
(1999) 10 MAD CK 0040

In the Madras High Court

Case No : Writ Petition No's. 14478, 14616, 14692, 14915, 14923, 14938, 14955, 14968, 14972, 14973, 14979, 15008, 15039, 15044, 15119, 15134, 15242, 15255, 15311, 15338, 15373, 15420, 15465, 15469, 15490, 15557, 15594, 15666, 15670, 16320 and 16361 of 1999

S. Kannagi

APPELLANT

Vs

Director, Teacher Education, Research and Training,
Chennai-6 and two others

RESPONDENT

Date of Decision : 15-10-1999

Acts Referred:

Constitution of India, 1950 — Article 14, 15(1), 226

Criminal Procedure Code, 1973 (CrPC) — Section 366, 372, 419

Citation : (1999) 3 CTC 421 : (2000) 1 LW 119

Hon'ble Judges : P. Shanmugam, J

Bench : Single Bench

Advocate : Mr. C. Selvaraju, Mr. R. Singaravelan, Mr. S.M. Subramaniam, Mr. A. Sirajudeen, Mr. S. Jayakumar, Mr. C. Selvaraju, Mr. L. Chandrakumar, Mr. Kandavadivel Doraisami, Mr. La. Law, Mr. M. Balasubramanian, Mr. R.T. Shyamala, Mr. T.S. Sivagnanam, Mr. U.M. Ravichandran, Mr. S. Manohar Ponraj, Mr. S. Palani Kumar, Mr. K. Ramani, Mr. P. Peppin Fernando, Mr. P. Mani, Mr. B. Govindarajan, Mr. B. Pugalendi, Mr. G. Ranganathan, Mr. K. Vasudevan, Mr. K.R. Kanniah Naidu, Mr. R. Saseedharan, Mr. R. Thamilselvan, Mr. K. Srinivasan, Mr. S. Saravana Kumar, for the Appellant; Mr. T.R. Rajagopalan Additional Advocate General assisted by Mr. M. Rathinam, Government Advocate (Edn.), for the Respondent

Judgement

1. Petitioners in this batch of writ petitions are candidates for admission to the Diploma in Teachers Training Institutions. Petitioners are aggrieved

by the rejection of their applications on the ground of non-production of either the nativity certificate or attested copies of the certificates, and

hence they seek for quashing of the selection of candidates with less marks and consequently, a direction to select them for the said course.

2. The Government of Tamil Nadu passed an order in G.O.Ms. 243, Education Department dated 28.6.1999 laying down rules for admission to

the 28 District Teachers Training Institutes, 8 Government T.T.I.s. and for the separate classes for the Adi Dravidar and Tribal students in the 17

District T.T.I.s. A notification setting out the procedure was published in the leading Tamil dailies on 9.7.99 inviting applications for admission to

the schools referred to above. As per this order and the notification, the students are directed to apply to the respective District T.T.I.S. There are

two main batches of writ petitions. One set of writ petitions challenge the rejection on the ground of non-production of separate Nativity

Certificates and the other set of writ petitions challenge the rejection on the ground of non-furnishing of attested copies of certificates. The

contentions and the conclusions are discussed separately in this common order.

Non-Furnishing of Nativity Certificate:

3. Paragraph 8(3) of the notification dealing with the selection procedure states that students applying under the category of erstwhile de-

recognised schools should apply to the respective districts where they are permanently residing even though they might have studied in different

schools earlier. Column 03 of the application states that the petitioner shall give the permanent address. The instruction under this column states

that certificate from the respective officer of the residence should be enclosed. The correct translation for the "Iruppida Sandridhazh" is "Residence

Certificate", whereas it is stated as ""nativity certificate"" in English. Under Column 014 setting out the checklist of the application that are to be

included, it is stated that the candidate should enclose copies of the residence certificate. Therefore, what is contemplated in this regard is a

certificate to establish that the petitioners are eligible for admission from the respective districts, since residences of other districts are not eligible to

be considered for selection in a different district than their residence. Therefore, the concept of nativity is neither in the consideration of the

Government Order nor in the paper notification and the application. Even in the counter affidavit, in para 6, it is stated that the petitioners are to

include the certificates such as nativity and community certificates certifying the residence and social status of the candidate. Therefore, the purpose

is to find out the residence of the individual and not his nativity. Nativity has got

a different connotation than the residence. Insofar as nativity certificate is concerned, the Government has issued instructions and guidelines for the issue of those certificates in G.O.Ms.No. 2388, Revenue

Department dated 27.11.1990. As per this Government Order, the following are the prescriptions:

(1) Parents/Guardians of the applicant or the applicants themselves should have permanently resided continuously for a period of five years in

Tamil Nadu for obtaining nativity certificate.

