
(2015) 11 MAD CK 0107

In the Madras High Court

Case No : W.P.(MD) No. 19336 of 2015, M.P.(MD) Nos. 1, 2 of 2015, W.P.(MD) No. 20702 of 2015 and M.P.(MD) Nos. 1 to 3 of 2015

A. Kishore and Others

APPELLANT

Vs

The Director of School Education and Others

RESPONDENT

Date of Decision : 23-11-2015

Acts Referred:

Citation : (2015) 11 MAD CK 0107

Hon'ble Judges : D. Hari Paranthaman, J.

Bench : Single Bench

Advocate : Veera Kathiravan, for the Appellant; T.S. Mohd. Mohidheen, Additional Govt. Pleader, for the Respondent

Judgement

D. Hari Paranthaman, J.—Since the issues involved in both the writ petitions are common, the writ petitions are disposed of by a common order.

2. The petitioner in W.P.(MD) No. 20702 of 2015 is the Headmistress of R.C. Higher Secondary School, Meenakshipuram, Muhavoor, Rajapalayam, Virudhunagar District. A Kabadi team of the said school participated in the Zonal Level competition conducted by the Education Department for the year 2015-2016. We are concerned herein about the Under-19 Group Team as per the format that was sent by the schools. Regarding participation in the zonal competition, the students in the Under-19 category should be studying in 11th and 12th Standards and they should have born after 01.01.1997.

3. The petitioner in W.P.(MD) No. 20702 of 2015 submitted the names of 12 players who would participate in the Under-19 category in the zonal competition. One among the 12 players is one Thiru K. Ashok. As per the said printed form referred to above, his date of birth is shown as 14.05.1997. The petitioner-Headmistress signed the printed format and sent it to the concerned authorities.

4. Eight teams participated in the zonal competition and the team of the petitioner in W.P.(MD) No. 20702 of 2015 emerged as victorious.

5. The team of T.N.P.M.M.N. Higher Secondary School, Thalavaipuram, Virudhunagar District lost to the team of the petitioner in W.P.(MD) No. 20702 of 2015. Thus, the team of T.N.P.M.M.N. Higher Secondary School, Thalavaipuram, Virudhunagar District, emerged as runner-up at the zonal level competition.

6. The final zonal level competition took place on 18.08.2015 and in the said final, the Kabadi team of the petitioner in W.P.(MD) No. 20702 of 2015 emerged victorious, as stated above.

7. While so, on 18.08.2015, the Headmaster of T.N.P.M.M.N. Higher Secondary School, Thalavaipuram, Virudhunagar District, made a complaint to the Zonal Secretary who is the Headmaster of a Government High School, that the date of birth of K. Ashok who played for the team of the petitioner in W.P.(MD) No. 20702 of 2015 is 14.05.1996 and not 14.05.1997 and hence the same shall be enquired into. While so, after holding enquiry, the District Educational Officer, Srivilliputhur passed an order dated 15.10.2015 holding that the date of birth of Ashok is 14.05.1997 and the complaint made by the T.N.P.M.M.N. Higher Secondary School, Thalavaipuram, Virudhunagar District, was rejected.

8. T.N.P.M.M.N. Higher Secondary School, Thalavaipuram, Virudhunagar District, to whom the said order dated 15.10.2015 was communicated, did not choose to question the order of the District Educational Officer, and on the other hand, one of the players of the Kabadi Team of T.N.P.M.M.N. Higher Secondary School, Thalavaipuram, Virudhunagar District, viz. A. Kishore filed W.P.(MD) No. 19336 of 2015 seeking to quash the order of the District Educational Officer, Srivilliputhur dated 15.10.2015 referred to above, and also sought to forbear the Kabadi team of the petitioner in W.P.(MD) No. 20702 of 2015 from participating in the District Level Competition to be held.

9. While filing W.P.(MD) No. 19336 of 2015, the petitioner also sought for an injunction restraining the Kabadi team of the petitioner in W.P.(MD) No. 20702 of 2015 in the District Level Kabadi Competition.

10. On 27.10.2015, while ordering notice of motion in W.P. (MD) No. 19336 of 2015 returnable in two weeks, this Court did not choose to grant any interim order.

