

(1998) 06 MAD CK 0065
In the Madras High Court

G. Sumathi and Another

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 15-06-1998

Acts Referred:

Citation : (1998) 3 MLJ 224 : (1999) WritLR 822

Hon'ble Judges : K. Gnanaprakasam, J

Bench : Division Bench

Judgement

K. Gnanaprakasam, J.—The petitioners in both the writ petitions have filed these petitions for the issue of writ of mandamus to direct the

respondents to give admission to the petitioners in the first year M.B.B.S. course in Madras Medical College with Code No. 01 for the academic

sessions 1993-1994 or in the ensuing academic sessions.

2. As common question of law and facts are involved in both the writ petitions, both of them were taken together and common order is passed.

3. Both the petitioners have applied for the first year M.B.B.S. course for the academic year 1993-1994 in response to the notification by the

second respondent, the Director of Medical Education for admission in the college of the first respondent viz., Madras Medical College, Madras-

600 003 with college Code No. 01 as specified in Annexure VI of the prospectus.

4. Both the petitioners belong to the Backward classes vide No. 86 of the List of Community Sub Caste Published in the Appendix to the

prospectus for the year 1993-1994 for admission in the first year M.B.B.S. course, Both the petitioners have written Tamil Nadu Professional

Courses Entrance Examination 1993 to the Medical faculty conducted by the Anna University, Madras in June, 1993. The Entrance Examination

number of the petitioner in W.P.No. 3643 of 1994 is 226178 and the Entrance Examination number of the petitioner in W.P.No. 3645 of 1994 is 226179.

5. Both the petitioners are eligible for admission in open competition as well as in backward classes reservation with their academic marks in

Science subject of 139.75 and 54.2 marks in the Entrance Examination and 130 marks in science subjects and 66.7 marks in the entrance examination respectively.

6. The Special Categories of reservation are set forth in Annexure I to the prospectus. Under the Special Categories, the petitioners are also

eligible for admission in the special category, No. 5. That apart, the petitioner in W.P.No. 3645 of 1994 is also eligible under the Special Category

No. I-Physically Handicapped.

7. Special Category No. V in the Rule of Reservation is made provisions for Tamil Language. Category No. V Tamil Language (guidelines detailed

in Annexure VIII of the Prospectus) is available at page 7 of the typed set filed by the petitioners which reads as follows:

The following categories of students only shall be made eligible to apply for admission to M.B.B.S./course for the seats reserved for Tamil

Language.

(a) Candidates whose parents have lost their lives for bringing tamil and official language of Tamil Nadu and as the prime language of Tamil Nadu.

(b) Candidates whose parents have suffered imprisonment for bringing Tamil as Officials language of Tamil Nadu and as the prime language of

Tamil Nadu.

(c) Candidates whose parents have worked for the development of Tamil.

Note: The prioritisation shall be as at (a), (c) and (b) above unless the period of imprisonment is at least one year.

A. The Government also direct that the officers of the Revenue Department not below the rank of Tahsildar of the respective arrears and the

M.L.A and M.Ps. of Tamil Nadu are competent to issue certificates to the candidates who apply for admission to the M.B.B.S. course against the

seats reserved for Tamil Language.

B. All the applications under this category to be submitted to the department of

Tamil development, Government of Tamil Nadu for evaluation and grading by the selection committee office.

Category V. Tamil Language"" is extracted from the prospectus submitted by the learned Government Pleader which is available at page 11 reads

as follows:

The following categories of students only shall be made eligible to apply for admission to M.B.B.S. Course for the seats reserved for Tamil

language:

(a) Candidates those parents have lost their lives for bringing Tamil as official language of Tamil Nadu and as the prime language of Tamil Nadu.

(b) Candidates whose parents have ""worked for the development of Tamil"".

(c) Candidates whose parents have suffered imprisonment for bringing Tamil as official language of Tamil Nadu and as the prime language of Tamil

Nadu.

Note: The candidates should submit certificate from the officers of the Revenue Department not below the rank of Tahsildar of the respective areas

and M.L.As. and M.Ps. of Tamil Nadu. The Committee constituted by the Government consisting of Tamil scholars will asses and recommend the

contribution for bringing Tamil as official Language of Tamil Nadu and for the development of Tamil. All the applications under this category to be

submitted to the department of Tamil development, Government of Tamil Nadu for evaluation and grading by the Selection Committee Office"".

