IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22908 of 2024
and
W.M.P.Nos.24946 and 24949 of 2024

Minor S.Kishore
Rep. by his Natural Guardian
Mr.D.Saminathan ...
Petitioner

Vs.

1.The Union of India
Rep by the Chief Secretary to Government
Government of Puducherry
Puducherry.

2.The Sub Collector (Revenue) South
Government of Puducherry
Puducherry.

3. The Tahsildar
Taluk Office,
Villianur, Puducherry

4.Centralised Admission Committee (CENTAC),
Directorate of Higher and Technical Education
Government of Puducherry,
Kamarajar Manimandapam
Puducherry – 605 008

5.The Special Officer-cum-Member Secretary
(District Committee)
DRDM, Puducherry ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the second respondent relating to impugned order dated 02.08.2024 bearing Ref.No.2912/SCRS/B7/Cert-Appeal/2024/1604 passed by the 2nd respondent and quash the same and consequently direct the 3rd respondent to issue the Nativity/Residence Certificate to the petitioner.

For Petitioner : Mr.T.Saikrishnan
For Respondents : Mr.V.Vasantha Kumar
Additional Government Pleader(Puducherry)

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records on the file of the second respondent relating to impugned order dated 02.08.2024 bearing Ref.No.2912/SCRS/B7/Cert-Appeal/2024/1604 passed by the 2nd respondent and quash the same and consequently direct the 3rd respondent to issue the Nativity/Residence Certificate to the petitioner.

2.The case of the petitioner is the petitioner was born on

06.10.2006 at Puducherry and their parents also were born on Puducherry and are natives of Puducherry. Since, his father got employment at M/s.Ashok Leyland at Hosur, the minor petitioner was residing in Hosur from 2012 and did his schooling at The Ashok Leyland School, SIPCOT, Hosur, Tamil Nadu affiliated to Central Board of Secondary Education. The petitioner participated in the NEET (UG) – 2024 conducted by the National Testing Agency and secured 540 marks out of 720. In order to secure admission under the notification issued by CENTAC for the academic year 2024 – 2025, the petitioner has to produce nativity certificate. Hence, the petitioner applied for her nativity certificate vide application dated 29.05.2024, however, the third respondent rejected his request and on appeal before the second respondent, the second respondent vide impugned order upheld the order of the third respondent. Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted that the second respondent rejected the petitioner's request for issuance of nativity certificate on the ground that the petitioner is not a resident of Puducherry. She further submitted that the petitioner's grandparents are natives of Puducherry and the petitioner's parents are also natives of Puducherry and they have Aadhar Card and Voter

Identity Card to prove that they are natives of Puducherry. He further submitted that the petitioner's father got employment in the year 2012 at Ashok Leyland, Hosur and it is only on account of avocation, in such circumstances, the petitioner being a minor studied at Hosur. Hence, the impugned order is not sustainable one. Even as per G.O.Ms.No.48 dated 12.12.2002 makes it clear that for temporary absences from such place of residence for reasons of job or education., As long as the applicant is able to establish satisfactorily his intention to return to his place of residence on the conclusion of such-temporary absence, the applicant may be considered to be a person ordinarily residing in the Union Territory. Further, the order in No.6260/C2/Rev/2003 dated 06.10.2003 makes it clear that 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 are studying in recognized educational institutions in the U.T. of Pondicherry. Hence, he prayed to allow this writ petition.

4.Per contra, the learned Additional Government Pleader (Puducherry) submitted that for issuance of nativity certificate the Government of Puducherry has issued detailed guidelines, which makes clear that while computing the period of actual residence, temporary absence for education, job etc., shall be ignored. In case where the parents have gone abroad for the purpose of employment, then the residence of grandparents in the UT of Pondicherry may also be taken for the issue of residence certificate for study purpose only to their grandchildren in exceptional and genuine cases, where the children reside with grandparents and are studying in recognized educational institutions in the UT of Pondicherry. In the present case, the petitioner resided along with his parents at Hosur did his schooling in Hosur and hence, the petitioner is not entitled for nativity certificate. Further, the petitioner was issued with a nativity certificate on 18.06.2024 by the third respondent during the pendency of the writ petition in W.P.No.15644 of 2024, however, after conducting a detailed enquiry as per the instructions dated 17.10.2019 of the Secretary (Revenue), DRDM, Puducherry and the nativity certificate issued on 18.06.2024 was cancelled on the ground that the petitioner has not been an ordinarily resident for the past five continuous years in Union Territory of Puducherry. Hence, seeks for dismissal of this writ petition.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.Perusal of records reveal that the petitioner was born on 06.10.2006 at Puducherry. Thereafter, since his father got employment at M/s.Ashok Leyland at Hosur, the minor petitioner resided along with his parents in Hosur from 2012 and did his schooling in The Ashok Leyland School, SIPCOT, Hosur, Tamil Nadu affiliated to Central Board of Secondary Education, New Delhi, India. Inorder to pursue his higher studies, he applied for nativity certificate, however, the same was rejected on the ground that he did not reside at Puducherry and he resided along with his parents at Hosur and did his schooling in Hosur.

