

(2021) 10 KL CK 0184

In the High Court Of Kerala

Case No : Writ Petition (C) No. 23353 Of 2021

Fleming Shaijan, (Minor)

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 28-10-2021

Acts Referred:

Citation : (2021) 10 KL CK 0184

Hon'ble Judges : Raja Vijayaraghavan V, J

Bench : Single Bench

Advocate : P.Shaijan Joseph

Judgement

Raja Vijayaraghavan V, J

1. Heard Sri.P.Shaijan Joseph, the learned counsel appearing for the petitioner and Smt.Nisha Bose, the learned Senior Government Pleader.

2. The petitioner is a student who passed the Secondary School Examination conducted by the CBSE in the year 2021. He is an aspirant for getting admission to the Plus One course. In accordance with the provisions of the prospectus, he applied for admission. The first allotment was over by 22.9.2021 and the second allotment was over by 7.10.2021. Unfortunately, the petitioner did not secure allotment to the chosen course which is Science/Biology in any of the Government Schools/Aided schools. As per the prospectus issued by the respondents, the petitioner could have applied for admission under the supplementary list only on 25.10.2021. By way of abundant caution, his parents secured admission in an unaided school. The category of seats in such schools is categorised as unaided quota. When the notification for filing application under the supplementary allotment was published, the petitioner submitted Ext.P2 application. However, he was not permitted to access the portal of the Single Window System for Higher Secondary admission on the ground that he has already secured admission under the unaided quota. Being aggrieved, the petitioner is before this Court seeking directions.

3. Sri. P.Shaijan Joseph, the learned counsel appearing for the petitioner submits that as per the prospectus, three categories of students are eligible to apply for supplementary allotment. They are:

- a) Students who did not get admission through the main allotments;
- (b) students who could not submit online applications for allotment; and
- (c) students who got admission but the same was rejected due to submission of wrong information in the online application.

4. According to the learned counsel, the petitioner will not fall in any of the categories. The request of the petitioner is for expeditious consideration of his application as the last date for accepting the application is at 5 pm on 28.10.2021.

5. When the matter had come up for consideration on 27.10.2021, taking note that the last date is on 28.10.2021, the learned Government Pleader was directed to get instructions.

6. Smt. Nisha Bose, the learned Government Pleader has made available the prospectus as well as the Circulars and notifications issued by the Government and submits that the applicant was rightly refused access as he has already obtained admission in an unaided school. It is submitted by the learned Government Pleader that clause (3) of the prospectus for Single Window System for Admission to Plus One courses for the academic year 2021-2022 deals with admission to management quota, community quota and unaided quota. Referring to clause (8) of the prospectus dealing with the procedure for allotment, it is submitted that any student, who has obtained allotment in any of the quotas, are interdicted from submitting an application for allotment in the supplementary stage. Reliance is also placed on the circular dated 05.10.2021 issued by the Director, and it is submitted that the entire details of the students who have secured admission in the unaided, special residential, technical higher secondary schools and also in schools which are situated in Gulf, Lakshadweep and Mahi are to be entered in a prescribed format. According to the learned Government Pleader, a reading of the Circular along with the prospectus would make it emphatically clear that the students who have secured admission in unaided schools are also not entitled to apply for admission during the second allotment.

7. I have anxiously considered the submissions advanced and have gone through the prospectus published on 12.08.2021 and also the Government Orders relied on by the learned Government Pleader. It was with a view to make the admission to the Higher Secondary Schools in the State, transparent, simple and to ensure social justice that the Government had put in place the Single Window System for admission to Plus One Courses. Clause (3) of the prospectus deals with admission to the management, community and unaided quotas. The said clause is clear and specific and it says that the admission to the management, community and unaided seats shall be by the management. It is the

responsibility of the Principal to admit students to the respective quota as per the seat matrix. The students are expected to approach the school concerned and obtain special forms which are to be filled up and submitted before the schools concerned. What is most important is that the application for Single Window System cannot be used for admission to the management/ community/ unaided quota seats. It is also stated in clause (3) that 40% of the seats are to be set apart for merit candidates, 40% for management seats, 12% for scheduled caste students and 8% for the scheduled tribe.

8. If the student fails to get an allotment in the main allotment, which comprises of two stages, he or she can apply under the supplementary allotment. As stated above, the first allotment commenced on 22.9.2021 and the second allotment was on 7.10.2021. The petitioner was not able to secure admission in the aforesaid allotment process. The supplementary allotment was scheduled to commence only on 25.10.2021.

9. Clause (8) of the prospectus deals with the procedure for supplementary allotment. It states that before inviting applications, the list of available seats will be published in the website. Those students who were unable to secure admission during the first and second allotment can alone apply for the supplementary allotment. The student can give fresh options. Based on rank and academic merits, the applicants would be considered. The relevant clause relied on by the learned Government Pleader reads thus:

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10. All that is meant by the said clause is that students who have already secured allotment as per the Single Window System for Admission to Plus One Course will not be entitled to apply for the supplementary allotment.

11. It is nobody's case that the petitioner had secured admission in the first or second stage of the main allotment. In respect of the seats in unaided schools, applications are to be directly filed before the schools. It cannot, therefore, be said that students who have secured admission in unaided schools are not entitled to apply under the supplementary quota as there is no such provision in the prospectus. I have no doubt in my mind that clause (3) and (8) of the prospectus is being misinterpreted by the respondents to deny the petitioner a chance to secure admission in Government/aided schools. I am of the considered opinion that the restriction in clause (8) of the prospectus will only apply to students who managed to obtain allotment during the main allotment effected through the Single Window System for admission to Plus One course and the same will not be applicable to students who, left with no alternative, were forced to obtain admission in unaided schools. As rightly submitted by the learned counsel appearing for the petitioner, it would be financially burdening on the parents to pursue studies in unaided schools.

12. I am not impressed with the contention of the learned Government Pleader that the software used for the process has been programmed in such a manner that students who have secured admission in unaided schools are prevented from applying for the supplementary quota. I can only say that it is on a wrong reading and interpretation of the prospectus that such a contention is being taken. When the prospectus do not place any such restrictions, it would not be open for the respondents to contend otherwise.

13. In that view of the matter, I hold that the petitioner has every right to apply for allotment of seats during the supplementary allotment which is closing today. As an interim measure, there will be a direction to the competent among respondents to accept Ext.P2 application filed by the petitioner and to process the same in terms of the various clauses in the prospectus.

14. The learned Government Pleader shall communicate the order forthwith.

Hand Over.