Basically, the prospectus submitted by the petitioners and the prospectus submitted by the respondents differ and I will discuss about it at a later

stage.

8. The petitioners state that their father suffered imprisonment for more than two years exclusively for Tamil Language Protection for bringing Tamil

as the official language of the State of Tamil Nadu and for stabilising Tamil as the Prime language of Tamil Nadu. The petitioners father had also

experienced difficulties and damages in the hands of the uniform forces in operation on those occasions. Their father had worked for the

development of Tamil language in Tamil periodicals and various other development works in many branches and fields of Tamil language. The

sacrifices and sufferings for the protection of Tamil as official and Prime language

of Tamil Nadu deserve more respect.

9. The petitioners stated that they have submitted all relevant certificates towards their claim under special category No. 5 and Special category

No. I for the Tamil Nadu Professional Courses Medical para Medical 1993-1994. They have further submitted copies of two certificates issued

by the competent authority of the Government of Tamil Nadu in Ref.No. D.Dis.B5/23205/93, dated 28.9.1993, the receipt of which has been

acknowledged on 18.10.1993, by the selection committee for M.B.B.S. course. The petitioners have also submitted certified copy of the

certificate in the first week of December, 1993 exclusively in support of their claim under the category in which language in Special Category No.

V. Tamil language, the receipt of which was acknowledged on 6.12.1993 by the selection committee.

10. The petitioner in W.P.No. 3643 of 1994 has filed a W.P.No. 1260 of 1993 for her admission and a Division Bench of this Honourable Court

dismissed the same on 4.3.1993. The petitioners have stated that these writ petitions were filed on different capacity and circumstances with

materials to support their contentions.

11. The petitioner in W.P.No. 3645 of 1994 had appeared before the Special Medical Board with reference to the letter No.

222/Sc/MBBS/BPT/93-94 from the selection committee for her claim under Special Category No. I physically handicapped on 11.9.1993 at the

Selection Committee Office in Sabarmathi Hostel.

12. It is stated that the Government in G.O.Ms.No. 602, dated 14.8.1981 of Social Welfare Department, has ordered compulsory reservation of

3% of the total seats in all the educational institutions. But, the selection authorities have reserved only three seats for the total seats, exceeding

1400 in all, in the M.B.B.S. course, in the Special Category No. I, physically Handicapped - Which is negligible and illegal. Nearly 30 or more

seats have to be reserved for the physically handicapped as per the G.O.Ms.No. 602, dated 14.8.1981, referred above. That in the said G.O.

there is a reference, with record to the office Memorandum of the Government of India requesting the State Government to give urgent

consideration for the reservation of 3% for the physically handicapped.

13. Both the petitioners were not selected either under category V or under

category I and they contended that the selection was not made

properly and legally and they also claimed eligibility under the following grounds:

(1) The rule of prioritisation prescribed for Special Category No. V Tamil Language was not properly followed.

(2) The selection authorities have not considered the applicants for the selection under Special category No. V Tamil language.

14. It is seen from the results that selections were made in common for all candidates applied against all the three categories in Special Category

No. V Tamil Language without applying the prescribed Rule of prioritisation. All the candidates who were selected from the category 3, of the

Special Category No. V. Tamil Language where candidates whose parents have worked for development of Tamil Language are alone considered

for selection. The rule of reservation prescribed for the academic Session 1993-1994 by the Apex Court was not followed properly.

15. G.O.Ms.No. 602, dated 14.8.1981 of the Social Welfare Department has prescribed that 3% of the total seats are to be allocated for the

physically handicapped. The said G.O. was not properly followed by the respondents. It is also stated that the rule of reservation prescribed for

the academic session 1993-1994 by the Supreme Court of India in the case of the Voice (Consumer Care) Council v. The State of Tamil Nadu

was not properly followed. Under Special category No. V, Tamil language, eight seats were made available and the same was not properly

distributed.