(2) Proof of continuous stay of five years in Tamil Nadu.

(3) Transfer Certificate from the school in which the student last studied to know whether the applicant has studied in educational institution in

Tamil Nadu for the last five years continuously.

(4) Local enquiries to be conducted to ascertain the residence of the candidates for more than five years.

Thus, the nativity requires permanent residence of five years in Tamil Nadu and this should be supported by the documentary evidence like the

family Ration Card, Census Certificate, Transfer Certificate, Marriage Certificate etc. No such requirements are set out in the application for

obtaining the nativity certificate which is normally found in professional courses like Engineering and Medicine. Generally, "native" means a person

born in a place, country, etc. and associated with it by birth. Therefore, there is a difference between a nativity certificate and a residence

certificate. The notification or the application do not say that an applicant should be a native of Tamil Nadu State.

4. The requirement for the teachers training is only a residence certificate which has got relevance for the purpose of selection to the particular

school. There is no condition that the applicant should be a native of Tamil Nadu and that he should satisfy the requirement of nativity. The

permanent address and the expression "Iruppida Sandridhazh" which occurs in two places in the application form, namely under Columns 03 and

014, therefore makes it clear that the requirement is only residence certificate and not the nativity certificate. In all these cases, petitioners have not

obtained a separate certificate of residence. However, para 2 of the community certificate furnished by those candidates states as follows:

It is certified that -----

and his/her family ordinarily resides at -----

Village/Town ----- Taluk, -----

District of the State of Tamil Nadu.

Thus, even though the community certificate certifies the community of the individual, it also certifies the ordinary residence of the candidate. May

be, that may have relevance to the community. However, still it is a certificate issued by the Tahsildar certifying the residence of the individual as

understood from their counter affidavit. Even assuming that a separate certificate is to be issued, it would be in the same terms that is found in the

community certificate. In other words, the requirement has been satisfied by furnishing the community certificate itself. To say that a separate

certificate should be enclosed certifying the nativity of the candidate, in my view, is hyper technical since the purpose for which the certificate is

required is achieved by the production of the community certificate which also certifies the residence particulars of the individual. The learned

Additional Advocate General has also accepted the proposition that what is required to be produced by the candidate is only the residence

certificate and not the nativity certificate since his argument on the district wise selection was based on the residence requirement and not on

nativity as wrongly translated in the application.

5. A Division Bench of this Court in *Midhuna Nathan v. State of Tamil Nadu*, 1995 W.L.R. 851 laid down the following principles based on the

various judgments of the Supreme Court and our High Court:

(1) The rules and norms contained in the prospectus are binding on the authorities and have to be strictly followed:

(2) The rules have to be understood in the light of the intention with which they are framed. The intention should not be defeated by procedural

technicalities. Even in the absence of a certificate as required, fulfilment of the requirement of the rules can be proved by other materials placed

before the Selection Committee. (*Italics added*).

The above passage squarely covers the field. The intention of the Government is to find out whether the student residing in a particular district

applies to the particular institution and therefore, even in the absence of a separate certificate, the residence particulars can be proved by other

materials like the community certificate which also certifies the residence of the particular individual in a separate paragraph. Therefore, the

rejection of the petitioners application for the reason that a separate nativity certificate is not produced cannot be sustained. It is admitted that those

rejected candidates have secured higher marks and they deserve admission on the basis of merit. But for the non-inclusion of a separate residence

certificate, they would have been selected. Since it is found that such a requirement cannot be insisted upon in the light of the production of a

community certificate setting out the residence particulars of the individual, the non-selection of the petitioners, therefore, cannot be sustained.

