



W.P.No.21124 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.21124 of 2023
and WMP.No.20513 of 2023

Minor Aparna
Rep. by her next friend and
natural guardian her father K.Ayyanar

.... Petitioner

Vs

1.The Union Territory of Pondicherry
Rep by its Secretary
Revenue Department
Government of Pondicherry
Pondicherry.

2.The Sub Collector
Revenue South
Government of Pondicherry.

3.The Tahsildar
Taluk Office
Bahour.

4.The Convenor
Centralised Admission Committee
Government of Pondicherry
Pondicherry.

.... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order No.2564/SCRS/B7/Cert-appeal/2023/1240, dated 05.06.2023, passed by the second respondent and quash the same as unlawful, illegal and ultra vires and directing the respondents 2 and 3 to issue Residence Certificate to the petitioner to get and pursue the academic year 2023-2024 course with the fourth respondent in accordance with law, within a time frame as may be fixed by this Court.

For Petitioner : Mr.P.Veeraraghavan

For Respondent : Mr.A.Tamilvanan
Additional Government Pleader (Pondy)

ORDER

The petitioner has applied for residence certificate for the purpose of seeking an admission to Veterinary College, and this was declined by the second respondent vide his proceedings dated 05.06.2023, *inter alia* on two grounds :

- (a) that the Tahsildar has filed his enquiry report wherein he had stated that neither the petitioner nor her parents were residing in Puducherry continuously for the last five years prior to the date of the application; and



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(b) the second respondent then proceeded on a circular dated 06.10.2003 of the Secretary (Revenue), Revenue Department, Puducherry, which emphasises evidence of actual and physical residence of the applicant / parent / guardian is essential, and the circular also proceeded to say mere possession of ration card, rather voter ID or previous certificate etc., are not the sole criteria for issuance of residence certificate.

This was challenged by the petitioner in this writ petition.

2. Heard both sides. What does this circular in essence signify? Does law require that every resident of Puducherry should go to Government Office to sign their presence on daily basis? And when this Court perused the entire circular dated 06.10.2003, it finds that the second respondent has selectively picked up couple of clauses to reject the petitioner's claim, and has not considered the eligibility of petitioner in offering clauses. What it ignored is the Information Brochure released by CENTAC Puducherry for the year 2023-2024. The counsel for the petitioner contends that the petitioner's case will fall squarely within Clause 10(i) of the said brochure.



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3.Rival submissions are carefully weighed. To start with, what is now in dispute is whether the petitioner is a resident of Puducherry, and more specifically, whether she can be considered as a resident within the meaning of the Information Brochure of CENTAC for the year 2023-2024. Therefore, the authorities need not travel beyond this Brochure for ascertaining whether a person should be treated as a resident of Puducherry and entitled for a Residential Certificate.

4.Clause 10 of the Information Brochure released by the CENTAC, Puducherry for the year 2023-2024 reads as below:

"10.RESIDENCE CRITERIA

Reservation of PG seats shall be as per the norms of the Government of Puducherry. (G.O. Ms.No.64 Dated 25/05/2006, Chief Secretariat (Edn.I)).

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

i) 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. (Refer Annexure I-1)



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ii) *Those who have passed the SSLC / HSC or any other public examination and for that purpose had undergone academic studies continuously **for 5 successive classes immediately preceding the qualifying examination** (including the year of qualifying examination) in a recognized education institution located in Pondicherry UT and having their residence in Pondicherry UT for 5 years continuously during that period. **Mere stay in places such as residential hostel would not amount to residence.** (Attach certificated as per Annexure I-2a & 2b)*

- iii)
- iv)
- v)
- vi)"

The above referred to two provisions alone were canvassed before this Court. While the petitioner relied on Clause 10(i) of the said Brochure, the respondent relied on Clause 10(ii) of the Brochure. Now, it is not about either Clause 10(i) or Clause 10(ii) of the Brochure, but what is even more significant is the stipulation that an applicant for PG Medical Course should only need to satisfy one of the conditions and not all the conditions in Clause 10(i) to Clause 10(vi) of the said Brochure.



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5.If Clause 10(i) is closely read, it says that the candidate or whose parent or the Guardian has been residing continuously in the Union Territory of Puducherry for at least five years preceding the date of application. It does not mandate the candidate alone should reside in Puducherry since the proposition used here is 'or' and not 'and'. So far as Clause 10(ii) is concerned, it has two parts. The first part is that the candidate should have completed the qualifying examinations in Puducherry, and the second part is that the candidate must have his/her residence in Puducherry for five years continuously. The second part is clarified with the further statement that a mere stay in places such as a residential hostel would not amount to residence. What in effect it says is that one should stay permanently in Puducherry, and the temporary stay in Puducherry cannot be accounted for residentship.

6. This Court is of the view that the proceedings of the second respondent dated 05.06.2023, refusing to issue the residence certificate to the petitioner has been done with zero application of mind, and hence, it is set aside. The second respondent is now directed to issue the residence certificate forthwith to the petitioner, to avoid further consequences. The learned



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Additional Government Pleader (Pondy) is directed to convey the operative portion of this order to the second respondent forthwith.

7. In the result, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Speaking order / Non-speaking orders

Note : Issue order copy on 24.07.2023

To:

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Government of Pondicherry
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N.SESHASAYEE.J.,

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