16. The reservation for the most backward classes/Denotified Communities Compartment which were entitled to 12.4% reservation were not

made available in special category No. V. But, only two candidates alone were given admission against the reservation of Most backward

classes/Denotified communities quota in the Special Category No. V Tamil Language and the same is in violation of Rule of reservation.

17. More additional seats were provided in the special categories. In the case of defence quota Category No. VII. three more additional seats

were provided and in the case of freedom fighters, category No. VIII, two more additional seats were provided, but where as additional seats

were not provided for physically handicapped persons category No. I. The petitioners therefore state that the respondents have not followed the

procedure in the allocation of additional seats in the special categories.

18. The petitioners further state that they came to know that as many as 54 selected candidates were not joined and they were refused to join in

the first year M.B.B.S. course for various reasons and the petitioners had their chance in such vacancies, but the same was also not considered by

the respondents. The respondents have not followed the guidelines prescribed and the procedures laid down in the prospectus. The petitioners, for

the reasons set forth above, are entitled to be admitted in the first year M.B.B.S. course as they were eligible for the said course and therefore filed

the present writ petitions.

19. The respondents, in their counter have admitted that there were rules of reservation for the category widows, Tamil Language and for the

children of intestate marriage and eminent sportsmen. The petitioners belong to backward community.

20. The petitioner in W.P.No. 3643 of 1994 had secured 193.95 marks and she had applied under Special category V - Tamil Language. The

petitioner in W.P.No. 3645 of 1994 had secured 196.70 marks and she had applied under Special category - I, Physically handicapped and also

under Special category V - Tamil Language.

21. As per the prospectus, six seats have been allotted to the special category V, Tamil Language, The following categories of students only shall

be made eligible to apply for admission to M.B.B.S. course under the said quota.

(a) Candidates whose parents have lost their lives for bringing Tamil as Official language of Tamil Nadu and as the prime language of Tamil Nadu.

(b) Candidates whose parents suffered imprisonment for bringing Tamil as Official Language of Tamil Nadu and as the Prime Language of Tamil

Nadu.

(c) Candidates whose parents have worked for the Development of Tamil.

22. A committee consisting of four eminent Tamil Scholars were appointed for the scrutiny of the documents and to give a report. Based on the

said report, candidates were selected under the quota ""Tamil development"". Since, sufficient number of eligible candidates were not available under

the category ""Deserted women"" and ""orphans"", the seats were distributed to other categories under Special category. Among them, two seats were

allotted to Tamil language making the total seats to 8. The list of candidates selected under Tamil quota is given below:

S.No. E.E.No. Name of the Candidate Community Marks

1. 233949 Elankathir S.E. B.C. 279.05
2. 235324 Ezhilan.S. B.C. 276.50
3. 333335 Vairavel Prakash.K. B.C. 274.50
4. 332400 Kavitha Kalivani.H. B.C. 271.35
5. 321502 Md. Yasar Arafat. B.C. 267.00
6. 322008 Brathibha S. M. B.C. 259.90
7. 231240 Chevyel.A. M.B.C. 255.80
8. 222800 Panimalai.P. S.C. 199.60

23. The petitioner in W.P.No. 3643 of 1994 has secured 193.95 marks. The petitioner in W.P.No. 3645 of 1994 has secured 196.70 marks.

But, the last candidate selected under the abovesaid quota, had secured more marks than that of the petitioners" and therefore, the petitioners were not selected as they have not reached the cut-off marks.

24. It is further stated that the petitioners have applied for admission under this quota during 1992-1993 stating that their father T. Ganapathiappan had participated in Anti Hindi Agitation and suffered imprisonment for the development of Tamil. As the petitioners were not selected, they have filed W.P.Nos. 1268 of 1993 and 1260 of 1993 respectively before this Honourable court and both of them were dismissed.

25. The respondents further stated that the petitioners have not enclosed the jail certificate of their father and in the absence of the valid certificate, it was not possible to ascertain when the petitioners" father suffered imprisonment and caused imprisonment. During the year 1992-93, the petitioners have produced certificates obtained from the M.P. and M.L.A. to the effect that the petitioner"s father had suffered imprisonment for more than one and a half year for participating in Anti Hindi agitation and hence, the petitioners were not selected.

