
(1992) 07 KL CK 0035
In the High Court Of Kerala
Case No : O.P. No. 1100 of 1992-E

C. Thanuja

APPELLANT

Vs

State of Kerala and Another

RESPONDENT

Date of Decision : 10-07-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1993 Ker 28 : (1992) 3 ILR (Ker) 816

Hon'ble Judges : T.L. Viswanatha Iyer, J

Bench : Single Bench

Advocate : C.P. Damodaran Nayar, for the Appellant;

Final Decision : Dismissed

Judgement

T.L. Viswanatha Iyer, J.—Petitioner was an applicant for admission to the M.B.B.S. 1991-92 course. She appeared for the Medical Entrance Examination held on 29-6-1991 and secured rank No. 2548. She belongs to the Muslim community. At the time of making the application for admission, her father was alive. He was a Superintendent in the Kerala State Road Transport Corporation. The annual income of the petitioner's family at that time exceeded Rs. 20000/- and as such, she was not entitled to a seat in the quota reserved for Muslims. She had to take her chance only in the general merit pool.

2. Petitioner's father died on 7-6-1991 after the last date fixed for receipt of applications, namely 27-5-1991. On account of his death, and the non-availability of his salary thereafter, the future income of the family fell below Rs. 20000/-. Petitioner was otherwise qualified for admission to the M.B.B.S. course and since the income of the family after the father's demise fell below the limit, she became entitled to aspire for a seat in the quota reserved for Muslims. She made a representation dated 2-12-1991 before the Commissioner for Entrance Examinations, Thiruvananthapuram, a copy of which is Ext. P1, requesting for consideration of her case in the reservation quota for Muslims. No orders were forthcoming which resulted in the petitioner filing a writ petition O.P. No. 13283

of 1991 in this court. The said writ petition was disposed of on 19-12-1991 at the admission stage by the judgment Ext. P2 in which this court directed the respondents to consider the representation Ext. P1 with reference to the income of the family as on 7-6-1991, and consider whether she was entitled to admission. It was also observed that the petitioner will be free to appear before "the competent authority" and place her submissions before him.

3. The second respondent thereafter passed the order Ext. P3 on 6-2-1992 rejecting the petitioner's claim. He stated that the results of the Entrance Examination held on 29-6-1991 were published on 12-8-1991. Petitioner has not submitted any income certificate or claimed any seat in the reservation quota at the time she submitted her application. Such production was also of no avail to her as the income of the family was above the limit prescribed by the government at that time. The father's death on 7-6-1991 did not bring about any change in the position as the last date for receipt of applications was 27-5-1991, on which date the petitioner was not eligible for a seat in the reservation quota having regard to the income of the family. The second respondent therefore rejected the petitioner's representation as devoid of merit.

4. Petitioner challenges this order Ext. P3. The contention is that the petitioner is entitled to a seat in the reservation quota having regard to the events that took place subsequent to the submission of the application for admission. It is also stated that Ext. P3 was against the judgment Ext. P2 in so far as it had directed the petitioner's case to be considered with reference to her income as on 7-6-1991.

5. The second point may be dealt with first. The judgment Ext. P 2 did not deal with the petitioner's case on the merits. It could only be so as the case was disposed of at the admission stage itself. The only prayer in the original petition was to direct the respondents to dispose of the representation Ext. P1. That was ordered. This court was not therefore concerned at that stage with the question of the petitioner's entitlement to selection in the reservation quota on the basis of her income as on 7-6-1991 (the date "7-7-1991" appearing in Ext. P2 seems to be a mistake for "7-6-1991" as I do not find any relevance for the date 7-7-1991). No positive direction was given that she should be considered in the reservation quota, if her family income on that date was below the limit. On the other hand, this court only directed consideration of her representation. In the absence of any positive direction as to what should be done, petitioner cannot found a claim for treating her income as on 7-6-1991 as the basis for admission to the course.

6. Now, the first point. Claim for a seat in the reservation quota has to be made along with the application. This is the requirement of clause vii of the prospectus. In fact the community and income certificates have to be appended in the pro forma given in the application itself and as part of it.

