



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.27732 of 2024
and WMP.No.30243 of 2024

Minor S.Subasri

... petitioner

-Vs-

The Chairman,
Admission Committee-UG,
Tamil nadu Veterinary and Animal Sciences University,
Madhavaram Milk Colony,
Chennai-51.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus directing the respondent to allocate one seat for the petitioner in course of B.V.Sc. Under the physically disabled category and provide the reason for the rejection of the petitioner during the first counselling conducted on 04.09.2024.

For petitioner : Mr. K.Dhananjayan
For M/s.K.Sivabalan
For Respondent : Mr.K.Gangadaran

ORDER

This petition has been filed seeking a direction to the respondent to



allocate one seat for the petitioner in course of B.V.Sc. Under the physically disabled category and provide the reason for the rejection of the petitioner during the first counselling conducted on 04.09.2024.

2. The petitioner is the physically disabled person with 60% locomotive disability in the lower limbs. The petitioner has applied for the course of B.V.Sc. Under the category of differently abled and as per prospectus and notification, the persons with locomotory disability in the lower limbs ranging from 40% to 80% shall be treated as differently abled persons and they are entitled to apply under the category of differently abled and totally 33 seats are allotted under the said category. The petitioner scored a cut off marks of 149.5 and was ranked as 26 under the differently abled category and she also participated in the counselling that was held on 04.09.2024 and at the time of counselling, the petitioner was once again examined by the respondent. While so, when the petitioner checked the selection list, the petitioner's name was not found in the same and out of 33 seats, only 12 seats were filled and all other seats are vacant. Hence, the present writ petition.

3. The learned counsel for the petitioner submitted that initially, the petitioner was issued disability certificate by the government of Tamil Nadu that the petitioner is a physically disabled person with 60% locomotive disability in lower limb.



Subsequently, the Government of India has also issued disability certificate to the petitioner on 05.08.2024 and the disability has been assessed at 60%. However, while attending counselling, the respondents have conducted physical verification to the petitioner and rejected her application, which is not sustainable. Hence, the learned counsel prays to allow the writ petition.

4. The learned counsel for the respondent filed counter and the relevant paragraphs are extracted hereunder:

"3. At the outset I submit that the Writ Petition itself is a sheer abuse of process of law and the same has been filed suppressing the vital facts as borne out of records. The Writ Petitioner has not come to this Hon'ble Court with clear facts and as such she is not entitled to claim any relief as sought for in the Writ Petition. The Petitioner having submitted application to the respondent University for Under Graduate Admission 2024-25, the following clause of Prospectus is binding on her:-

"4.3.1 Differently-abled [BVSc & AH and BTech (FT/PT/DT)]

Candidates with less than 40% disabilities are NOT ELIGIBLE for reservation, for reservation, provider that the candidates are eligible to apply for Undergraduate Degree Programmes of TANUVAS under general category, However, such candidates have to submit a Physical fitness certificate. The presence of significant Locomotor Disability with or without any other significant disability- such as visual or hearing- speech or learning etc.



which will make it difficult for the candidate to pursue and complete the course satisfactorily and may significantly increase the risk to the candidate-may be declared INELIGIBLE for admission.

Other conditions for admission to the degree programmes are applicable as in the case of General Category. The candidates seeking admission under this special category are required to produce a certificate obtained from the authorised District Medical Board of the area concerned constituted for the purpose of assessing the nature and the extent of physical disability in the format (Annexure-II in page No.62) prescribed in this Prospectus. The certificate must have been obtained within THREE MONTHS PRIOR to submitting the application for seeking admission under this category. If the candidate has obtained the medical certificate earlier/ failed to submit the Medical Certificate, then their application will be rejected under this special category.

*The medical certificate received without the specific recommendation of the District Medical Board will not be considered for selection under this special category. **The candidate appearing for counselling will be physically examined by the medical officer/ board specifically constituted for the - purpose and whose decision on eligibility is final.***

4. Without prejudice to the aforesaid contentions, I shall now traverse the allegations contained in seriatim.

5. With reference to the averments contained in para Nos.1 to 6 of the affidavit, it is submitted that, the petitioner has submitted application for admission to Under Graduate Degree programme for



the academic year 2024-25 in the respondent University to the Course BVSc & AH vide application No.BV12164 on 20.06.2024. She was called for Counselling conducted on 04.09.2024. As per the aforesaid eligibility criteria envisaged in the Prospectus, the Petitioner was examined by the Medical Board comprising of Medical Experts deputed by the Director of Medical Education and Research, Chennai. The Medical Board on detailed examination of the petitioner has found that the petitioner has only 25% disability, which is lower than the prescribed percentage of disability for admission, and hence, her name candidature was not considered under Special Category.

