (4) LW 396**, wherein, it was held as follows:-

From the above decisions, it is clear that neither the Court nor the respondents have any power to modify or alter the Presidential Order. However, as held in the Action Committee case, it has taken note of various communications of the Central Government. The word 'resident' will have to necessarily mean to apply to such of the Scheduled Caste members residing at the relevant point of time i.e., 05.03.1964 at the Union Territory of Pondicherry. In other words, merely because a person resides for various reasons in the Union Territory of Pondicherry, he cannot be given the status and he cannot be allowed to be brought under the umbrella of Presidential Order. Such a person does not lose his right to be considered for the purpose of



availing the benefit under [Article 15\(4\)](#) of the Constitution of India in the State in which he is a permanent resident. A presidential Order enumerating the Scheduled Castes is made after a thorough research on empirical data. A certificate of resident given after completion of five years cannot be used to define a resident as mentioned in the Presidential Order. In fact, such a certificate has been given to every other person, who comes to the Union Territory of Pondicherry and resides therein for five years. It is given merely based upon the period of stay and therefore, nothing to do with the status. In other words, a Scheduled Caste person not having five years of a resident in Pondicherry is the same as that of the others living for five years in so far as seeking a benefit under [Article 15\(4\)](#) of the Constitution of India is concerned. A disadvantage would not arise merely after five years of residence. The purpose of reservation is meant to overcome backwardness and other disadvantages of a caste in a particular place and thus, it does not have any relevancy to the period of subsequent stay. The reason why the Presidential order refers to a resident as on that date was because of the peculiar situation



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prevailed at the relevant point of time. There was no difference between the origin and a resident as on 05.03.1964 as both are suffering from the same disadvantages. A mere issuance of certificate of resident issued to a migrant, would not give a vested right to be treated under the reservation category for the purpose of education. As discussed above, the decisions in S.Pushpa's case and Puducherry Scheduled Caste People Welfare Association's case do not apply to the case on hand. They have been rendered on a different fact situation. Even in the S.Pushpa's case, the benefit was not extended for the purpose of education. The Government in Circular dated 06.01.1993 confines the said benefit to the Scheduled Caste of Union Territory alone and the same has also been taken note of. The said position has been in prevalence atleast from 1993 onwards. The said circular has never be put into challenge and in any case, they are not the subject matter before any Court till now.

5. This judgment of Hon'ble Mr.Justice M.M.Sundresh was upheld by the Division Bench in ***The Pondicherry Scheduled Caste People's***



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Welfare Association Vs. Union of India reported in **2015 (6) CTC 418.**

WEB.COM The Division Bench reiterated the legal position as follows:-

28. We reiterate the legal position that where a Scheduled Caste person migrates from one State or Union Territory to another, he can claim to belong to the Scheduled Caste or Scheduled Tribe only in relation to the State/Union Territory from which he has migrated.

Government Policy Valid:

29. The Union Territory of Pondichery by adopting a policy in the light of [Article 341](#) of the Constitution and the Constitution (Pondicherry) Scheduled Caste Order, 1964 and in accordance with the Law declared by the Constitution Benches in Marri Chandra Shekhar Rao and Action Committee has not committed any illegality by restricting the benefits of reservation in education to the Scheduled Castes of Pondicherry.

30. We, therefore hold that the policy adopted by the Government of Pondicherry as indicated in the Prospectus issued by CENTAC for the



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*year 2015-2016 is in consonance with the
Constitution.*

6. In view of the above binding precedence, I do not think that the petitioner would be entitled to the relief sought for in the writ petition. The writ petition therefore fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No

Internet : Yes/No

Speaking order/Non-Speaking order



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To

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Union of India,
No.124-C, Shastri Bhawan, New Delhi.
2. The Under Secretary to Government (Health),
Government of Puducherry,
Health Secretariat, Pondicherry.
3. The Co-ordinator (Administration),
The Centralized Admission Committee,
Government of Puducherry,
CENTAC, Pondichery Engineering College Campus,
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R.SUBRAMANIAN, J.

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