

(2009) 03 MAD CK 0169

In the Madras High Court

Case No : Writ Petition No. 25204 of 2005 and W.P. M.P. No's. 42279 of 2005, 908, 2189 of 2007 and 1829 of 2008

P. Ruban Jayagar and Others

APPELLANT

Vs

State of Tamilnadu and Others

RESPONDENT

Date of Decision : 30-03-2009

Acts Referred:

Citation : (2009) 03 MAD CK 0169

Hon'ble Judges : R. Banumathi, J

Bench : Single Bench

Advocate : Vijayshankar, for the Appellant; N. Senthilkumar Addl. Govt. Pleader for Respondents 1 to 4, B. Rajendran, for R5, A. John Britto, for R6 to 28 and G. Rajagopal for S. Williams, for R29 and 30, for the Respondent

Judgement

R. Banumathi, J.—Petitioners seek writ of mandamus directing the Respondents to permit the students to complete the course for the year 2004-05 and consequently direct the Authorities to permit the Petitioners to write the second year examinations.

2. Brief facts which led to filing of writ petition are as follows:

(i) 5th Respondent institute is an aided institution in which there are total of 40 seats. 50% viz., 20 seats is filled by the Management and other 50% viz., 20 seats is filled by the State quota for which students will be sponsored by the Government. 5th Respondent Institution was started by C.S.I, Vellore Diocese consisting of the representative of Madras, Arcot and Vellore Diocese. The management of the institution was governed by a committee constituted by the general body-5 members each from Vellore Diocese and Madras Diocese and one member from Arcot, Principal of the institution and the headmaster of model school. The correspondence is not a member of the management committee.

(ii) Deivasigamani-Respondent No. 29 was appointed as correspondent, by the general body for a period of five years w.e.f 23.06.1998 and in terms of the said

agreement period of Respondent No. 29 came to end on 22.06.2003. Having completed his period of term, the Respondent No. 29 failed to surrender his position and continued to claim himself as correspondent even though the newly constituted valid committee as per the bye-laws also removed him in the meeting held on 26.02.2003. There were number of litigations between the governing body and Respondent No. 29.

(iii) As there was a dispute between governing body of the society and the Respondent No. 29 each claiming right to admit the students under management quota, the State Government stopped sponsoring names for filling up the State quota from the year 2002 onwards. The position for 2003-2005 is that the Petitioners (18 in number) are students admitted by the governing body and 23 students viz., Respondents 6 to 28 were students admitted to Teacher Training Diploma Course in 2004-2006. As Petitioners were denied permission to appear for the second year examination, the Petitioners filed present W.P. 25204/2005 in August 2005, and interim directions were passed in WMP 27596/2005 permitting Petitioners to appear for second year examination.

W.A. No. 2123/2005: Challenging the interim order, Respondent No. 29 and the said 23 students admitted by him filed the writ appeal. For the year 2004-2006, Respondent No. 29 admitted 23 students (Respondents 6 to 28 in the writ petition). In the writ appeal interim direction was granted admitting both group of students viz., Petitioners as well as Respondents 6 to 28 to appear for the exams. Writ appeal was disposed of with a direction that main W.P.25204/2005 to be disposed of expeditiously, until then result of both set of students should not be published.

4. As per the interim direction in the WMP, Petitioners appeared for the second year examination and have duly completed the course. Petitioners are now seeking for proper direction to declare the results as they have completed the second year course successfully.

5. In the writ petition 23 students admitted by Respondent No. 29 got themselves impleaded as Respondents 6 to 28. Heard learned Counsel for the Petitioners and the learned Counsel for Respondents 1,2 and 4 Mr. N. Senthilkumar, Addl. Govt. Pleader and heard the learned Counsel for Respondents 6 to 28 Mr. A. John Britto.

6. Learned Counsel for Petitioners submitted that the Petitioners have completed two years course as they have paid the necessary requisite fees and only Petitioners are bonafide students. Learned Counsel would further submit that as per interim direction Petitioners have appeared for second year examination and the Petitioners are in the group of students who had completed the course in 2005 and awaiting for declaration of results. It was further submitted that students subsequently admitted during the year 2005-2007 faced similar problems like them and that there were two sets of admission one by the governing body of the society and another by the erstwhile correspondent

Deivasigamani-Respondent No. 29 and both set of students filed W.P. No. 32126/2007 and W.Ps.9958/2007 for permission to appear for examinations and declaration of results and they have been permitted to appear for examinations.

7. Learned Government Advocate Ms. Dakshayani Reddy submitted that only on the strength of Court orders students completed the course. Learned Government Advocate would further submit that 5th Respondent does not have the requisite staff strength and therefore Government does not sponsor the candidates. Government Advocate raised strong objection for publishing the results of the students. According to her the Government already issued instructions to 5th Respondent - Institution not to admit the students and therefore the results of both Petitioners as well as Respondents 6 to 28 cannot be ordered to be published.