26. The Rule of Prioritisation has been applied in the Special Category No. V Tamil Language. The Government in the Health Department have been addressed to finalise the validity of the documents submitted by the selected candidate one Panimalar and the Health Department has

forwarded the same to the Law Department for their legal opinion. The certificate of the petitioners were thoroughly scrutinised and the certificates

produced by them do not spell out the period of imprisonment and the reasons for the imprisonment. The petitioners did not satisfy the norms

prescribed in the prospectus and only in the said circumstances, the petitioners were not selected.

27. As far as the special category of physically handicapped is concerned, three seats were allotted. A Special Medical Board consisting of five

experts were constituted to examine the petitioner in W.P.No. 3645 of 1994. After examining the petitioner, the Board assessed that the disability

of the petitioner is 55% The Board further assessed that "taking all the facts into consideration the Special Medical Board unanimously decided to

have nominal minimum disability but not very severe degree of physical disability (between 20% and 40%) as to have a physically well abled

Medical personnel in order to render better service to the necessary suffering person. The recommendations made above was taken and selection

made.

28. It is further stated that the petitioner in W.P.No. 3645 of 1994 had got 55% disability and she had secured lesser marks than the last selected

candidate i.e., 264.25 and the details are given below:

List of Selected candidates

1. 234075 Malarmoses B.C. 273.00 20%

2. 321757 Munisayeeekesavan B.C. 271.05 20%

3. 133027 Babu, S. B.C. 264.25 4%

The petitioner had secured only 196.70 marks and therefore, she was not selected.

29. The respondents therefore stated that the petitioners have not secured the eligible marks and they have not also produced the certificates

properly and only in the said circumstances, they were not selected.

30. I heard the learned advocates for the petitioners and also the respondents.

31. The learned advocate for the petitioner has submitted that the petitioners are entitled to have the benefit under the Special Category as given

under Annexure-1 in which category No. V is Tamil language and the same is available at page 7 of the typed set filed by the petitioner in

W.P.No. 3645 of 1994 which runs as follows:

The following categories of students only shall be made eligible to apply for admission to MBBS/Course For The Seats Reserved For Tamil

Language.

(a) Candidates whose parents have lost their lives for bringing Tamil as Official language of Tamil Nadu and as the prime language of Tamil Nadu.

(b) Candidates whose parents have suffered imprisonment for bringing Tamil as official language of Tamil Nadu and as the prime language of Tamil Nadu.

(c) Candidates whose parents have worked for the development of Tamil.

Note: The prioritisation shall be as at (a), (c) and (b) above unless the period of imprisonment is at least one year.

A. The Government also direct that the officers of the Revenue Department not below the rank of Tahsildars of the respective areas and the

M.L.A and M.Ps. of Tamil Nadu are competent to issue certificates to be to the candidates who apply for admission to the M.B.B.S. Courses

against the seats reserved for Tamil language.

B. All the applications under this category to be submitted to the department of Tamil Development, Government of Tamil Nadu for evaluation and

grading by the Selection Committee, office.

The very same order is also accepted by the respondent, as they have given in paragraph 3 of their counter, which runs as follows:

(a) Candidates whose parents have lost their lives for bringing Tamil as official language of Tamil Nadu and as the prime language of Tamil Nadu.

(b) Candidates whose parents suffered imprisonment for bringing Tamil as official language of Tamil Nadu and as the prime language of Tamil

Nadu.

(c) Candidates whose parents have worked for the development of Tamil.

But, whereas, the respondents have questioned the genuineness of the prospectus submitted by the petitioners and they have submitted the

prospectus for the year 1993-1994 (I have directed the learned Special Government Pleader to certify the prospectus by putting his signature and

he also put his signature in the cover page of the said prospectus and dated 22/4.) in which Annexure I, Category V, Tamil language is defined as

follows:

The following categories of students only, shall be made eligible to apply for admission to M.B.B.S. course for the seats reserved for Tamil

language:

(a) Candidates whose parents have lost their lives for bringing Tamil as official language of Tamil Nadu and as the prime language of Tamil Nadu.

(b) Candidates whose parents have "Worked for the development of Tamil.