7. There is good reason for this clause. It is one essentially in the interests of

expeditious completion of the selection process and to avoid uncertainties. Else the position will be that any candidate can come forward with a claim for reservation at any subsequent period of time with reference to subsequent events, and attempt to unsettle settled things. This process can go on endlessly, and there will be no certainty for any candidate admitted to the reservation quota about his admission to the course as any other candidate could come forward at any time in the future and claim a seat in the reservation quota based on subsequent events. It is therefore in the interests of certainty and finality that the state of affairs as on the last date of receipt of applications and as disclosed in the application should be treated as the relevant conclusive-factor in the matter of adjudging claims for a seat in the reservation quota. Public interest, certainty and expedition in the selection process require it. It is in the interests of the candidates themselves. This is what I had stated earlier in *Prasanth v. State of Kerala* 1989 (1) KLT 164, which was affirmed by the Division Bench in W.A. No. 911 of 1988 and by the Supreme Court in SLP No. 14902 of 1988:

"It is in public interest that the selection of candidates to such courses is done with all expedition. If the selection committee is to entertain claims contrary to, or de hors, what is stated in the application itself, there will be no limit to which they will be bound to go and they will have to reckon with all sorts of claims raised by candidates on second thoughts or otherwise leading to delay and uncertainty in the selection process. It is in the interests of the candidates themselves that they are pinned down to what is stated in the application and the selection made only with reference to what is stated therein. Chaos and confusion will result if the applications are not to be treated as final as to what is contained therein, and candidates are permitted to set up further claims as the selection process goes on."

8. Petitioner's claim is that events which took place subsequent to the last date for filing the application should be taken note of. Since the future income of the family was likely to fall below the limit of Rs. 20000/-consequent on the death of her father, petitioner would submit that she should have been considered for a seat in the quota reserved for Muslims. She made such a claim only on 3-12-1991 by Ext. P1 long after the select list was published on 12-8-1991. Her selection, accepting this claim will necessarily result in displacing another Muslim, already in the list since 12-8-1991. Petitioner does not say as to how long in the future should the selection process be kept pending for such candidates like the petitioner to stake their claims or for subsequent events to be taken note of. In my opinion, selection of candidates in the reservation quota has to be done with reference to the qualifications which they possess as on the last date for receipt of applications as also the state of affairs prevailing on that day as disclosed in the form of application.

9. In *Charles K. Skaria v. C. Mathew* AIR 1980 SC 1230 the Supreme Court was dealing with the question whether the requirement of attaching diploma certificates with the application was directory and whether it could be produced

later before the selection. In that case, the diploma certificate was not produced along with the application, but produced before the actual selection. The fact was that the applicant possessed the diploma at the time he filed the application which entitled him to an additional ten marks, but he could produce the actual diploma in evidence of this fact only before the final selection. The Supreme Court said that proof of having obtained diploma was different from the factum of having got it. The emphasis was on possession of the diploma, and the proof thereof subserved the factum of possession of diploma. In that context, the Supreme Court observed that what was essential was the possession of the diploma before the reckoned date, namely the last date for the application. In a similar case in *Pavithran v. Director of Technical Education* 1987 (2) KLT 658 in relation to admission to part-time B. Tech. Degree course, I had held that the qualification of experience for awarding marks has to be reckoned, not as on the date of application, but with reference to the last date for filing the application. The same view taken by a Division Bench of this court in *Dr. M.J. Varghese and Another Vs. The Director of Medical Education, Trivandrum and Others*, wherein this court said with reference to admission to medical colleges that it was not the date of the entrance examination or the date of publication of the results or the actual date of admission to the college that was material in assessing the eligibility of the candidate. The eligibility had to be assessed as on the date on which the candidate applied for admission, that is, the last date fixed for receipt of applications.

10. The decision in *Meerakutty v. State of Kerala*, 1991 (1) KLT 208 does not militate against the above rulings. This court was dealing with the scope of the expression "income actually earned" for purposes of issuing family income certificate for admission to the medical colleges in the reservation quota. The question was whether the Village Officer could issued an income certificate with reference to the income of the family in the year 1990-91, when both the parents of the applicant had admittedly retired on 31-3-1990. This court answered the question in the affirmative. The point which I have considered above, whether post-application events could be taken note of was not in issue, and was not considered by the Bench. *Meerakutty* does not therefore afford any assistance to the petitioner.

11. What applies to educational or experience qualifications must equally apply to the eligibility for admission in the reservation quota. The eligibility has to be decided with reference to the state of affairs as disclosed in the application, with reference to the last date for its receipt, and not with reference to any subsequent events unless such a course is specifically permitted. If so, the death of the petitioner's father and the likely reduction of the family income subsequent to 27-5-1991, the last date fixed for receipt of applications remained immaterial. Petitioner cannot found a case for admission to a seat in the reservation quota on the ground that her income was likely to fall below the limit after the last date fixed for receipt of applications.

12. Petitioner was not therefore entitled to have her case reconsidered by the respondents. She is not entitled to any relief. The original petition has to fail and it is dismissed. No costs.