



W.P.No.20965 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

CORAM

MR.JUSTICE N.SESHASAYEE

W.P.No.20965 of 2023

Sahanaa

... Petitioner

Vs.

1.The District Collector,
Government of Puducherry,
Puducherry.

2.The Deputy Collector South,
Villianur, Puducherry.

3.The Tashildar-Cum-Executive Magistrate,
Taluk Office, Villianur,
Puducherry.

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in order No.3384/DCRS/B7/Cert-Appeal/2023/1410, dated 27.06.2023, confirming the order of the 3rd respondent in No.2973/TOV/A3/Certificate/2023-24 dated 12.06.2023 and quash the same and consequently, direct the respondents to issue residence certificate to the petitioner.



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For Petitioner : Mr.D.Senthil Kumar

For Respondents : Mr.A.Tamilvanan
Additional Government Pleader (Puducherry)

ORDER

The petitioner seeks issuance of a Writ of Certiorarified Mandamus to set aside the proceedings of the 2nd respondent dated 27.06.2023, where under he confirmed the proceedings of the 3rd respondent, dated 12.06.2023, by which the 3rd respondent had refused to grant a residential certificate for the petitioner.

2.The case of the petitioner may be stated in brief:

- The petitioner was born on 22.07.1998 at the Government Hospital, Puducherry. She lived and grew up at her native village Melthirukanji, Villianur, Puducherry, and also completed her education at Villianur. And between 2015 - 2021 she did her Under Graduation in medicine and obtained her MBBS degree from Sri Manakula Vinayagar Medical College, Puducherry.
- While so, on 07.02.2020, she got married to one Santhana Bharathi from Villupuram District, Tamil Nadu. The said Santhana Bharathi is working in Canada, and between 2020-2023, the petitioner has been visiting her husband at Canada and was also treated for certain



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Gynaecological issues at Canada. The petitioner states that she had returned with her husband permanently to India on 05.05.2022, and continued to live at her native village at Melthirukanji, Villianur from March, 2023.

- While so, the petitioner has applied for NEET (PG Examination, 2023-2024) and secured 369/800, and was also placed in 494th position in the CENTAC Rank List. Therefore, she has registered herself for the PG Counselling, and the final list of counselling is yet to be released. The petitioner's prospects of being called for the counselling is now in jeopardy since the 3rd respondent has refused to issue the Residential Certificate as required.

3. In the proceedings of the 3rd respondent, dated 12.06.2023 he does not dispute the fact that the petitioner did not hail from Puducherry, but has reasoned that, (a) she was married to one Santhana Bharathi, who is from Villupuram Distrit in Tamil Nadu, and since the petitioner has resided with her husband for few months at his place and inasmuch as the petitioner has shifted her residence to her husband's place, she is not eligible for a Residential Certificate; and (b) When the petitioner's husband moved to Canada, the petitioner has visited Canada few times.



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4. The 2nd respondent adopted the same line of reasoning of the 3rd respondent, and refused to issue a residential certificate.

5.1. The learned counsel for the petitioner submitted that in this free country, the petitioner is entitled to marry a man of her choice, no matter from which State he is from, and that this can be read into her fundamental right to live under Article 21 of Constitution of India. Hence that she has married a person outside Puducherry by itself cannot imply that the petitioner has literally shifted to that place, when the petitioner asserts she continues to be a resident of Puducherry. A mere stay with her husband and a temporary stay at Canada may not affect her domicile.

5.2. As per the Information Brochure released by the CENTAC, Puducherry for the year 2023-2024, the petitioner falls squarely within Clause 10(1) of the said Brochure, which neither the 3rd respondent nor the 2nd respondent had taken this into consideration.

6.1. Per contra, the learned counsel for the respondents, laying emphasise on a



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Circular of the Government No.1-4/SS(Rev.)/DRDM/PA/2010, Government of Puducherry, Department of Revenue and Disaster Management, dated 07.01.2010, when once a woman marries someone outside the Union Territory of Puducherry, her right of residence status in Puducherry ceases once she shifts her residence in Tamil Nadu or other States. He submitted that there was an earlier circular of the Revenue Department No.6260/C2/Rev/2003, dated 06.10.2003, which says that the actual physical residence of the applicant / parent / Guardian is essential, and mere possession of a Ration Card, EPIC Card or any previous certificate cannot be considered for issuance of the Residence Certificate.

6.2 Turning to the residence criteria as prescribed in the Brochure of CENTAC, the learned counsel submitted that, the petitioner is required to stay continuously at Puducherry for the last five years. He also relied on Clause 10(2) of the said guidelines.

7.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



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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.

8.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)

*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*



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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.

9.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'. Sofar 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. So far as the petitioner is concerned, she had only visited her husband in Canada or Villupuram, but that does not *ipso facto* imply that she has permanently shifted to any of these places.

10.Both the 2nd and 3rd respondent have constructed the criteria for issuing residential certificate far too narrowly, and have not given full expression to the intent as disclosed in the Information Brochure for the year 2023-2024. Necessarily, this Court has to set aside the impugned proceeding of the 2nd and 3rd respondents, and remand the matter back to the 3rd respondent who would now decide the issue in the light of what is herein above stated, and in the brochure, and conclude it by 22.07.2023.

11.Original records, if any is directed to be returned to the petitioner forthwith.



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12. Even if the release of the order copy is delayed, the 3rd respondent is required to decide the issue as directed, and the substance of the order is required to be conveyed to the 3rd respondent by the counsel for the respondents forthwith.

13. This writ petition is disposed of with the above directions. No Costs.

20.07.2023

Anu/Asr

Index : Yes / No

Neutral citation : yes/no

Note to office: Issue order copy today i.e on 20.07.2023

To

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