8. Learned Counsel for the Respondents No. 6 to 28 Mr. A. John Britto submitted that the Respondents have been denied permission to sit for the 1st year and 2nd year examinations of the Diploma in Teachers Training Examination and only by order of Court Respondents No. 6 to 28 have now completed their examination and in the interest of students results are to published.

9. Heard the learned Senior counsel for Respondents 29 and 30 Mr. G. Rajagopal.

10. Refusal to lay down office even after completion of period of term by the erstwhile correspondent has led to internecine problems in the 5th Respondent institution. Petitioners (18 in number) are the students admitted by the governing body for the course 2003-2005. About 23 students Respondents 6 to 28 were admitted by the erstwhile correspondent Deivasigamani- Respondent No. 29 for the course 2004-2006. Concededly State Government did not admit/sponsor any students against State quota for the said years 2003-2005 & 2004-2006.

11. There had been several rounds of litigations between the governing body and the erstwhile correspondent Mr. Deivasigamani. Since short point is involved in this writ petition, it may not be necessary to refer to several rounds of litigations between the governing body and Respondents 29 and 30.

12. In spite of cases won by the management, Respondent No. 29 did not allow the Petitioners (admitted by the governing body of the institution) to write the examinations. Admittedly, Petitioners were duly selected candidates by governing body of 5th Respondent institution. By the interim order the Petitioners have already written examination. Because of the directions in the W.A. No. 2123/2005, their results were not published. Petitioners being duly selected candidates the result of Petitioners is to be ordered to be published.

13. Drawing Court's attention to various orders passed by the Court in various proceedings learned Counsel for the Respondents 6 to 28 submitted that only with permission of Court Respondents 6 to 28 completed the I and II year public examinations of the Diploma course in Teachers Education and prayed to publish the results for the I and II year examinations for the Respondents 6 to 28.

14. Sanctioned strength of 40 students for the year 2003-2005 is that Petitioners(18 in numbers) were students admitted by the General Body. The State Government did not sponsor any students against the said quota Petitioners who were students for 2003-2005 is well within the sanctioned strength of the institution.

15. In W.A.2123/2005 noticing the interse dispute between the parties while permitting Petitioners and Respondents 6 to 28 to write the examinations passed the order not to publish the results. But for the order of Division Bench in W.A.2123/2005, there seems to be no impediment in directing to publish the results of the Petitioners who were the admitted students for the course 2003-2005. Lest, because of the interse dispute, the interest of the students would be greatly affected.

16. From the material on record and submissions it comes to be known that for the year 2005-2007, students were admitted and those students also had similar problem of getting results published. Those students of 2005-2007 batch, filed writ petitions in W.Ps32126/2007 and 9958/2007 and as per the direction of the Court in those writ petitions both set of students appeared for examination and their results were published. In such facts and circumstances, absolutely there is no reason for not publishing the results of Petitioners of 2003-2005 batch.

17. Coming to the Respondents 6 to 28 (23 in numbers), on 10.05.2004 the National Council of Teachers Educational, Southern Regional Committee, Bangalore has granted permission for admission of 40 students for the year 2004-2006. Respondents 6 to 28 have been admitted by the ousted correspondent - Respondent No. 29. Respondents No. 6 to 28 filed three applications, in W.A. No. 2123/2005 and Court has permitted the Respondents 6 to 28 to appear for the I year examinations. Like wise by filing W.A.M.P.1746 and 1747 of 2006 and on obtaining permission from the Court, Respondents No. 6 to 28 appeared for the II year examination. While passing order permitting Respondents 6 to 28 to appear for II year examination Bench has directed that the results be not published until final decision is given in this W.P. No. 25024/2005.

18. In so far as admissions relating to 2004-2006, admittedly State Government has not sponsored the candidates its quota of 20 students as against sanctioned strength of 40. For the year 2004-2006, there was no rival admission nor candidates sponsored by the State. Respondents 6 to 28 have also completed their observation classes and teaching practice classes for 30 working days in various schools which are mandatory conditions as prescribed and contemplated under the Rules and Regulations of the Diploma Course.

19. Having regard to the interest of the students the submissions of the learned Govt. Advocate cannot be acceded to. Because of the interse dispute between the Mangement and the estranged correspondent the interest of students cannot be put in jeopardy. Absolutely there seems to be no impediment for publishing

the results of Respondents 6 to 28(2004-2006).

20. Learned Govt. Advocate submitted that earlier in the writ appeal Division Bench has directed that without requisite staff strength and without approval the students cannot be admitted. It is pertinent to note similar set of students of 2005-2007 were admitted and their results were directed to be published as per the orders in W.P. No. 32126/2007 and 9958/2007. In such view of the matter, submissions of Learned Govt. Advocate does not merit acceptance.

21. In the result, the writ petition is ordered with the following directions.

? The Respondents 1 to 4 are directed to publish the results of the Petitioners (18 in numbers) 2003-2005 batch.

? The Respondents 1 to 4 are also directed to publish the results of the Respondents 6 to 28 (2004-2006) batch.

? The above direction is issued solely keeping in view the interests of students and without prejudice to the contentions of the rival group in various litigations pending between them.

? Connected Miscellaneous Petitions are also closed.