(c) Candidates whose parents have suffered imprisonment for bringing Tamil as Official language of Tamil Nadu and as a prime language of Tamil

Nadu.

Note: The candidates should submit certificate from the officers of the Revenue Department not below the rank of Tahsildar of the respective areas

and M.L.As. and M.Ps. of Tamil Nadu. The committee constituted by me Government consisting of Tamil Scholars will assess and recommend

the contribution for bringing Tamil as Official language of Tamil Nadu and for the development of Tamil. All the applications under this category to

be submitted to the department of Tamil department, Government of Tamil Nadu for evaluation and grading by the selection committee office.

32. The learned advocates for the petitioner has come very heavily that the respondents have printed, published and distributed three types of

prospectus and has also submitted, one more prospectus in Which Annexure-I is printed in blue ink and page number was not given. That in the

said prospectus Special Category V, Tamil Language is defined as follows:

The following categories of students only shall be made eligible to apply for admission to M.B.B.S. Course For The Seats Reserved for Tamil

language:

(a) Candidates whose parents have lost their lives for bringing Tamil as Official language of Tamil Nadu and as the prime language of Tamil Nadu.

(b) Candidates whose parents have "worked for the development of Tamil.

(c) Candidates whose parents have suffered imprisonment for bringing Tamil as Official language of Tamil Nadu and as the prime language of Tamil

Nadu.

It is therefore submitted that the respondents have printed and supplied prospectus of different contents along with the application forms, which act

of the respondents have got to be deplored and deprecated.

33. The learned advocate for the petitioners further submitted that along with the applications, the petitioners have submitted the certificate dated

5.8.1993 for Tamil language Protection obtained from the member of Tamil Nadu Legislative Assembly. He had also produced another certificate

for Tamil language development from Member of Parliament. It is therefore, argued that the petitioners have submitted the necessary certificates

for Tamil language Protection/development and not jail certificate is required as set forth in paragraph 5 of the counter.

34. The respondents, in para 5 of their counter affidavit have stated that the petitioner did not enclose the jail certificate along with the application

form and in the absence of the said certificate, it is not possible to ascertain when the petitioner's father suffered imprisonment and cause of

imprisonment.

35. The jail certificate as required by the respondents, is not at all warranted and it clearly goes to show, that the respondents have not followed

the rules and regulations laid down in the prospectus and thereby, they have violated the same, which violation are vindictive in the selection of the

petitioners.

36. Thiru D. Murugesan, the learned Special Government Pleader has submitted that the petitioners have submitted the Tamil language Protection

Certificate from the Member of the Tamil Nadu Legislative Assembly which is dated 5.8.1993, but whereas the certificate by the Tahsildar was

given on 28.9.1993. The very certificate was obtained only after the last due date for the submission of the application and as such, the certificate

issued by the Tahsildar could not have been filed along with the application, as the last date for the submission of the application was 13.8.1993.

Hence, the petitioners application was incomplete and incomplete applications are liable to be rejected as given in item 7 page 4 of the prospectus

for the year 1993-94. According to him, the last date for the submission of the application for M.B.B.S., and other courses as provided under the

prospectus was 13.8.1993 at 5.30 p.m.

37. The learned Special Government Pleader has further submitted that as per condition 7 in the prospectus, application submitted by the

candidates were incomplete and therefore it was rejected. Condition 7 in the

prospectus reads as follows:

Incomplete applications and Applications received after the due date and time will be rejected summarily.

It is therefore urged by the respondent that the applications submitted by the petitioners were not proper and complete and therefore, they were liable to be rejected.

38. The said rejection of incomplete applications are valid and the same is supported by the decision in the case of A. Sainulabdin and Another Vs.

State of Kerala and Others, . The same view has also been followed by S.S. Subramani, J. in W.P.No. 9164 of 1997, dated 22.8.1997 and in W.P.No. 1839 of 1997, dated 22.10.1997.

39. The said submission was swiftly counter-acted by the learned Advocate for the petitioner, by pointing out that it was not the reason given by

the respondents in their counter for the rejection of the application and as such the argument advanced by the respondent has no basis.

