

(1998) 09 MAD CK 0116

In the Madras High Court

Case No : Writ Petition No. 12376 of 1998 and W.M.P. No. 18828 of 1998

S. Kaveri

APPELLANT

Vs

The Secretary, Selection Committee (M.B.B.S. Course)

RESPONDENT

Date of Decision : 04-09-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 09 MAD CK 0116

Hon'ble Judges : S.S. Subramani, J

Bench : Single Bench

Advocate : D. Krishnakumar, for the Appellant; D. Murugesan, Special Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Subramani, J.—The Petitioner, who is a Srilankan refugee staying in Madras from 1996, after completing her Higher Secondary examinations during March 1998, applied for admission for the M.B.B.S. Course under the special category seats reserved for Srilankan Tamil among Srilankan Refugee students. The provisional list was published, in which the Petitioner's name was found as No. 1 out of 10 candidates in the provisionally selected list. The Petitioner also received a telegram from the Respondent informing her to report before the Secretary, Selection Committee with all original certificates and relevant records and she was also informed that counselling is to take place on 12.8.1998. On the basis of the provisional admission and intimation from the Selection committee, the Petitioner got back her certificates which she has submitted before Stella Mary's College, where she joined for first year B.Sc. Zoology She also applied for Transfer Certificate, which was also issued.

2. While so, Petitioner received a telegram on 7.8.1998 stating that the provisional selection has been withheld. On the next day, she received further telegram that her provisional admission has been cancelled. The cancellation is challenged in the writ petition as violation of Principles of Natural Justice. The

Petitioner further states that no reasons have been given for cancelling the selection. It is further said, that the Petitioner had acted on the promise of the Selection Committee and even if there is any mistake on their part her right should not be affected. She has come to this Court for issuance of Certiorarified Mandamus and quash the cancellation of her admission and for further direction that the Respondent should be directed to admit her in one of the Medical Colleges in the state of Tamilnadu.

3. A detailed Counter affidavit has been filed by the Selection Committee. It is admitted in the Counter that the Petitioner was informed about the provisional selection and subsequently the selection was cancelled. It is said that there was a mistake committed by the Selection Committee. After provisional list was published, various representations were received from unselected candidates. It was found that some of the applications were omitted to be considered and the same had to be re-scrutinised.

4. When it was re-scrutinised, it was found that the Petitioner and another candidate by name Kalaivani were selected by mistake and better qualified candidates were omitted to be considered. So immediately, before they were asked to appear for counselling, the selection Committee cancelled the Selection.

5. It is said that as per the Prospectus, the Selection Committee is entitled to cancel the selection if there is a mistake on its part. If any facts were overlooked, that is the matter which Selection Committee is to consider and review the selection. The Petitioner has no legal right to get her admitted when better meritorious candidates are included in the list. It prayed for dismissal of the Writ Petition.

6. Similar matter have already been disposed of by ma and I have held that there was a bona fide mistake on the part of the Selection Committee in sending memos of provisional selection to candidates. This is one such case.

7. It has come on evidence that there was a mistaken on the part of the Selection committee in not considering the case of more meritorious candidates. Only when representations were received after provisional selection, they found out the mistake and in fact, it is further found that more meritorious candidates were omitted to be considered and less meritorious candidates were selected. The case in hand is one such instance.

8. The Special Government Pleader for Selection Committee also brought to my notice the entire Selection List and the learned Counsel for the Petitioner also perused the same. In fact, he got an adjournment for perusal and verification of the Selection List. He also submitted at the time of the argument that more meritorious candidates were not given selection and the Petitioner who obtained only lesser marks was given admission.

9. Once it is found that there is a bona fide mistake on the part of Selection Committee and meritorious candidates were omitted to be considered, I do not

think that this Court could interfere and hold that the Petitioner is entitled for admission on the principle of Estoppel. The Petitioner has to substantiate her case how she is entitled to get admission when more meritorious candidates are available in the list. On the principle of Estoppel alone she cannot put forward the claim. The mistake on the part of the Respondent also will not enable the Petitioner to have legal right.

10. While exercising powers under Article 226 of Constitution of India, this Court is exercising its discretion only in the nature of equitable relief. Merely on the basis of mistake alone on the part of the Selection Committee, the Petitioner is not entitled to get selection and she is not entitled to get any relief in this petition.

11. In the result, the Writ Petition is dismissed. No costs. Consequently, the Writ Miscellaneous Petition is closed.