11. The District Level Competition was to be held on 19.11.2015. Hence on 19.11.2015, the Kabadi team of the petitioner in W.P. (MD) No. 20702 of 2015 ought to have participated as the said team was victorious at the Zonal Level Competition.

12. While so, the same District Educational Officer, who passed the order dated 15.10.2015 referred to above, passed the order in Na.Ka. No. 3081/A5/2015 dated 18.11.2015 disqualifying the team of the petitioner in W.P.(MD) No. 20702 of 2015.

13. The said District Educational Officer issued another proceedings in Na.Ka. No. 58 of 2015 dated 18.11.2015 for conducting the Divisional Level Competition at

Ramanathapuram District, on 21.11.2015.

14. The aforesaid order dated 18.11.2015 was served to the petitioner in W.P. (MD) No. 20702 of 2015 through e-mail at 11.00 p.m. on 18.11.2015. In view of the order disqualifying the team of the school in W.P.(MD) No. 20702 of 2015, the team was not able to participate in the District Level Competition that was held on 19.11.2015.

15. In view of the impugned order dated 18.11.2015 referred to above, the Kabadi team of T.N.P.M.M.N. Higher Secondary School, Thalavaipuram, Virudhunagar District, participated in the District Level Competition in the place of the team of the petitioner in W.P.(MD) No. 20702 of 2015 on 19.11.2015. It is stated that totally four teams participated at the District Level on 19.11.2015 and the team of the T.N.P.M.M.N. Higher Secondary School emerged as victorious and therefore, the same would go for Divisional Level Competition on 21.11.2015.

16. In these circumstances, the Headmistress of R.C. Higher Secondary School, Meenakshipuram, Muhavoor, Rajapalayam, Virudhunagar District, moved lunch motion in the writ petition in W.P. (MD) No. 20702 of 2015 on 20.11.2015, after obtaining the permission of this Court. Taking note of the aforesaid factors, this Court passed an interim order on 20.11.2015 and the same is extracted herein:

"The petitioner is the Headmistress of R.C. Higher Secondary School, Meenakshipuram, Muhavoor, Rajapalayam, Virudhunagar District. The Kabadi team of the said school participated in the Zonal level competition, which is the first stage conducted by the Educational Department. The team of the school emerged as the victorious.

2. The team was not successful and which was a runner up made a complaint to the Educational authorities seeking to disqualify the team of the petitioner's school on the ground that the date of birth of one of the players of the team of school viz. Tr. Ashok was altered so as to participate in the competition meant for the persons below 19 years.

3. However, the educational authorities rejected the said complaint made by the unsuccessful team and the District Educational Officer, Srivilliputhur passed an order dated 15.10.2015 confirming the date of birth of Tr. Ashok as 14.05.1997 and permitted him to play under 19 years.

4. While so, the runner up team filed W.P.(MD) No. 19336 of 2015 questioning the aforesaid order dated 15.10.2015. They did not get any interim order in their favour.

5. While so, by the impugned order dated 18.11.2015 in Na.Ka. No. 3081/A5/2015, the team of the petitioner's school was disqualified by the District Educational Officer and by another proceedings in Na.Ka. No. 58/2015, a direction was issued to conduct the Divisional Level competition at Ramnad District.

6. In view of the aforesaid order dated 18.11.2015 disqualifying the team of the petitioner's school, the team was not able to participate in the District Level competition on 19.11.2015 and the order dated 18.11.2015 was served to the petitioner only at 11.00 p.m. on 18.11.2015 as per para 14 of the affidavit filed in support of the writ petition. In fact, the said communication was made through E-mail at 11.00 p.m., and the same was not even signed, according to the learned counsel for the petitioner.

7. In these facts and circumstances of the case, I am inclined to stay the proceedings dated 18.11.2015 in Na.Ka. No. 58/2015 of the fifth respondent, i.e., the respondents cannot conduct the Divisional Level Competition on 21.11.2015 at J.K.E.M. Higher Secondary School at Paramakudi in Ramnad District.

