

(2022) 02 TEL CK 0038
In the Telangana High Court
Case No : Writ Petition No. 7034 Of 2022

A.Durga Bhavani	Vs	APPELLANT
Union Of India		RESPONDENT

Date of Decision : 09-02-2022

Acts Referred:

Citation : (2022) 02 TEL CK 0038

Hon'ble Judges : Satish Chandra Sharma, CJ; Abhinand Kumar Shavili, J

Bench : Division Bench

Advocate : M Saroj Reddy, Namavarapu R Rao

Final Decision : Dismissed

Judgement

1. This Writ Petition is filed seeking a Writ of Mandamus declaring the action of the respondent Nos.3 and 4 in publishing the provisional/final merit list of petitioner as local candidate of Sri Venkateswara University, Tirupathi, A.P. in NEET qualifying examination for the year 2021-22 as illegal and arbitrary and consequently direct the respondent Nos.3 and 4 to consider the petitioner as local candidate of Osmania University, Hyderabad in NEET admissions and allot seat in Telangana State.
2. Heard Sri M.Saroj Reddy, learned counsel for the petitioner, Sri A.Rajeswara Rao, learned Assistant Solicitor General for the 1st respondent, the learned Government Pleader for Medical and Health appearing for respondent Nos.2 and 3 and Sri A.Prabhakar Rao, learned counsel for 4th respondent.
3. It has been contended by the petitioner that she is a resident of Chinna Dhanwada village, Waddepally Mandal, Karimnagar District, presently, Jogulamba Gadwal District. It has been contended by the petitioner that she has

studied classes-I to IV in her village and as there is no higher schools in her village, she has studied classes V to X from St. Joseph's English School, N.R.Peta, Kurnool District and the petitioner has studied intermediate from Sri Chaitanya Junior College at Hyderabad and the petitioner has appeared for National Eligibility cum- Entrance Test (NEET) for admission into M.B.B.S. course and she has secured decent rank in the said examination.

4. The grievance of the petitioner is that the respondents are not treating the petitioner as a local candidate in the State of Telangana on the ground that she has not studied for four consecutive years preceding the qualifying the examination for admission into M.B.B.S. course.

5. Learned counsel for the petitioner had contended that though the petitioner is not fulfilling the first proviso to the Presidential Order as she has studied in two or three local areas and in those set of circumstances, the petitioner fulfils the second proviso to the Presidential Order which states that if a person, who studies more than two local areas other than the more number of years studied in a consecutive period of seven years, have been taken into account and by applying said analogy, the petitioner has to be declared as local candidate to the Telangana State. Learned counsel for the petitioner had further contended that appropriate orders be passed in the Writ Petition directing the respondents to her as local candidate of Telangana area and also further direct the respondents to consider the case of the petitioner for admission into M.B.B.S. course by treating her as a local candidate of Telangana area.

6. Learned Government Pleader for respondents had contended that as per the Presidential Order, one must study for four consecutive years leading to the qualifying examination and if the candidate is not fulfilling the first condition, then the candidate must at least reside in the State of Telangana for consecutive period of seven years itself. Admittedly, in the instant case, the petitioner has studied classes V to 10 at St. Joseph's English School at Kurnool District and the petitioner has studied two year intermediate course at Hyderabad and the petitioner is having only two years study in the State of Telangana and hence, the petitioner is not fulfilling the conditions of local candidate.

7. Therefore, the case of the petitioner cannot be considered as a local candidate

to the State of Telangana. However, the case of the petitioner would be considered in the open category but not as a local candidate as State of Telangana. Therefore, there are no merits in the Writ Petition and the same is liable to be dismissed.

