

(2005) 09 MAD CK 0034

In the Madras High Court

Case No : W.A. No's. 1480, 1541 and 25074 of 2005, W.A.M.P. No's. 2754 and 2856 of 2005 and W.P.M.P. No. 27462 of 2005

J. Vinoth Raj and P. Jayakumar

APPELLANT

Vs

State of Tamil Nadu and The Secretary, Selection Committee,
Directorate of Medical Education
R. Uma Vs The
Secretary, Selection Committee for MBBS, The Govt. of Tamil
Nadu and The Secretary, T.N.P.C.E.E., Anna University

RESPONDENT

Date of Decision : 13-09-2005

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 21

Tamil Nadu General Clauses Act, 1891 — Section 8

Citation : (2005) 09 MAD CK 0034

Hon'ble Judges : P.K. Misra, J;N. Kannadasan, J

Bench : Division Bench

Advocate : Vijayan for La Law for W.A. No.1480 of 2005 and W.P. No.25074 of 2005 and A.S. Vijaya Raghavan, for W.A. No. 1541 of 2005, for the Appellant; R. Muthukumaraswamy A.A.G. assisted by V. Karthikeyan, Additional Govt. Pleader, for the Respondent

Judgement

P.K. Misra, J.—W.A.No.1480 of 2005 has been filed by the petitioner in W.P.No.21956 of 2005 against the common judgment dated

22.7.2005, dismissing the writ petition.

W.A.No.1541 of 2005 has been filed by the writ petitioner against the order dated 27.7.2005 in W.P.No.24047 of 2005, which has been

dismissed by following the decision in W.P.Nos.21956, 22040 of 2005 etc. dated 22.7.2005.

W.P.No.25074 of 2005, which is being taken up along with these writ appeals, has been filed by another student. The common prayer in all such

writ petitions are for declaration that para 6(ii) of the Prospectus issued by the

Government of Tamil Nadu for the admission to Medical/Dental Courses of the Academic year 2005-2006 is illegal.

2. Heard the learned counsel appearing for the parties.

3. The relevant clause is to the following effect:-

(ii) those candidates who are presently undergoing any of the professional courses such as MBBS, BDS, B. Pharmacy, B.Sc (Nursing), BPT,

BOT, BSMS, BHMS, Engineering, Law, Agriculture, Veterinary etc., and those candidates who have discontinued on any grounds the

professional courses mentioned leading to a waste of seat.

3. As already indicated, two writ petitions, namely W.P.Nos.21956 and 24047 of 2005, having been dismissed, two writ appeals have been filed.

4. The contention raised by the learned Senior Counsel appearing for the appellants/petitioner is to the effect that in the previous years and

particularly during the year 2004-2005, the condition was that:-

7.(iv)(c) THE FOLLOWING CATEGORIES OF CANDIDATE ARE NOT ELIGIBLE TO APPLY FOR MEDICAL, DENTAL COURSES:

(c) Those candidates who have already joined in any of the Professional Courses such as MBBS, BDS, B.Pharmacy, B.Sc(Nursing), BPT, BOT,

BSMS, BHMS, Engineering, Law, Agriculture, Veterinary etc. and discontinued the course on any grounds after six months.

It has been further submitted that on the basis of such provision, the petitioners, who had discontinued the course within the stipulated period of six

months with a view to appear during the Common Entrance Examination for the subsequent year, have been in fact appeared at the Common

Entrance Examination held by the Anna University, which as usual has held such Examination on behalf of the Government, has found that the

condition regarding ineligibility has been suddenly changed to the detriment of such students.

5. Learned single Judge in the impugned judgments has held that it is open to the Government to lay down any policy and there is nothing arbitrary

in such policy nor there is any violation of principle of legitimate expectation.

6. Learned Senior Counsel appearing for the appellants/petitioner has placed reliance upon the Division Bench decision of this Court reported in

N. Priyadarshini Vs. The Secretary to Government, Education Department and

The Secretary, Selection Committee (M.B.B.S), . According to him, the students acting upon the usual procedure, which was being followed hitherto, had already discontinued their studies and they had appeared at the Common Entrance Examination on the basis of the Information Booklet issued by the Anna University, as no such disability has been indicated in such Information Booklet, which has been issued during the month of March, 2005. Therefore, according to the Senior Counsel, the sudden change in the policy making it applicable for the current year has placed such students at a great disadvantage.

7. Learned Additional Advocate General appearing for the State has submitted that the policy has been changed keeping in view the observations made by the Supreme Court in *Mridul Dhar (Minor) and Another Vs. Union of India (UOI) and Others*, laying down a timeframe for admission to MBBS Courses. Since as per the decision of the aforesaid Supreme Court, no admission can take place to MBBS/BDS Course after the month of September, the Government took a decision not to allow any student, who had discontinued the studies in the previous year, as it was not possible to make any admission against such vacant seat vacated by any student. Therefore, the policy decision of the Government cannot be characterised as arbitrary.

8. For the purpose of deciding the present cases, it is not necessary to consider as to whether such policy decision of the Government is arbitrary and offends the provisions of the Constitution contained in Articles 14, 19 and 21, as in our opinion, even assuming such policy decision is a valid policy, such change of policy should not have been made applicable for admission of this year as the candidates depending upon the existing procedure had already discontinued their studies and thereafter on the basis of the Information Booklet issued by the Anna University had also appeared in the Common Entrance Examination after having discontinued their studies within the stipulated period of six months.

9. There is no dispute regarding the fact that the Anna University conducts Common Entrance Examination on behalf of the Government every year and no such disability was indicated in the Information Booklet issued by the University and the only disability clause was in accordance with the policy which was hitherto applicable. The students with a view to have a better

career option had already discontinued the studies within the stipulated period of six months on the basis of the existing procedure with the fond hope that they would be eligible for selection for the next year.

Moreover, on the basis of the Information Booklet issued by the Anna University, which is the principal agency of the State Government for

holding such examination, the students had also appeared at the Common Entrance Examination and long thereafter the present policy change has

been effected, which has put such students at a very great disadvantage not envisaged by anybody. If at least by March, 2005 the students would

have been made aware about such intended change of policy, such students would have thought of appearing for selection in respect of other

Universities. The sudden change of policy, which has been made effective for this year, otherwise leaves such students in lurch as such students can

neither continue their studies nor join any professional course in any other University.

10. It is not in dispute that three seats have been kept reserved by interim orders. Having regard to the peculiar facts and circumstances of the

case, the writ appeals and the writ petition are allowed to the extent that the three writ petitioners in question would be considered eligible for

selection against the vacant seats, if they are coming within the merit list otherwise. This may be done within a period of seven days from today.

Consequently, the connected W.A.M.Ps. and W.P.M.Ps. are closed. No costs.