6. With regard to the averments contained in para Nos.7 to 9 of the Affidavit, it is submitted that, on the date of counselling i.e., on 04.09.2024, out of the total number of candidates appeared under the Special Category for Differently Abled, 12 candidates were found eligible by the Medical Board and they were given admission according to the horizontal reservation. All the 12 candidates have joined the course. The remaining unfilled seats were reverted back to the General category as per the following clause of Prospectus and the respective unfilled seats were filled up through General Category:-

"4.3 SPECIAL CATEGORIES.

*Seats are reserved for special categories such as Differently -abled, Sports Persons and Children of Ex-servicemen as detailed below. The seats earmarked for the special categories will be allotted following the horizontal reservation. The seats will be allotted as per the rank in the concerned special category and accordingly, those sets will be deducted in concerned community. **If adequate number of***



eligible candidates is not available under special category, then the earmarked unfilled seats will be reverted back to the General category."

Hence, the statement of the petitioner that the entire 1st counselling process would be completed by 20.09.2024 is not applicable for the special category for Differently Abled Persons but for the Admission made to the unfilled seats of Differently Abled person from General Category to join the course. It is further submitted that, if any seats fall vacant as on 20.09.2024 due to non-joining of course by the candidate given admission from General Category, the same will be filled up from the waiting list candidates from the same General Category."

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the petitioner applied for the course of B.V.Sc. Under the disability category. As per the notification, the reservation is provided only for the category of locomotor disorders of lower limbs ranging from 40% to 80%. Any other disability will not be considered.

7. However, the learned counsel appearing for the respondent submitted that relying upon the clause-4.3 of the Special Categories in the prospectus, seats are



reserved for special categories such as differently abled, sports persons and children of Ex-servicemen. The seats earmarked for the special categories will be allotted following the horizontal reservation. The seats will be deducted in concerned community. If adequate number of eligible candidates is not available under special category, then the earmarked unfilled seats will be reverts back to the general category.

8. Further, on perusal of the notification in clause 4.3.1 (Different Abled), it is seen that the candidates with less than 40% disabilities are not eligible for reservation and the medical certificate received without specific recommendation of the District Medical Board will not be considered for selection under the Special category. The candidates appearing for counselling will be physically examined by the medical officer/board specifically constituted for the purpose and whose decision on eligibility is final.

9. Further, the candidates seeking admission under this special category are required to produce a certificate obtained from the authorised District Medical Board of the area concerned constituted for the purpose of assessing the nature prescribed in the prospectus.

10. In the present case, the District Medical Board, Villupuram have already



given disability certificate on 21.08.2024 by assessing the disability of the petitioner at 60%. The Government of India has also issued a permanent Identity card to the petitioner on 05.08.2022 by assessing 60% disability to the petitioner. Without considering those certificates issued by the Government of Tamil Nadu and government of India, rejecting the petitioner's application is contrary to the notification issued by the respondent and the same is against law. Hence, this Court has no hesitation to allow the writ petition.

11. While entertaining the writ petition, this Court granted interim order by directing the respondent to withhold one seat for the course of B.V.Sc.

12. In view of the above discussion, this Court directs the respondent to allot a seat to the petitioner in the course of B.V.Sc. Under the Physically disabled category forthwith.

13. With the above observation and direction, the writ petition is allowed.
No costs. Consequently, connected miscellaneous petition is closed.

18.10.2024

rli



Note: Issue order copy on 21.10.2024

WEB COPY

To
The Chairman,
Admission Committee-UG,
Tamil nadu Veterinary and Animal Sciences University,
Madhavaram Milk Colony,
Chennai-51.



WEB COPY

10



M.DHANDAPANI, J.

rli

W.P.No.27732 of 2024

18.10.2024