

(2014) 08 KL CK 0094
In the High Court Of Kerala
Case No : Writ Appeal No. 1153 of 2014

M.T. Krishnanunni

APPELLANT

Vs

The National University of Advanced Legal Studies

RESPONDENT

Date of Decision : 26-08-2014

Acts Referred:

Citation : (2014) 08 KL CK 0094

Hon'ble Judges : Ashok Bhushan, Acting C.J.; A.M. Shaffique, J

Bench : Division Bench

Advocate : P. Ravindra Nath and N. Krishna Prasad, Advocate for the Appellant;
Pauly Mathew Muricken, Advocate for the Respondent

Judgement

Ashok Bhushan, Actg. C.J.

1. Heard learned counsel for the appellant as well as the learned counsel appearing for the 1st respondent.
2. This Writ Appeal has been filed against the judgment dated 25/07/2014 of the learned Single Judge in W.P. (C) No. 16769/2014, by which the writ petition has been dismissed and the interim order was vacated. The petitioner/appellant appeared for Common Law Admission Test for the year 2014. He had submitted his application in the category of Other Backward Hindus (OBC/SEBC). Petitioner's name was placed at Sl. No. 48 in the select list. However, later he was informed that he cannot be admitted in the institution on the ground that the certificate produced by him is insufficient.
3. The petitioner, thereafter, filed the writ petition in which, initially an interim order was passed directing for provisional admission, which has been vacated by the impugned judgment. In pursuance of the interim order, the appellant has also deposited fee for admission in BA LLB (Honours) course.
4. In the Counter affidavit, it is inter alia contended by the 1st respondent that the petitioner had not submitted the income certificate showing that his income

does not exceed Rs. 6,00,000/- per annum. It was further stated that although petitioner claimed to be belonging to Ezhava community, he has applied under the category OBC/SEBC. The learned Single Judge, after perusing the Counter affidavit filed by the 1st respondent, dismissed the writ petition and vacated the interim order on the ground that the petitioner is not eligible for admission.

5. The learned counsel for the appellant contended that he was entitled for admission both under Ezhava community as well as under OBC since the candidates who were lower in merit under both categories have been admitted whereas the appellant who was at Sl. No. 48 has been denied admission.

6. We have considered the submission of the learned counsel for both parties and perused the records.

7. The University, in its Counter affidavit, has filed a prospectus for admission to Integrated Five Year LLB course, Kerala, 2014-2015 as Ext. R1(g). Clause (9) of the prospectus relates to claim of reservations. Clause 9(b) of the prospectus which is relevant for the present case is extracted as under:

"9. Claim for Reservations

(a) x x x x x

(b) Claim for Communal Reservation under

Socially and Educationally Backward Classes (SEBC):

Note: Reservation to Socially and Educationally Backward Classes will be in accordance with the provisions contained in G.O. (P) No. 208/66/Edn. Dated 02.05.1966 and G.O. (MS) No. 95/08/SCSTDD Dated 06/10/08 and as amended from time to time. [See Annexure II for the list of communities under SEBC].

(ii) Candidate belonging to SEBC as per

G.O. (P) No. 208/66/Edn. Dated 02.05.1966,

G.O. (MS) No. 95/08/SCSTDD Dated 06/10/2008,

G.O. (MS) No. 09/2009/SCSTDD Dated 24/01/2009,

G.O. (MS) No. 03/2014/BCDD dated 09/01/2014 and whose annual family income (i.e. Annual income of all members in the family from all sources taken together) does not exceed Rs. 6 lakhs (Rupees Six Lakhs only) are eligible for reservation under this item.

(ii) Candidates claiming reservation under SEBC quota such as Ezhava, Muslim, Other Backward Hindus, Latin Catholic, Other Backward Christians and Kudumbi should produce both Community and Income Certificates obtained from the concerned Village Officer/Tahsildar.

(iii) Applicants claiming reservation under Latin Catholic quota should produce a community certificate from the concerned Village Officer/Tahsildar specifying that

they belong to Latin Catholic community.

(iv) Children of inter-caste married couple claiming communal reservation under SEBC should furnish an "Inter-caste Marriage Certificate" from the Village Officer/ Tahsildar in the format given in Annexure VI. Such candidates can avail themselves of communal reservation under any one of the communities of their parents, to be mentioned by the candidate in the relevant column of the application. They need not produce income certificate.

(v) Candidates who are children of inter-caste married couple of which one is SC/ ST who will be eligible for educational and monetary benefits admissible to SC/ST as per Section 2(ii) of G.O. (Ms) No. 25/2005/SCSTDD dated 20/06/2005, if eligible for reservation under SEBC, will be granted the same based on the community shown in the inter-caste marriage certificate issued by revenue officials and to be attached by them with the application."

8. Although the petitioner has applied under the category OBC/SEBC, in the certificate issued by the Tahsildar it is mentioned that he belongs to Ezhava community which is recognised as a backward class. Even if the category under which the applicant applied, that is Other Backward Hindu, for the time being is ignored, there is no dispute that the petitioner did not produce the income certificate showing that his annual family income does not exceed Rs. 6,00,000/-. Under the orders issued by the Government, the candidate belonging to SEBC were entitled for reservation only when his annual family income does not exceed Rs. 6,00,000/-. That is the condition precedent and was clearly mentioned in paragraph 9(b) of the Prospectus as extracted above. There is no dispute that the petitioner had not produced any income certificate, as required by the prospectus. The learned counsel for the petitioner submits that in the certificate filed by him, it is mentioned that he does not belong to creamy layer. There being a specific requirement of filing the income certificate since the reservation was eligible only to those candidates whose family income does not exceed Rs. 6,00,000/-, the petitioner was clearly not entitled for the benefit of reservation and no error was made by the University in not admitting the appellant. We do not find any error in the judgment of the learned Single Judge in dismissing the writ petition.

In the result, this writ appeal is dismissed. However, in view of the fact that the petitioner is not eligible for admission, we direct the 1st respondent to refund the fee deposited by the appellant in pursuance of the interim order of this Court.