Non-furnishing Of Attested Copies:

6. Petitioners in this batch of writ petitions are candidates for admission to the Teacher Training Course is denied only on the ground of non-production of attested copies.

7. The Government Order in G.O.Ms.No. 243 dated 28.6.1999 in the notification published in the newspaper required that the applications

should contain copies of the documents filed. Column 014 of the application form states that copies of the following certificates are to be enclosed:

- (1) Birth Certificate
- (2) Copy of the mark list
- (3) Permanent Residence/Community Certificate
- (4) Residence Certificate
- (5) Special Reservation Certificate particulars
- (6) Transfer Certificate copy
- (7) Conduct Certificate copy

Whereas, in the applications, meant for de-recognised schools, under the last column, it is stated "the following certificates with a photocopy

(xerox) along with the attestation should be enclosed.

8. Under Column 012 dealing with the particulars of the academic marks, there is a provision for certifying the true copy with the original by the

Headmaster/Officer certifying the mark list. It also States that copy of the mark list should be included. On a plain reading of the application form,

it is clear that what is required is the furnishing of the copies of the certificates. Nowhere it is stated that it should contain the certificated copy of

the documents excepting copy of the mark list which should be certified. The application for linguistic minority also specifically provided under

Column 014 ""attested xerox copies of the certificates are to be enclosed.

As per the Chambers Dictionary 1983 Edition, ""Copy"", is defined as follows:

An imitation, a transcript; a reproduction; that which is imitated or reproduced"".

Iyer's Judicial Dictionary 1984 Edition defines ""Copy"" as

A document prepared from the original which is an accurate or true copy of the original"".

In Webster's New Word Dictionary, the word ""Copy"" means,

A thing made just like another; full reproduction or transcription"".

What the word ""Copy"" therefore requires is that it must be a full reproduction of the original, and that it should be accurate or true. When a

document is accurate or true and a full reproduction of the original, it would be a copy. The Supreme Court, in Hindustan Construction Company

Ltd. Vs. Union of India (UOI)., , held that when a document is a true and full reproduction of the original, it would be a copy. A copy means a

document prepared from the original which is an accurate or true copy of the original.

9. In The State of Uttar Pradesh Vs. C. Tobit and Others, , the Supreme Court held that the word "copy" used in Section 419 Cr.P.C. means a

certified copy. But in that case, the Supreme Court interpreted Section 419 in reference to the filing of an appeal. According to the Supreme

Court, a copy may be a plain copy, i.e. an unofficial copy or a certified copy, i.e. an official copy. If a certified copy of judgment is annexed to the

petition of appeal, nobody can say that the requirement of Section 419 has not been complied with, for a certified copy is nonetheless a copy. That

being the position, a question of construction does arise as to whether the word "copy" used in Section 419 refers to a plain copy or a certified

copy or covers both varieties of copy. It is well settled that the words of a statute, when there is a doubt about the meaning, are to be understood

in the sense they best harmonise with the subject of enactment and the object of the legislature as in view. After considering the relevant sections of

the Cr.P.C. and Section 366, 372 and 419, the Supreme Court held that the circumstances indicate that the word "copy" in Section 419 means, in

the context, a certified copy. Therefore, the said judgment cannot be applied to the facts of the present case. The application has categorically stated that only copies are to be furnished and wherever a certified copy is required, they have specifically stated so. It is also a common knowledge that for the other professional courses like Medicine and Engineering Courses, applicants are not required to send the certificate copies. It is sufficient that candidates includes the photocopies of the documents. The copies will be verified with the originals at the time of admission. Therefore, the rejection of the applications inspite of the applicants having satisfied the requirement of the Government Order, Notification and the application is therefore clearly illegal. The interpretation sought to be given by the department that the certificate is a document declaring or certifying the contents of that particular document as true, and unless the particular document is certified to be a true copy of the original, the same cannot be construed as true copy and the authorities cannot act upon the same as a wrong interpretation of the word "copy". In the context of the application which specifically stated that only copy to be furnished, the candidates cannot be expected to construe that as requiring a certified copy and going for a certificate from the concerned authorities. It is too much for the department to expect the students to interpret the word "copy" in the way the department now seeks to understand. If really they wanted that it should be a certified copy, nothing prevented them to make it clear that all the documents should be certified. Therefore, I am unable to understand as to how such an extreme interpretation can now be sought o be given for the non-selection of the candidates who are admittedly meritorious than the candidates selected. I am of the view that there is an error apparent on the face of the record in the rejection of these applications.