8. Notice. Post the matter along with W.P.(MD) No. 19336 of 2015."

17. While so, the learned Additional Govt. Pleader represented in the evening and requested to list the matter today (23.11.2015), as the educational authorities have to conduct the State Level Competition and a final decision has to be taken in these writ petitions. Hence these writ petitions are listed today.

18. Heard both the sides.

19. A counter affidavit is filed by the District Educational Officer, Srivilliputhur in W.P.(MD) No. 19336 of 2015 on 20.11.2015.

20. The learned counsel for the petitioner in W.P.(MD) No. 19336 of 2015 has vehemently contended that the date of birth of Ashok is 14.05.1996 and therefore, he should not have been allowed to participate in the Under-19 category team. According to him, the entire team, in which Mr. Ashok played, shall be disqualified. On the other hand, the learned counsel for the petitioner in W.P.(MD) No. 20702 of 2015 has submitted that the date of birth of Ashok is 14.05.1997 and the students who have born after 01.01.1997 and who are studying in 11th and 12th Standards are entitled to be included in the team and therefore, there is nothing wrong in including the student Ashok in the team. The learned counsel for the petitioner in W.P.(MD) No. 20702 of 2015 has also submitted that while the District Educational Officer passed the order on 15.10.2015 confirming that the date of birth of the student Ashok is 14.05.1997, the District Educational Officer passed the impugned order dated 18.11.2015, contrary to the earlier order and thereby disqualified the team. He also relied on the proceedings of the Criminal Court, ie., CRMP No. 321 of 2014 on the file of the Judicial Magistrate Court, Sankarankovil, relating to date of birth of Ashok as well as the National Lok Adalat proceedings that took place at Sankarankovil on 12.04.2014. It is also submitted that on 19.09.2014 the Department of Registration of Birth and Death, registered the date of birth of Ashok as 14.05.1997. Placing reliance on the aforesaid facts, the District Educational Officer has passed the earlier order dated 15.10.2015 confirming the date of birth as 14.05.1997. It is further submitted that the crucial date for submission

of the printed form containing the names of 12 players and their date of birth only in July 2015, and in July 2015, the date of birth of Ashok as per the record is 14.05.1997. The learned counsel also took serious objection for communicating the impugned order dated 18.11.2015 by the same District Educational Officer, through e-mail at 11.00 p.m., at the eleventh hour while the District Level Competition was to take place on 19.11.2015.

21. The learned Additional Govt. Pleader has made his submission based on the counter affidavit filed in W.P.(MD) No. 19336 of 2015. He vehemently contended that the date of birth of Ashok had been altered as 14.05.1997 belatedly, and therefore the date of birth as 14.05.1997 could not be taken for Ashok.

22. The learned Additional Govt. Pleader has not disputed that the Department of Registration issued the certificate dated 19.09.2014 based on the proceedings of the National Lok Adalat that the date of birth of Ashok is 14.05.1997. The learned Additional Govt. Pleader also submitted that the certificate dated 19.09.2014 issued by the Department of Registration that the date of birth of Ashok as 14.05.1997, cannot be relied on by the petitioner in W.P.(MD) No. 20702 of 2015.

23. I have considered the submissions made on either side.

24. As stated above, the District Educational Officer, Srivilliputhur, passed the order dated 15.10.2015 on the complaint lodged by T.N.P.M.M.N. Higher Secondary School, Thalavaipuram, Virudhunagar District, relating to date of birth of Ashok. In the said order dated 15.10.2015, the District Educational Officer has held that the date of birth of Ashok is 14.05.1997. However, the said school has not chosen to question the order dated 15.10.2015 of the District Educational Officer, Srivilliputhur. But one of the players of the said school had chosen to file W.P.(MD) No. 19336 of 2015 questioning the order dated 15.10.2015 and a prayer was also made in M.P.(MD) No. 2 of 2015 in W.P.(MD) No. 19336 of 2015 for injunction.

25. But this Court, while ordering notice of motion on 27.10.2015 in W.P.(MD) No. 19336 of 2015, did not grant any interim order in favour of the petitioner in W.P.(MD) No. 19336 of 2015.

