
(1998) 01 MAD CK 0028
In the Madras High Court

B. Sathishkumar	Vs	APPELLANT
Director of Medical Education and Others		RESPONDENT

Date of Decision : 19-01-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 1 MLJ 653 : (1999) WritLR 506

Hon'ble Judges : S.S. Subramani, J

Bench : Single Bench

Judgement

S.S. Subramani, J.—Petitioner prays for the issuance of a writ of mandamus or any other appropriate writ, order or direction in the nature of

a writ, directing the respondents to issue Diploma in Pharmacy Certificate and Provisional Certificate to the petitioner, and pass such further or

other orders as this Court may deem fit and proper.

2. Petitioner joined in Diploma in Pharmacy course in 2nd respondent-college during the Academic year 1992-93. The duration of the course is

two years. It is said that if a student had passed +2 and joined in the Diploma in Pharmacy course, there are certain exemptions from attending the

classes and appearing in the examination in respect of certain subjects in the First year. Students who have taken science subject in their +2

examination were exempted from attending the classes and appearing in the examination in respect of all the subjects except Anatomy, Physiology

and Health Education. In the case of students who took vocational course in +2, they were exempted only in English. Petitioner attended the

classes and appeared in all papers except English and passed the first year. He also appeared for the Second Year Examination, and by taking two

chances, he has come out successful. Thereafter, he moved a representation to the college for issuance of certificate. The grievance of the petitioner is that the college authorities are not committing themselves whether they will issue the certificate or not. The reason for such a doubt is that since the petitioner has not appeared for the English Paper, the Authorities feel a doubt whether such a certificate could be issued. The case of the petitioner is that in similar cases, Certificates and Diploma have been issued to various other candidates and exemptions have been granted to them. It is the further case of the petitioner that when all the students who underwent +2 and joined in the Diploma Course were given exemption from attending the classes and also from appearing in the examination, and were also given certificates, there is no reason why the petitioner alone is not given the benefit. A specific instance is also stated, that one Mansoor Ali who also underwent Vocational Course, was exempted from writing English Examination, but he has been given the Certificate. It is under the above circumstances, petitioner has filed the present writ petition for the reliefs stated supra.

3. A detailed counter-affidavit has been filed by the first respondent, wherein it is said that as per Educational Regulations 81, first respondent grants exemption to such of the students who possess higher educational qualification than X Std. from appearing in certain subjects on the specific request made by the students before the commencement of the First Year Examination. Petitioner has passed Higher Secondary Course in Vocational Subjects, and English is one of the subjects prescribed in the First Year of the Two Year Diploma Course, and, as per the procedure, he has to get exemption orders from the examining authority for English subject before commencement of the First Year Examination. Neither the Principal (2nd respondent) nor the petitioner has made any representation seeking exemption from appearing in the said subject. It is said that the petitioner applied for the issue of Diploma in Pharmacy after finishing his course, without submitting the mark sheet for having passed in English subject. His application was returned to the college intimating that inasmuch as he has not obtained exemption orders from 1st respondent before the commencement of the First Year Examination, he has to appear for the Examination in English subject. Along with the counter-affidavit, first

respondent has appended a list of students to whom exemptions have been granted.

4. Petitioner filed a rejoinder affidavit, stating that there is no statutory guidelines or instructions requiring any student to apply for exemption or relaxation. According to him, when the Regulation enables exemption in respect of certain subjects in favour of students who have got higher qualification, there is no need for applying for any exemption. Petitioner has further stated that when other students have been given that benefit he should not be denied the benefit of exemption. According to the petitioner, the certificates will be handed over to the college when a student joins the college, and the college, after verification, will forward the same to the Examining Authorities and get necessary orders. In this case also, the petitioner entrusted the certificates to the college authorities, and so, it is for the college to get the exemption. Petitioner has also stated that the college has written to the first respondent about the fact that the petitioner is entitled to get exemption from writing the English Examination. It is also said that one Manju Ravi was granted exemption even though no application was made for exemption. Therefore, petitioner is also entitled to the same treatment. When the facts disclosed enable the petitioner to get exemption first respondent can even now exercise that power and issue certificate.

5. I heard learned Counsel appearing on both sides in detail.

6. After considering the rival submissions, I feel that this is a fit case where interference under Article 226 of the Constitution of India is called for, and necessary direction should be issued.

7. It is not the case of both the respondents that the petitioner obtained admission to the Diploma in Pharmacy Course without any basic qualification. It is also admitted by both the respondents that the petitioner has completed his +2 in Vocational Course. It is also admitted by them that it is a higher qualification than X Std. If that be so, on the basis of the admission in the counter itself, petitioner is entitled to get exemption from writing the English examination. The fact that the +2 students are given certain exemptions from writing examinations is admitted in the counter, and the case of the petitioner that he is entitled to get exemption from writing the English examination, is also not disputed. The only reason for not

granting the exemption is, that there is no special request either by the petitioner or by the college in which he is studying. No statutory Rule or other order has been placed before this Court to hold that only in case of special request, exemption could be granted. First respondent only relies on certain practice under which exemption orders are issued in individual cases. It is here the petitioner contends that in regard to one Mansoor Ali, exemption has been granted even without any application either from him or from the Principal and he has been issued the Diploma. This fact is not denied anywhere in the counter. The regulations of the Pharmacy Council of India, relied on by the first respondent, also do not throw any light regarding the contentions of the first respondent. It only says that the candidates will have to write certain examinations. It does not say that exemption will be granted only on application.

8. When a student gets admitted to a college and produces his Original Certificates, it is for the college authorities to see that, if any exemption is applicable, necessary steps are taken in that direction and bring the same to the notice of the concerned Authorities.

In this case, petitioner has specifically stated that the College Authorities have also corresponded with the 1st respondent, and in spite of it, the Certificate is denied to him. Second respondent, though received notice, has not entered appearance.

9. Assuming for argument's sake that a written request and a specific order of exemption is required, whether the absence of that alone will disentitle the petitioner from getting the Certificate? Once it is found that he is entitled to get exemption, and it is also found that he is successful in other subjects, whether the order of exemption was obtained before or after the examination is of no consequence. In this case, the fact that the petitioner is entitled to get exemption is admitted. Even now the first respondent can take note of this fact, whether the petitioner is entitled to get exemption in view of his previous qualification and consider his request for issuance of Diploma. First respondent is not justified in delaying or denying the same on technicalities. If the college authorities have failed in their duty in getting exemption to the petitioner, that should not stand in the way of the petitioner getting the benefit, if there is no prejudice caused to the respondents thereby.

10. Under the above circumstances, I feel that necessary direction has to be given to the first respondent. I, therefore, direct the first respondent to

consider the case of the petitioner, viz., his request for issuance of Diploma in Pharmacy Certificate and Provisional Certificate, taking into

consideration the fact that is entitled to get exemption from attending the classes and also from writing English Examination for the First Year, and

thereafter take necessary action in that regard. I only direct the first respondent to take a final decision within a period of three weeks from today.

The writ petition is allowed, as indicated above, however, without any order as to costs. W.M.P. No. 24031 of 1997 for interim direction is

closed.