10. In Dr. Vinay Rampal Vs. State of Jammu and Kashmir and Others, , the Supreme Court held that the petitioner who was eligible for admission as per the requirement set out in the advertisement, could not be refused admission on the basis of the Government Order. In that case, the selection was to be made on the basis of the minimum qualification set out in the advertisement. There appeared to be a contradiction between the Government Order and the advertisement. There was no errata issued to the advertisement. The Supreme Court held that the college authorities

who issued the advertisement inviting the applications must be held bound by it unless shown otherwise. It was also found that on the basis of advertisement, selections were made in case of other candidates. Therefore, the Supreme Court held that the petitioner in that case was eligible to be admitted based on the advertisement. A Division Bench of this Court in *Midhuna Nathan v. State of Tamil Nadu*, 1995 W.L.R. 851 held that the rules and norms contained in the prospectus are binding on the Selection Committee, and the authorities have to strictly follow. Rules have to be understood in the light of the intention with which they are framed. The intention should not be defeated by procedural technicalities. Even in the absence of the certificate as required, the fulfilment of the requirement of the rules can be proved by other materials placed before the Selection Committee.

11. The contention of the learned Government Pleader by referring to a Division Bench judgment in *Rathnaswamy v. Director of Medical*

Education, 1986 W.L.R. 207 that omission to indicate the norms and rules in the prospectus cannot be taken advantage of to negate and ignore

the very norms and rules. In my view, this judgment will not apply to the facts of this case for the reason that neither the notification nor the

Government Order indicated that the applicant should furnish the certified copies of the original. Even the application form itself only directed to

furnish copies and not certified copies. Therefore, there are no rules or norms which are available with the Government to put against the applicants

except the general interpretation of the word "copy". The other judgments for which reference has been made in W.P. No. 14508 of 1998, dated

9.11.1998 and W.P. No. 1463 of 1998, dated 28.10.1998 also will not be of any assistance to the department since they relate to the production

of copies which were required to be attested. As indicated above, even in the case professional courses like Medicine and Engineering Courses,

presently the Government is not insisting for attested copies only probably due to the availability of photocopies which truly reflect the originals of

the certificates. In keeping with this modern trend, as a matter of fact, some of the institutions say that they should not furnish any originals and sent

only the photocopies which can be subsequently verified with the originals. After having stated in the application that copies are to be furnished, it is

not open to the department to go back and say that it should be read as certified copy. The department is bound by their own application, and in

the absence of specific rules contrary, they cannot take advantage of the non-furnishing of the certified copies of the certificates alone to reject the application.

12. It is pertinent to note that the counter affidavit of the Director of Teachers Training Institute has admitted that in the application form for

admission of students to 30% reserved seats for students of de-recognised institutions and for students who apply for admission as against seats

earmarked for minority languages and it has been mentioned that attested copies of documents have to be enclosed. Therefore, when applications

for those seats required attested copies, the absence of requirement of attestation clearly enables the candidates to furnish a photocopy or any

other copy which need not be attested copy. The contention of the respondent that since for those seats, they have asked for attested copies, if the

seats for admission to Government T.T.I.s and D.I.E.T.S also they should enclose attested copies is unreasonable. By no stretch of imagination,

we can demand students to infer that the requirement of copies to be furnished should mean attested copies from the requirement made for a

different category of students.

13. The Government of Tamil Nadu, in reference to professional courses like Medical/Engineering/Paramedical for 1999-2000, their prospectus,

have directed the candidates in paragraph 14.4 to enclose only the attested xerox copies or attested true copies. Similarly, in reference to the Tamil

Nadu Engineering College Admissions 1999, it is stated in paragraph 3.2. that candidates should enclose xerox/attested copies of the certificates

along with the application. Again, in para 10 it is stated that candidates are required to enclose only the true/attested copies of the certificates.