7.In this regard, it is relevant to extract hereunder the relevant portion of the guidelines issued in Order No.6260/C2/Rev/2003 dated 06.10.2003 of the Revenue Department, Puducherry:

> "(i) While computing the period of actual

> residence, temporary absence for education, job etc., shall be ignored. In case where the parents have gone abroad for the purpose of employment, then the residence of grandparents in the UT of Pondicherry may also be taken for the issue of residence certificate for study purpose only to their grandchildren in exceptional and genuine cases, where the children reside with grandparents and are studying in recognized educational institutions in the UT of Pondicherry."

8.In the present case, though the petitioner's father is employed in Hosur, his grandparents are residing in Hosur and maintaining all the revenue records and other records in Puducherry. The minor petitioner resided along with his parents in Hosur and did his schooling in CBSE syllabus.

9.The petitioner though he had primary class in Hosur, however, the grand parents are residing in the Union Territory of Puducherry and are maintaining all the revenue and other records in the Union Territory of Puducherry. Hence, the impugned order is not sustainable one.

10.Further, this Court has considered similar issue in the decision made in W.P.No.16532 of 2021 dated 25.11.2021 and has held as follows:

> *"9.The facts in the case is not in dispute. The issue involved is in narrow compass. There is mechanism provided for determination of the residents in the Union Territory of Pondicherry in Circular of the Revenue Department No.6260/C2/Rev/ 2003 dated 06.10.2003 and the relevant portion reads 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 this 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 atleast five years preceding the date of application.***
> >
> > ***...***

(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. Of Pondicherry.

(ii)The actual and physical residence of the applicant/parent/ Guardian is essential. But, mere possession of evidences like Ration Card, EPIC Card or previous certificate etc. are not the sole criteria for issuance of the Residence Certificate. At the same time, such evidences should not be totally ignored.

After detailed enquiry, if it is found that such evidences are false or obtained on false representation of facts, immediate action has to be taken by the certificate-issuing authorities (Tahsildar/ Dy.Tahsildar) to inform the appropriate authorities to cancel them. It shall also be brought to the knowledge of the concerned Deputy Collector (Revenue)/ Joint Secretary (Revenue) for follow up action.

(3)For getting Nativity/Residence certificate, the application has to be submitted by the applicant to the concerned Tahsildar of Taluk Office or Dy.Tahsildar of Sub-Taluk Office and it will be forwarded to the Village Administrative Officer of the concerned revenue village through the Revenue Inspector for discreet enquiry and report. If the applicant or parent or guardian resides in the concerned revenue village, as per the criteria mentioned in pre-paras, the Village Administrative Officer shall make a report and it shall be verified by the Revenue Inspector. After considering the reports of the VAO and RI, the Dy.Tahsildar or Tahsildar of concerned

Sub-Taluk or Taluk may issue the certificate to the applicant.”

10.Admittedly, the petitioner is a permanent resident of Mahe. Her father is working as Headmaster in Government School, Mahe and her mother is also residing at Mahe. The said fact is not disputed by the respondents.

11.This Court perused the Circular of the Revenue Department No.6260/C2/Rev/ 2003 dated 06.10.2003 wherein it is stated that while computing the period of actual residence, temporary absence for education, job etc., shall be ignored. After her marriage on 22.06.2020, the petitioner went to Gundulpet in Mysore, Karnataka and again after her husband went to Netherlands, due to employment, she started living along with her parents in Mahe. Therefore, it is clearly evident that but for the short duration after marriage, the petitioner has all along been a resident of Union Territory of Pondicherry. Such being the undisputed position, rejecting the petitioner's claim for issuance of Residence / Nativity Certificate is not acceptable as it is not in consonance with Circular of the Revenue Department No.6260/C2/Rev/ 2003 dated 06.10.2003, issued by the Pondicherry Government.”

11.In view of the above, the impugned order is set aside and the third respondent is directed to issue nativity certificate within a period of two weeks from the date of receipt of a copy of this order, so as to enable the petitioner to pursue his higher studies.

12.The writ petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

25.09.2024

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

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