40. The learned advocate for the petitioner relied upon the judgment of the Division Bench of this Honourable Court consisting of Srinivasan, J. (as

he then was) and A.R. Lakshmanan, J., in the case of Midhuna Nathan v. State of Tamil Nadu represented by its Secretary, etc., 1995 W.L.R.

851, wherein it was observed that the right to selection is determined by the fact the candidate belonged to that category and not by the certificate,

which was only a piece of evidence. The Bench, derived its inspiration from the earlier judgment of the Division Bench in the case of V. Premanand

v. The State of Tamil Nadu (1995) 2 M.L.J. 325. In that case, the petitioner applied for admission to the seat reserved under Clause 3.5 (Viii) of

the prospectus issued by the Directorate of Medical Education, Tamil Nadu, for the academic year 1994-95. Under that clause, 12 seats were

reserved for children born of inter-caste marriages. The petitioner in that case was born of an inter-caste marriage between a Scheduled

Caste/Schedule Tribe and forward community. He filed an application for admission within time, but he could not enclose the Tahsildar Certificate

with the application as it was not issued to him by that time, he was able to produce the same before the Selection Committee which considered

the applications. However, the Selection Committee rejected the application relying upon Clause 13.5 of the prospectus, according to which the

candidates seeking admission against special category seats should submit necessary certificates obtained from appropriate authorities in the pre-

scribed form and submit the same along with the application to the. Selection Committee. It is to be noted that the said clause is the same as

present Clause 14.5. Holding that the selection committee acted arbitrarily while it rejected his application, the Bench said:

It must be pointed out that Clause 13.5 only prescribe the procedure in order to eliminate persons who do not belong to that category, to take

undue advantage. As long as it is not in dispute that the petitioner belongs to that category of children born of intercaste marriage between

S.C./S.T. and Forward Community and in addition to this, he was able to produce the certificate before the application was scrutinised for

admission, rejection of such application amounted to giving greater value to the procedure than to the substantive right. The procedure is intended

to facilitate enforcement of substantive right and not to defeat the substantive right Procedure is hand-maid of justice and not to defeat justice.

The said view with all respect was followed by the learned single Judge of our court in W.P.No. 19298 of 1994, dated 26.10.1995.

41. In our case, the petitioners have produced the certificate dated 5.8.1993 along with the applications and the same is not in dispute. That in the

said certificate, it has been specifically stated that the petitioner's father suffered imprisonment for more than 2 years exclusively for Tamil language

protection for bringing Tamil as official language. In the prospectus submitted and produced by the petitioners, so far as the production of

certificate are concerned, it is given in the caption "Note" wherein it is stated that ""The candidates should submit certificate from the officers of the

Revenue Department not below the rank of Tahsildar of the respective areas and M.L.As. and M.Ps. of Tamil Nadu.

42. A careful reading of this "Note" would disclose that the candidate should submit a Certificate indicating singular certificates and not certificates

from all the persons named under the Note viz., the officers of the Revenue Department not below the rank of Tahsildar, (2) M.L.A. (3) M.P. and

therefore, the word "and" used after the first category officers viz., the officers of the Revenue Department not below the rank of Tahsildar of the

respective area should have been only ""or"" and not ""and"". If the word ""and"" is taken as a correct conjunction, then the candidate should produced

3 certificates one from the Tahsildar, one From M.L.A. and one from M.P. and it is not the proper interpretation, nor it is the case of anybody.

43. In all the prospectus submitted by the respondents for the year 1994-95, 1995-96, 1996-97 and 1997-98, it is stated ""The candidate should

submit a certificate from the officers of the Revenue Department not below the rank of Tahsildar of the respective areas or a member of the

Legislative Assembly or a member of Parliament in support of their claim for admission on the above mentioned grounds along with the application

for consideration of their application under this category"" (Italics supplied). As such, if a candidate had sent a certificate, obtained from any one of

the three persons, mentioned above, would meet the requirement and it will be a proper compliance.