Thus, it could be seen that wherever the requirement is made in reference to the certificates, it is specifically stated that it should be either a xerox

copy or an attested true copy. If neither of these are stated and only a copy is directed to be furnished, it has to be taken as the plain meaning of

that requirement.

14. In Punjab Engineering College Chandigarh through its Principal Vs. Sanjay Gulati and Others, , the Supreme Court held that a prospectus

issued with regard to the admission to educational institution is a declaration to the candidates containing a piece of information. It is a summary or

an essence of the norms and rules which should guide and which will be adopted for selection. Taking into account the notification in the

newspaper as a prospectus, it is clear that nowhere it is required that the petitioner should furnish the certified or attested copies of the documents.

On the contrary, the notification only says that they must furnish the copies in contra distinction with an attested copy.

15. It is seen that as per the notification, the selection is to be made by the Principals concerned of the District Institute of Education Training

subject to the final approval by the first respondent. However, this aspect is not clearly mentioned either in the notification or in the Government

Order giving room for a doubt as to the selecting authority. It has to be borne in mind that insofar as the selection is concerned, the Government

Order and notification must make it clear as to who is the authority for selection. The scope of verification by the first respondent has not been set

out. From the counter affidavit filed and arguments advanced, it is seen that all the 30 Principals of the various District Institutes of Educational

Training have uniformly said to have rejected the application of the petitioners for want of attestation and nativity certificates. It is not explained as

to how a common decision is taken as to the rejection. Therefore, the inference is that some higher authority than the selecting authority have

directed the selecting authorities to decide the selection in one particular way or other. Left to the selecting authorities themselves, atleast some of

them would have accepted copies of the certificates as sufficient as per the prospectus and the application. Since it is obvious that unless

specifically stated that attested copies are to be furnished, it cannot be insisted that candidates should furnish an attested copy. Therefore, there is

some serious lacuna in the process of selection in the case of teachers training institutes. In all these cases, the contention that the petitioners have

scored higher marks, and but for their rejection on the technical ground, they would have been selected, is not disputed. They have also impleaded

the candidates who have secured less marks however selected, overlooking the petitioners. It is seen that the respondents have not filled up all the

seats. Therefore if it is possible to select the petitioners without disturbing the selection already made, the respondents can do so provided the

petitioners satisfy the requirements on merits than those selected. The petitioners have moved the court immediately and hence, any wrong selection by the respondents cannot be put against them. Merit being the only criteria, any selection made contrary, admittedly with less marks, must go and their selection is declared illegal.

16. In the above circumstances, I have no hesitation in quashing the non-selection of the petitioners and directing the respondents to select the petitioners to the Diploma in Teacher Training Course either by accommodating in the vacancy, creating additional seats or by cancelling the less mark candidates. The writ petitions are liable to be allowed on those terms.

Common Points Relating To Districtwise Selection:

17. One of the counsel for the petitioners. Mr. Yasodh Vardhan raised a legal point that if nativity certificate is required, then it should have relevance to the birth of the candidate and consequently, the selection and admission on districtwise basis is unconstitutional. It is submitted that candidates are prevented from claiming admission in districts other than the district of the petitioner and that selection on districtwise basis is violative of Article 15(1) of the Constitution of India. The prayer and the relief, therefore, has to be moulded suitably. In reference to this issue, learned Additional Advocate General was requested to clarify the position. Now, an additional counter common affidavit is filed on behalf of the first respondent. It is admitted that selection of students to the Government T.T.I.s. and all the 29 districts were covered with D.I.E.T. institutions and hence, the district has been taken as a unit in the matter of admission. The justification set out in the counter for such a selection is that the appointment of secondary grade teachers was made on districtwise basis taking the district as a unit. It is stated that the Government which bears the financial burden is entitled to lay down the criteria for admission in its own institutions and to decide the sources from which admissions would be made.

