
(1995) 09 KL CK 0020
In the High Court Of Kerala
Case No : W.A. No. 1102 of 1995

A. Sainulabdin and Another	Vs	APPELLANT
State of Kerala and Others		RESPONDENT

Date of Decision : 28-09-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1996 Ker 109 : (1996) 1 ILR (Ker) 196

Hon'ble Judges : K.T. Thomas, Acting C.J.; P. Shanmugam, J

Bench : Division Bench

Advocate : C.S. Rajan, for the Appellant; Lal George, Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Shanmugam, J.—Petitioners in the Original Petition are the appellants. The second appellant is the daughter of the first appellant. The second appellant was a candidate for the Medical Course. Since she had not produced the required income certificate in the prescribed form along with the application, she was not treated as a candidate eligible to be considered for the reserved quota. Learned Judge declined to interfere with her non-selection. Hence the appeal.

2. It is an admitted case that the 2nd appellant while filing the application did not enclose the income certificate required for the purpose of claiming reservation. As a matter of fact, the income certificate form was kept blank. The contention of the appellant is that along with the application she had sent the salary certificate of her father, the 1st appellant issued by the Additional Sales Tax Officer and therefore, she ought to have been considered as eligible for reservation. The further contention is that by Ext. P7 letter dated 14-8-1995 the second appellant sent the income certificate issued by the Village Officer, Thrikkakara North, Ernakulam District and that since the certificate had been sent before the interview for admission she should have been considered as eligible for the reservation quota.

3. We have considered the argument of the learned counsel. We find that Clause (2) of Annexure II in the prospectus for Under Graduate Medical and Allied Courses 1995 clearly states that the candidate should produce community certificate and income certificate in the pro forma given in the application itself. Since the appellant did not produce the required income certificate she was not considered reservation quota and she could not find her name in the select list published by the Government. It is only after the publication of the results of the entrance examination the appellants have filed the O.P.

4. The learned counsel appearing on behalf for the appellants has now furnished the extract of a Government Order in G.O.(MS) No. 192/85/RD dated 23-3-1985 in support of his contention that for the purpose of considering the income, the Dearness Allowance, House Rent Allowance, Special Pay etc. have to be excluded, and if so excluded his income will be below the prescribed limit of Rs. 42,000/-.

5. In the absence of clear particulars as to whether this particular Government Order applies to the income certificate issued for the purpose of medical course and whether the appellant is entitled to exclude Dearness Allowance etc., it will not be possible to countenance stand of the appellant that she is eligible to be considered under the reserved quota. We do not want to express any opinion on this aspect of the matter.

6. The learned counsel for the appellants referred to the decision of the Madras High Court in V. Premanand v. State of Tamil Nadu AIR 1995 Mad 316 in support of his contention that it will be sufficient if the particular certificate is produced before consideration of the application for selection. In that case the Madras High Court was dealing with the matter of admission to Medical College under the special category viz. children born of inter-caste marriage between S.C./S.T. and forward community. Even though in the application the candidate claimed that he is entitled to get admission under the quota reserved for that particular category, he could not enclose the community certificate. But the same was obtained and produced before consideration of his application for selection. This case is distinguishable since as far as the community is concerned, in that case had claimed that he belongs to that particular community and only the certificate could not be produced along with the application. In the case on hand the question whether the appellant is eligible for reservation has to be decided based on the income certificate, and the income has to be decided based on the certificate issued in the prescribed form by the Village Officer. In the application itself the candidate has stated that the annual income of the family is Rs. 63,516/-, which would clearly show that she is not entitled to reservation. It is for the Village Officer to give a certificate in the prescribed form taking into account not only the salary income but also other income of the appellant. Therefore, it cannot be stated that the appellant had furnished the application in complete form for the purpose of claiming the reservation benefit. The annual family income of the candidate as stated in the application would disentitle her to

claim the benefit of reservation. Besides the case before the Madras High Court related to a special category where only a few candidates were found eligible from that category and the selection committee had to consider independently on their merits based on the certificates. In our case there are several thousands of candidates whose applications had to be considered based on which the selection was made.

7. It is axiomatic that while considering the admission the norms and procedures have to be complied with. Clause IX(d) of the Prospectus reads as follows:

"Documents or details furnished after the submission of the applications will not be entertained on any account."

As per this specific clause the applicant is not entitled to seek to furnish any other materials in support of her application.

8. In *Miss. Romini Susan Kurian Vs. State of A.P. and others*, a Division Bench of the Andhra Pradesh High Court held that the prospectus issued by the University binds the candidate who seeks admission and unless any portion of the prospectus is held to be illegal, Court cannot direct either amendment of the prospectus or consideration of the claim of a student in a manner otherwise than that provided in the prospectus.

9. In *Dr. A. Rathnaswamy v. Director of Medical Education 1986 WLR 207* a Division Bench of the Madras High Court while dealing with the prospectus has held as follows:

"The principle has been uniform that violation of the norms of admission laid down and rules and regulations governing the same with impunity have been frowned upon and many times have been struck down. These rules and norms are there to be strictly and solemnly adhered to. They alone should be the guidelines for such admissions. In fact, the very decision of the Supreme Court in *Punjab Engineering College Chandigarh through its Principal Vs. Sanjay Gulati and Others*, relied on by the learned counsel for the petitioner, countenances this principles. The word "prospectus" is derivative from the word "prospect". One of the dictionary meanings for the word "prospect" is "to look around", "to make a search", "to explore". A prospectus issued with regard to admission to educational courses is a declaration to the candidates that a field for development of educational potentialities is available for exploration and that there could be a chance of success. It is a piece of information. But, at the same time, we shall not belittle the significance of the need to set out in the prospectus itself a summary or an essence of the norms and rules which should guide and which will be adopted for selection of the competitors in the field of exploration in educational development or at least indicate in the prospectus that there are norms and rules which shall govern. It is highly desirable that a summary or an essence of the relevant norms and rules governing such admissions are set out in the prospectus themselves or their existence at least is indicated therein. But an omission to do so shall not be taken advantage of by

any one to negate and ignore the very norms and rules. The very rules and norms have come to be laid down only to govern and to be adhered to and not to be ignored and breached."

10. Another Division Bench of Madras High Court in *Sumathi, G. v. The Director of Medical Education*, 1993 WLR 344 : (AIR 1993 Mad 328) following the above Division Bench judgment held that (at p. 336 of AIR):

"In view of the settled position in law, if the conditions and the norms in the prospectus issued in this case are looked at, we are of the view that the petitioner herein cannot complain about her non-selection."

11. The conditions set out in the prospectus required the appellant to submit an income certificate in the form prescribed for that purpose, along with the application. Failure to furnish the certificate renders the application defective and therefore, the appellant cannot seek a remedy on the strength of such a defective application under Article 226 of the Constitution.

For all these reasons we find no merit in the contentions raised on behalf of the appellants. Learned single Judge has rightly held that appellant is not entitled to be considered as a candidate eligible for reservation quota. We confirm the judgment and dismiss the appeal. No order as to cost.