8. This Court, having considered the rival submissions made by the parties, is of the considered view that the petitioner is not fulfilling the definition of a local candidate as admittedly the petitioner has not studied for four consecutive years leading to qualifying the examination and even in the second proviso also, the petitioner is not fulfilling the criteria of local candidate as defined in the Presidential Order. Admittedly, the "local candidate" is defined in presidential Order viz., the Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975, which reads as under:

â??7. Local Candidate:- (1) A candidate for direct recruitment to any post shall be regarded as a local candidate in relation to a local area.

(a) In cases where a minimum educational qualification has been prescribed for recruitment to the post.

(i) if he has studied in an educational institution or educational institutions in such local area for a period of not less than four consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared for the relevant qualifying examination; or

(ii) where during the whole or any part of the four consecutive academic years ending with the academic year in which he appeared or as the case may be, first appeared for the relevant qualifying examination he has not studied in any educational institution, if he has resided in that local area for a period of not less than four years immediately preceding the date of commencement of the qualifying examination in which he appeared or as the case may be, first appeared.

(b) In cases where no minimum educational qualification has been prescribed for recruitment to the post, if he has resided in that local area for a period of not less than four years immediately proceeding the date on which the post is notified for recruitment.

{(c) In cases where visually handicapped and hearing handicapped persons studied in the special schools meant for them, the native place

of the parents of such visually handicapped and hearing handicapped persons.}

(2) A candidate for direct recruitment to any post who is not regarded as a local candidate under sub paragraph (1) in relation to any local

area, shall.

(a) in cases where a minimum, educational qualification has been prescribed for recruitment to the post,-

(i) if he has studied in educational institutions in the State for a period of not less than seven consecutive academic years ending with

academic year in which he appeared or as the case may be, first appeared for the relevant qualifying examination, be regarded as a local

candidate in relation to-

(1) Such local area where he has studied for the maximum period out of the said period of seven years; or

(2) where the periods of his study in two or more local areas are equal, such local areas where he has studied last in such equal periods;

(ii) if, during the whole or any part of the seven consecutive academic years ending with the academic years in which he appeared or as the

case may be first appeared for the relevant qualifying examination, he has not studied in the educational institutions in any local area, but

has resided in the State during the whole of the said period of seven years, be regarded as a local candidate in relation to-

(1) such local area where he has resided for a maximum period out of the said period of seven years: or

(2) where the periods of his residence in two or more local areas are equal, such local areas where he has resided last in such equal

periods;

(b) In cases where no minimum educational qualification has been prescribed for recruitment to the post, if he has resided in the State for a

period of not less than seven years immediately preceding the date on which the post is notified for recruitment, be regarded as a local

candidate in relation to-

(i) such local area where he has resided for the maximum period out of the said period of seven years; or

(ii) where the periods of his residence in two or more local areas are equal such local area where he has resided last in such equal periods.â??

(G.O.Ms.No.168, dated 10-3-1977)

Explanation:- For the purpose of the paragraph.

(i) educational institution means a University or any educational institution recognized by the State Government, a University or other competent authority;

(ii) relevant qualifying examination in relation to a post means;

(a) the examination, a pass in which is the minimum educational qualification prescribed for the post;

(b) the Matriculation examination or an examination declared by the State Government to be equivalent to the Matriculation examination;

whichever is lower; and

(iii) in reckoning the consecutive academic years during which a candidate has studied, any period of interruption of his study by reason of

his failure to pass any examination shall be disregarded.

(iv) the question whether any candidate for direct recruitment to any post has resided in any local area shall be determined with reference

to the places where the candidate actually resided and not with reference to the residence of his parents or other guardian (Vide

G.O.Ms.No.168, G.A. (SPF.A) Dept., dt.10-3-77).

9. A perusal of the Presidential Order makes it very clear that one must study for four consecutive years preceding the qualifying examination or a

candidate who reside in the State of Telangana for a period of seven years. Admittedly in the instant case, the petitioner is not fulfilling the definition

of local candidate. Therefore, this Court is not inclined to interfere with the impugned order.

10. Accordingly, the Writ petition is dismissed. Pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.