18. Learned Additional Advocate General, in support of his submissions, relied upon the judgment of the Supreme Court in *Dr. Pradeep Jain and Others Vs. Union of India (UOI) and Others*, and *Mohan Sir Singh Chawla v. Punjab University*, 1996 (9) Scale 351. According to him, the residence requirement is reasonable and relevant considering the selection being

made on merit basis and for the purpose of appointing them as secondary grade teachers which, in turn, is based on districtwise selection. He further stated that the students are coming from various centres and they are likely to settle down after their study in the same district. He also emphasised that no candidate has come forward with a specific complaint about the violation or unconstitutionality in the selection. Learned counsel Mr. Kannadasan submitted that the Government has not come forward with any materials to show how districtwise selection is reasonable. The burden is on the Government to establish the reasonableness of the classification. In the absence of such materials, the selection is illegal. Mr.R. Saseedharan, appearing on behalf of one of the petitioners, arguing on the general point, referred to the judgment in Radhesheyam Singh and others v. Union of India, J.T. 1996 (II) S.C. 33 wherein the Supreme Court held that zonewise selection would lead to discriminatory result and devaluation of merit at the selection examination and violate the rule of equal chance for equal marks, leading to heart-burn and frustration among the candidates. Selection on Zonewise basis cannot stand the test of reasonableness and constitutionality, and is liable to be struck down with prospective application.

19. It is seen from the judgment of the Supreme Court in Dr. Pradeep Jain and Others Vs. Union of India (UOI) and Others, that intra-district

discrimination was frowned upon and their lordships expressed as follows:

It will be noticed from the above discussion that though intra-district discrimination between persons residing in different districts or region of a

State as by and large frowned upon by the court and struck down as invalid, as in Minor P. Rajendran Vs. State of Madras and Others, and

Minor A. Peeriakaruppan and Sobha Joseph Vs. State of Tamil Nadu and Others, , the court has, in D.N. Chanchala"s case and other similar

cases, upheld the unconstitutional reservation effected through University wise distribution of seats for admission to medical colleges.

Therefore, while the Supreme Court upheld the residence qualification for the purpose of admission to medical colleges on the ground that the

students within the State are likely to settle down and serve the people of that State and therefore, it is regarded as a legitimate ground for laying

down residence requirement to medical colleges in the State. Apart from saying

that there is a nexus between admission to teachers training institutes and recruitment to secondary grade teachers and that this procedure is in vogue for decades and that there is no discrimination as such, no materials have been placed to show that the students will settle down as teachers in the respective districts where they reside. Though the learned Additional Advocate General has justified that no points have been raised earlier and the Government was given very little time to gather materials, the subsequent decisions of the Supreme Court have laid down that intra-State discrimination in different districts has as by and large been frowned upon.

20. In *M.B. Singh Chawla v. Punjab University*, 1996 (9) Scale 351, the question arose whether universitywise reservation is permissible. Their

lordships, after referring to all the judgments on the subject, observed as follows:

(a) College-wise preference is not permissible in any event.

(b) University-wise preference is permissible provided it is relevant and reasonable. Seventy to eighty per cent reservation has been sustained,

even where students from different universities appear at a common entrance test. The trend, however, is towards reducing the reservations and

providing greater weight to merit. The practice ail over the country today, as a result of the decisions of this Court, is to make fifteen per cent of the

seats in M.B.B.S. Course and twenty five per cent of the seats in post-graduate medical course's in all the Government medical colleges in the

country except Andhra Pradesh and Jammu & Kashmir available on the basis of merit alone. Students from anywhere in the country can compete

for these seats which are allotted on the basis of an All-India test conducted by the designated authority.

(c) The rule of preference on the basis of domicile/requirement of residence is not bad provided it is within reasonable limits, i.e., it does not result

in reserving more than eighty five per cent seats in graduate courses and more than seventy five per cent seats in post-graduate courses. But

district-wise reservations are an anathema.

(d) Where the students from different universities appear at a common entrance test/examination [on the basis of which admissions are made] the

rule of university-wise preference too must shed some of its rele-vance. The explanation of difference in evaluation, standards of educa-tion and

syllabus lose much of their significance when admission is based upon a common entrance test. At the same time, the right of the State

Governments [which have established and maintained these institutions to regulate the process of admission and their desire to provide for their

own students should also be accorded due deference." (Italics added)

In *Radhesheyam's case*, JT 1996 (2) S.C 33 referred to above, the Supreme Court held that selection being on merit basis, it should be only by a

common selected list. A zonewise selection would deprive the selection of meritorious candidates. The rule of equality of opportunity for every

individual in the country is an inalienable part of our constitutional guarantee and that being so, a candidate who secures more marks than another is

definitely entitled to get preference.