44. The respondents have completely misconstrued in coming to the conclusion that the petitioner have not enclosed the "jail certificate" and that

they have also not enclosed a certificate to the effect that the parents of the petitioners have worked for the Tamil language Protection which

resulted in non-application of mind in coming to the conclusion, what was not required in the prospectus, cannot at all be called upon to be

produced or submitted by the petitioner and as such the respondents " contention that the petitioners have not submitted the ""Jail certificate"" is

uncalled for and unwarranted, and it will not hold the field.

45. The learned advocate for the petitioners, has also submitted that the certificate issued by the Member of Legislative Assembly dated 5.8.1993

is suffice as per the requirements in the prospectus and the petitioner has satisfactorily established that the petitioner's father worked for the

development of Tamil and it cannot be questioned by respondents. In the said circumstances, the certificate dated 5.8.1993, issued by M.L.A. and

produced by the petitioners, along with the application within the due date for the submission of the application was valid and more than sufficient

to prove that the petitioners"" father worked for the development of Tamil and Therefore, they are entitled to have the benefit of the Special

Category No. V, Tamil Language, which in my view, was not properly considered and appreciated by the respondents, which ended not only in

the deprivation of the seats to the petitioners, but also resulted in the denial of fair play and justice to the petitioners. It is urged on behalf of the

petitioners that their career and prospectus have already been hampered and damaged by the denial of admission and any further delay would

entail much more loss and damage to them. The petitioners are fully qualified for admission and that therefore submitted that necessary safeguard

may be provided by this Honourable Court for admission, at least in this academic year, I see all force in the said submission of the petitioners.

46. The learned advocate for the fourth respondent viz., Vice-Chancellor, Dr. M.G.R. Medical University has submitted that u/s 35-A (a) of the

Tamil Nadu Dr. M.G.R. Medical University, Chennai Act, 1987, the Government shall be the competent authority to select and admit candidates

to a course of study. The said fact is not in dispute. The only question is whether the selection of rejection is legal and proper or it is arbitrary and

also beyond the rules and procedure established and also the contents set forth in the prospectus. This respondent has not placed any material to

help the court to decide the matter in issue and therefore, the argument of the learned advocate for the fourth respondent is of no help to decide the

matter.

47. The learned advocates for the petitioners as well as the respondents have cited few more judgments, which are not applicable to the case on

hand. After having considered the respective submissions of the petitioners" and respondents, I come to the conclusion that the petitioner"s

applications were rejected arbitrarily without considering them properly.

48. In the result, the petitioners are eligible for admission and they should be given admission in this academic year (1997-98) itself, Hence, I am

pursuaded to give the following directions:

1. The respondents are hereby directed to admit both the petitioners (under Category No. V, Tamil Language) in the first year M.B.B.S. Course

for the academic year "1997-98 in Madras Medical College, Madras-3 without insisting upon them to produce any more certificate from any one.

2. The respondents are also hereby directed not to make or direct the petitioners to take the entrance examination, as they have already taken the

entrance examination.

49. In the result, both the writ petitions are allowed. But however, there will be no order as to costs. Consequently, the connected W.M.Ps. are

closed. These petitions having been set down on Monday, the fifteenth day of

June, 1998 for being mentioned pursuant to the order of this Court

dated 9.6.1998 in the presence of Mr. S. Ramasamy, Advocate for the petitioner in each of the petitions and of Mr. D. Murugesan, Special

Government Pleader on behalf of the respondents in all the petitions, the court made the following order:

The matter is posted to-day for mentioning. The matter was called in the morning and the learned advocate for the petitioner was present and the

respondents were not present. Hence, it is passed over. The matter is taken up once again by 2.15 p.m. and now also the learned advocate for the

petitioner alone is present.

2. The learned advocate for the petitioner has submitted that in para 48 at page 28 of the order the academic year must be 1998-99 and instead, it

is stated as 1997-98. Likewise in para 48(1) at page 29 of the order the academic year instead of 1997-98 it must be 1998-99.

3. In para 48 of the order it is clearly stated that ""the petitioners are eligible for admission and they should be given admission this academic year

(1997-98) itself. It should have been 1998-99 and said error is apparent and the same has got to be rectified.

4. It is therefore ordered that in para 40 the academic year 1997-98 has got to be read as 1998-99. Likewise in para 48(1) at page 29 also the

year has got to be read as 1998-99 instead of 1997-98.