
(2004) 10 KL CK 0019

In the High Court Of Kerala

Case No : Writ Petition (C) No. 26625 of 2004

Mohankumar

APPELLANT

Vs

Guruvayur Devaswom Board

RESPONDENT

Date of Decision : 29-10-2004

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2005) 1 ILR (Ker) 27 : (2005) 1 KLT 423

Hon'ble Judges : S. Sankarasubban, J; Pius C. Kuriakose, J

Bench : Division Bench

Advocate : N. Manoj Kumar and M. Rishikesh Shenoy, for the Appellant; P.N. Raveendran and C.E. Unnikrishnan, for the Respondent

Final Decision : Dismissed

Judgement

S. Sankarasubban, J.—Petitioner in W.P.(C) No. 24310 of 2004 is the Guruvayoor Devaswom Employees Congress. According to the petitioner, it is a registered union of the employees. The Sree Krishna College, Guruvayoor, which is an aided private collage affiliated to the University of Calicut, is under the management of the Guruvayoor Devaswom Board. In all the educational institutions managed by the Board, the children of the employees of the Board are given preference for admission under the management quota. After giving admission to the children of the employees, if there are seats available in the management quota, those are filled up from outside. This practice is in vogue for the past several years.

2. In the Board meeting held on 14.5.2004, it was decided to collect Rs. 1,500/- towards Development Fund from all students who are given admissions in the staff quota for plus one, degree and postgraduate courses for the academic year 2004-05. According to the petitioner, it was also decided that all other conditions remain unchanged and will continue as in the previous years. However, the respondents have violated the above decision and practise which was followed for the past several years and the children of the employees are denied admission in the management quota during the academic year 2004-05. In

paragraph (C) of the points urged in this petition, it is stated that the total number of seats for M.Sc. (Physics) in the Sree Krishna College is 16. Out of the total 16 seats, 3 seats are reserved for management. There are also 15 seats in the management quota for all the postgraduate courses. Sri. Jithin Mohan is the only candidate claiming admission under the staff quota. However, ignoring his claims, the respondents admitted Kumari Babitha, A.V. in the management quota. The above action of the respondents is against the decision of the Managing Committee taken on 14.5.2004.

3. A counter-affidavit has been filed by the Guruvayoor Devaswom. In paragraph 3 of the counter-affidavit, it is stated as follows: "It is submitted that at no point of time there been any reservation of seats in the management quota for the children of employees of Guruvayoor Devaswom or the educational institutions run by the Guruvayoor Devaswom. As in the case of other private affiliated Colleges, in the Sree Krishna College also 20% of the seats are set apart for admission in the management quota. Every year, the seats in the management quota are filled up on the basis of the decision taken by the Guruvayoor Devaswom Managing Committee. It is respectfully submitted that the Guruvayoor Devaswom Managing Committee has the absolute discretion and authority to make admissions to the seats available in the management quota. In the management quota, seats are not earmarked/reserved for any particular category of candidates and no seat in the management quota is set apart or reserved for the children of employees of the Guruvayoor Devaswom or the educational institutions run by the Guruvayoor Devaswom". In paragraph 4 it is further stated that the children of Guruvayoor Devaswom employees and the employees of the educational institutions run by the Guruvayoor Devaswom, who apply for admissions in the management quota are extended certain concessions based on the decision taken by the Guruvayoor Devaswom Managing Committee. Such decision are confined to and operate only for the academic year concerned. So far as the question of admission to M.Sc. (Physics) is concerned, it is stated in paragraph 5 that for the academic year 2004-05, Kumari Babitha, A.V. has been given admission in the management quota.

4. A supplementary list containing the names of three candidates namely, (1) P. Ajithkumar (2) E. Roshini and (3) V.N. Rary was also published. One among the said three candidates can be given admission for M.Sc. Physics in the management quota only if the University of Calicut permits a marginal increase of one seat. So far as the contention regarding staff quota is concerned, it is stated that Jithin Mohan, K. had applied for admission for M.Sc. (Physics). In the application, he has stated that he is the son of one Mohan Kumar, K. First Grade Overseer, Guruvayoor Devaswom, copy of which is produced as Ext. P9. According to the petitioner, out of 16 seats, 3 seats are reserved for management. There are also 15 seats in the management quota for all the postgraduate courses. Jithin Mohan is the only candidate claiming admission under the staff quota. However, ignoring his claims, the respondents admitted Kumari Babitha, A.V. in the management quota. When this Writ Petition was filed

objection was raised that this Writ Petition is not maintainable, because it is not filed by person concerned. Thereafter, W.P.(C) No. 26625 of 2004 was filed by one K. Mohankumar. According to him, his son ought to have been admitted in M.Sc. (Physics).

5. We heard learned counsel on both sides and are of the view that in this case, the petitioner is not entitled to succeed. It is true that 20% of the seats have been reserved for management. But the stand taken by the Guruvayoor Devaswom is that no seats ,are reserved for staff. According to the Guruvayoor Devaswom, every year, a direction will be issued that it will take a decision with regard to the admission in the management quota. Till this year, no reservation has been made to the members of the staff for admission. Further, we are of the view that no reservation can be made for the employees of the Guruvayoor Devaswom. In this context, we refer to the decision of the Supreme Court in Thapar Institute of Engineering and Technology and Others Vs. State of Punjab and Another, . In paragraph 16 of the above decision, the Supreme Court stated thus:

"In so far as Civil Appeal No. 4101 of 1995 is concerned, the letter of respondent-University dated January 15,1993 directing the T.I.T. & S. not to continue with the reservation of seats for wards of the staff of the T.I.T. & S. in the B.Tech. course was taken in pursuance of the decision of this Court in J.P. Unnikrishnan AIR 1993 SCW 863 and is in consonance with the law laid down in Chairman/ Director, Combined Entrance Examination (CEE) 1990 v. Osiris Das, (1992) 3 SCC 543 since the T.I.T. & S. is affiliated to the respondent University. It is no doubt true that the four additional seats for which reservations was made for the wards of the college and mill/school staff of the T.I.T. & S. are in addition to 90 seats and admission is made on the basis of marks obtained in the Entrance Examination conducted by the respondent - University. But for the purpose of admission to these four seats a separate merit list is drawn in respect of the candidates who are eligible for these seats and admission is not made according to merit as reflected in the common merit list. Such reservation in favour of wards of the college and mill/ school staff of the T.I.T. & S. does not satisfy the test of admission being given strictly on the basis of merit as laid down by this Court and has been rightly held to be impermissible by the High Court."

6. In the above view of the matter, we are of the view that the petitioners are not entitled to any relief. Writ Petitions are dismissed. However, we make it clear that if University of Calicut permits additional seats, petitioners" case can be considered.