21. In *Nidamarti Maheshkumar Vs. State of Maharashtra and Others*, , the Supreme Court struck down a region-wise scheme adopted by the

State Government holding that it would result in denial of equal opportunity and will violate Article 14 of the Constitution. Article 15 of the

Constitution of India prohibits discrimination on the grounds only of place of birth. Though the Government is permitted to provide reservation

under Article 15(4), the district-wise selection will actually go against the prohibition imposed by the Constitution. As contended on behalf of the

Government, it is not the source of selection based on a qualification of a particular territory or persons for whom the facility for medical education

is given. In *Kumari Chitra Ghosh and Another Vs. Union of India (UOI) and Others*, , the Supreme Court held that if the sources are appropriately

classified whether on territorial, geographical or any other reasonable basis, it is not for the court to interfere with the manner and method of

making the classification. The Supreme Court was concerned with certain reservation made to class of persons like residents of Andamans, sons of

Central Government servants, cultural scholars etc. which were held to be sources of selection. But in this case, all the districts are classified as

separate territories for the purpose of admission. In other words, a resident of one district is not permitted to apply for another district and get

selected. Further, from the available materials, the contention that because students are likely to settle down in the same district cannot be accepted

for the purpose of classification of district as a unit for selection. There cannot be

a bar for a candidate to apply and seek for selection within the State. Hence, I am of the view that the Government Order providing for selection within the district of the respective institutions is violative of Article 15(1) and 14 of the Constitution and unreasonable and is liable to be struck down. The stand on behalf of the respondent that this is the procedure in existence for all these decades and that nobody has challenged cannot be accepted. As a matter of fact, a similar argument was repelled by the Supreme Court in Radhesheyam's case JT 1996 (2) S.C 33 referred to earlier, wherein their lordships observed as follows:

The argument advanced by the learned counsel for the petitioners that this process of zonewise selection is in vogue since 1975 and has stood the test of time cannot be accepted for the simple reason that it was never challenged by anybody and was not subjected to judicial scrutiny at all. If on judicial scrutiny it cannot stand the test of reasonableness and the constitutionality, it cannot be allowed to continue and has to be struck down.

(Italics added)

22. It has to be borne in mind that the notification calling for the selection appeared on 9.7.99 and the last date for receiving the filled up applications was 16.7.1999 and admissions were closed by September 1999 and the classes have already commenced based on the districtwise selection. The counsel were permitted to raise this argument being legal question of importance and hence, arguments were advanced. Learned Additional Advocate General also replied to the said argument after filing an additional counter affidavit. Therefore, at this stage if the selection is to be set aside, it will create a dislocation in the academic studies and cause serious prejudice to the studies being undertaken by the students already admitted. Hence, the judgment has to be directed to be given with prospective application and whatever selection so far made in accordance with the districtwise selection shall not be disturbed on the basis of this judgment. But, in future, no such selection shall be made on districtwise basis.

On the contrary, since the candidates are all of higher secondary qualified and the in the light of serious contest for the admission, it is advisable to have a common entrance examination and selection by an authority like the Anna University.

23. The selection for T.T.I.S on district wise basis are quashed as violative of

Articles 14 and 15(1) of the Constitution of India. The relevant portion of the Government Order in G.O. Ms.No. 243, Education Department dated 28.6.99 and the notification in the newspapers on 9.7.99

insofar as it confines to districtwise selection and prohibits application and consideration from outside district is unconstitutional and illegal.

However, the selection made for the year 1999-2000 shall not be disturbed based on this judgment.

24. All the writ petitions challenging the non-selection on the basis of non-finishing of attested copies and separate residence/nativity certificates are

allowed. The respondents are directed to consider their applications on merits and if found eligible as on the date of scrutiny, select and admit the

petitioners for the T.T.I.s courses, 1999-2000 without delay. No costs. Consequently, all the connected W.M.Ps. are closed.