26. While so, for the reasons best known to the authorities, the same District Educational Officer passed the impugned order dated 18.11.2015 stating that the date of birth of Ashok is not 14.05.1997 and it is 14.05.1996 and hence the team of the petitioner in W.P. (MD) No. 20702 of 2015 is debarred from participating in further competition to be held at the District Level.

27. As stated above, the said order dated 18.11.2015 of the District Educational Officer, disqualifying the team of the petitioner in W.P.(MD) No. 20702 of 2015 was communicated by e-mail at 11.00 p.m., and the same is not seriously disputed by the respondents. It has to be taken note that the Divisional Level competition was held on 19.11.2015 and the team of the petitioner in W.P.(MD)

No. 20702 of 2015 was not allowed to participate in the District Level competition, in the same circumstances. On the other hand, the team of T.N.P.M.M.N. Higher Secondary School, Thalavaipuram, Virudhunagar District, was allowed to participate in the District Level competition on 19.11.2015.

28. Since the order of the National Lok Adalat at Sankarankovil dated 12.04.2014 recording the date of birth as 14.05.1997 pursuant to the proceedings in CRMP No. 321 of 2014 on the file of the Judicial Magistrate Court, Sankarankovil, has attained finality and the same is not questioned by any party. Further, the Department of Registration of Tamil Nadu Government issued a certificate dated 19.09.2014 that the date of birth of Ashok is 14.05.1997. The learned Additional Govt. Pleader has submitted that the certificate of the Government cannot be relied by the petitioner in W.P.(MD) No. 20702 of 2015. In my view, the date of birth was altered only in the manner known to law. Hence, no one can take exception for such alteration in the date of birth. The age of Mr. Ashok is fixed as 14.05.1997 in the National Lok Adalat on 12.04.2014, while the Under-19 age group was determined only in July 2015.

29. In the facts and circumstances of the case, I do not find any infirmity in the order dated 15.10.2015 of the District Educational Officer stating the date of birth of Ashok as 14.05.1997. But at the risk of repetition, I would like to state that T.N.P.M.M.N. Higher Secondary School, Thalavaipuram, Virudhunagar District, did not choose to question the order dated 15.10.2015. Hence, I am of the view that one of the players of T.N.P.M.M.N. Higher Secondary School team cannot question by filing W.P.(MD) No. 19336 of 2015. Hence I am of the view that W.P.(MD) No. 19336 of 2015 deserves to be rejected.

30. For the aforesaid reasons, I am of the view that the order dated 18.11.2015 disqualifying the team of the petitioner in W.P. (MD) No. 20702 of 2015 passed by the District Educational Officer, Srivilliputhur, is liable to be quashed and the said order proceeds on the basis that the date of birth of Ashok is not 14.05.1997. Hence, the impugned order in Na.Ka. No. 3081/A5/2015 dated 18.11.2015 of the District Educational Officer, Srivilliputhur, is quashed.

31. As far as the other proceedings in Na.Ka. No. 58/2015 dated 18.11.2015 of the District Educational Officer is concerned, it is stated that the Divisional Level Competition would be held on 21.11.2015. In my view, the District Educational Officer cannot hold the Divisional Level Competition without again conducting the District Level competition permitting the team of the petitioner in W.P.(MD) No. 20702 of 2015. In fact, the District Level competition that took place on 19.11.2015 has to be redone permitting the team of the petitioner in W.P.(MD) No. 20702 of 2015 in the place of the team of the other school. In total there are four teams and the event also would be over in a day. Hence, a direction is issued to the respondents in W.P. (MD) No. 20702 of 2015 to conduct the District Level competition on any day again wherein the team of the petitioner in W.P. (MD) No. 20702 of 2015 shall be permitted to participate, in the place of T.N.P.M.M.N. Higher Secondary School team. After conducting District Level

competition as stated above, the District Educational Officer would fix the date for Divisional Level competition.

32. In view of the aforesaid facts, proceedings issued in Na.Ka. No. 58/2015 dated 18.11.2015 by the District Educational Officer, fixing the District Level competition on 21.11.2015 is also consequently quashed.

33. In the result, W.P.(MD) No. 20702 of 2015 is allowed in the above terms, and W.P.(MD) No. 19336 of 2015 is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.