
(2014) 07 KL CK 0026
In the High Court Of Kerala
Case No : WP(C). No. 19154 of 2014 (T)

Fathima Fashna

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 24-07-2014

Acts Referred:

Citation : (2014) 07 KL CK 0026

Hon'ble Judges : K. Surendra Mohan, J

Bench : Single Bench

Advocate : M.V. Bose, Vinod Madhavan and Nisha Bose, Advocate for the Appellant; G. Gopakumar, Government Pleader, Mary Benjamin, SC, Admission Supervisory Committee, P. Sreekumar, SC, Kerala University of Health Sciences and George Poonthottam, Advocate for the Respondent

Judgement

K. Surendra Mohan, J.—The petitioner was granted admission to the BDS course by the fourth respondent in the Non Resident Indian ("NRI" for short) quota. According to the petitioner, her close relative, sister's husband who is working abroad has submitted Ext.P4 undertaking to support the education of the petitioner. On the basis of Ext.P1 G.O, according to the petitioner, she was granted admission. She has been attending classes of the course also. While so by Ex.P6 issued by the University it has been informed that she is not eligible to get admission under the NRI quota.

2. According to Adv. M.V. Bose who appears for the petitioner, Ext.P6 has been issued stating that the petitioner is not eligible to seek admission under the NRI quota in view of Ext.P2 G.O. It is pointed out that, she has been granted admission under Ext.P1 G.O which is the relevant order applicable. She has been continuing to study and is on the verge of appearing for the first year examinations. It is at the said point of time Ext.P6 has been issued. Therefore, according to the counsel it is only appropriate that the petitioner is permitted to appear for the examinations.

3. Adv. Mary Benjamin appears for the second respondent. According to the

counsel, the petitioner is not qualified either in terms of Ext.P1 or Ext.P2. This is for the reason that, a candidate is not entitled to claim admission under the NRI quota for the reason that her brother-in-law is working abroad. The records were received by the second respondent only much later. On verification of the records it was found that the petitioner was ineligible and therefore Ext.P6 has been issued. It is contended that Ext.P6 is perfectly justified.

4. Heard. Ext.P1 clause (3)(1) states that the "Non- Resident Indian seats" are reserved for children or wards or dependents of Non-Resident Indians. The said clause reads as follows:-

(i) The term "dependents" in Section 2(o) of the Act read as 1st paper above in respect of Under Graduate and Post Graduate Medical and Dental admissions is defined as follows:-

An Applicant who depends upon his/her Father/Mother/Husband/Wife/Brother/Sister/Half Brother/Half Sister who is working abroad.

5. As per the above clause, it is only a person who depends upon a person who is his or her father, Mother/Husband/wife/brother/sister/half brother or half sister who is working abroad would become entitled to the benefit of an NRI seat. The petitioner being a person whose brother-in-law is working abroad does not come within the definition of a dependent, as contained in Ext.P1. In Ext.P2, the definition of dependent has been further enlarged and the clause now reads as under:-

An applicant, who depends upon his/her Father/Mother/Brother/Sister/Husband/Wife/Brothers and Sisters (inclusive of first cousins) of Father or Mother/Half Brother/Half Sister/Adopted Father or Adopted Mother working abroad.

Even the above definition also does not include brother-in-law as a relative whose dependent is entitled to claim a seat under the NRI quota.

6. The above being the position, the admission granted to the petitioner was without any basis. The petitioner is ineligible to claim admission under the NRI quota to an NRI seat. It is clear that, the fourth respondent has admitted the petitioner who is an ineligible person. Therefore, I do not find any grounds to interfere with Ext.P6 or to grant any of the reliefs sought.

In view of the submission that the petitioner has been studying for the BDS course for the past one year, the fourth respondent would be at liberty to consider whether the petitioner could be accommodated in a seat available in some other quota provided she is eligible.