

(2010) 06 MAD CK 0189

In the Madras High Court

Case No : Writ Petition No. 26395 of 2009 and M.P. No. 2 of 2009

S. Saravanakumar

APPELLANT

Vs

The State Level Scrutiny Committee for Backward Classes,
Most Backward Classes and Minorities Welfare Department
and Others

RESPONDENT

Date of Decision : 28-06-2010

Acts Referred:

Citation : (2010) 06 MAD CK 0189

Hon'ble Judges : T. Mathivanan, J;D. Murugesan, J

Bench : Division Bench

Advocate : K. Duraisamy for Muthumani Doraisamy, for the Appellant; K. Balasubramanian, Special Government Pleader, for the Respondent

Judgement

D. Murugesan, J.—The petitioner was issued with a community certificate by the Regional Deputy Tahsildar, Karaikudi dated 09.7.2002 certifying that he belongs to Hindu-Telugu Patti Chetty community which is notified as one of the Most Backward Community. On the strength of the said certificate he applied for admission to the First Year M.B.B.S. Degree Course and was selected and admitted in Coimbatore Medical College. On completion of the course, he is presently undergoing Compulsory Rotatory Resident Internship course. An enquiry was conducted as to the genuineness of the community certificate produced by the petitioner and the said certificate was cancelled by the proceedings of the District Vigilance Committee on 25.4.2008. Based on the said order of cancellation he was dismissed from the College by the communication of the Dean of Coimbatore Medical College dated 11.8.2008. Later, the petitioner filed a Contempt Petition on the ground that earlier order of this Court made in W.P. No. 24872 of 2006 dated 10.8.2006 allowing the petitioner to complete the course was violated. In that Contempt Petition, the assurance made by the Government Pleader on behalf of the State assuring to dispose of the petitioner's representation dated 20.06.2006 for inclusion of 24-Manai Telugu Chetty, Sathu Chetty, Telugu Chetty in the Most Backward Class Community on par with Telugu

Patti Chetty within a time frame was noted. As that undertaking was not complied with, however, the Contempt Petition was disposed of with a hope that the Government would understand the basic implication in recording any assurance made on behalf of the State by the concerned Law Officer in the Court while dealing with such situations in future and act accordingly. In spite of the same no orders were passed. In the meantime, the petitioner had also preferred an appeal to the State Level Vigilance Scrutiny Committee questioning the order of the District Level Committee dated 25.4.2008. The said appeal was rejected by order dated 04.12.2009. The order of dismissal from the College dated 11.8.2008 and the order of the State Level Committee dated 04.12.2009 are questioned in this writ petition.

2. Mr. K. Doraisamy, learned senior counsel would fairly submits that the petitioner is not interested to question the order of the State Level Committee as of now as an assurance has been given before this Court for considering the representation made by the petitioner to include the Telegu Patti Chetty community under the Most Backward Community. The petitioner will work out his remedy before the Government in this regard.

3. However, the learned senior counsel would submit that as the petitioner had completed the course pursuant to the order of this Court and has also been permitted to undergo Compulsory Rotatory Resident Internship course, he should not be denied the benefit of the course. In support of the said submissions he would rely upon the judgment of the Supreme Court rendered in *Selin Mary Mammen v. Mahatma Gandhi University* 2008 (17) SCC 615.

4. Mr. K. Balasubramanian, learned Special Government Pleader on the other hand would submit that the petitioner had secured the selection as against the seats earmarked for Most Backward Class. In view of the order of the State Level Committee in cancelling that certificate, he is not entitled to benefit of the course. He would in fact submit that the petitioner must be made to compensate the loss to the Government representing the amount spent on the petitioner to undergo the course.

5. We gave our anxious consideration to the rival submissions as the learned senior counsel for the petitioner has fairly submitted that the impugned order has not been questioned and the petitioner would be at liberty to canvass his grievance before the State Government, we are not inclined to go into that question in this writ petition. Insofar as the second request is concerned, the directions of the Apex Court issued under similar circumstances may be referred to and they are extracted here under:

(i) In *Charles K. Skaria and Others Vs. Dr. C. Mathew and Others*, while dealing with similar circumstances, the Apex Court has observed as follows:

34. Lest there should be any further confusion we make it clear that the two candidates who according to our earlier direction will continue their course, will not be disturbed. Dr. Skaria who got his diploma from the Trivandrum Medical

College will be permitted to continue in the light of the compassionate considerations we have earlier mentioned.

(ii) In *Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another*, , the Apex Court has observed as follows:

8. ...We would therefore, notwithstanding the view taken by us in this judgment allow the appellants to continue their studies in the respective Engineering Colleges in which they were granted admission. But we do feel that against the erring Engineering Colleges the Karnataka University should take appropriate action because the managements of these Engineering Colleges have not only admitted students ineligible for admission but thereby deprived an equal number of eligible students from getting admission to the Engineering Degree Course. We also endorse the directions given by the learned Judge in the penultimate paragraph of his judgment with a view to preventing admission of ineligible students.

(iii) Again in *A. Sudha Vs. University of Mysore and Another*, the Apex Court following the decision in *Rajendra Prasad Mathur's* case allowed the the candidate to prosecute her studies in the MBBS course.

(iv) In *Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and others*, in paragraph 17 it is held as under:

17. The delay in the process is inevitable but that factor should neither be considered to be relevant nor be an aid to complete the course of study. But for the fact that she has completed the entire course except to appear for the final examination, we would have directed to debar her from prosecuting the studies and appearing in the examination. In this factual situation no useful purpose would be served to debar her from appearing for the examination of final year M.B.B.S. Therefore, we uphold the cancellation of the social status as Mahadeo Koli fraudulently obtained by Km. Suchita Laxman Patil, but she be allowed to appear for the final year examination of M.B.B.S. course. She will not, however, be entitled in future for any benefits on the basis of the fraudulent social status as Mahadeo Koli. However, this direction should not be treated and used as a precedent in future cases to give any similar directions since the same defeats constitutional goals.

A reading of the judgments of the Apex Court would show that wherever a candidate is allowed to undergo the course, particularly with the directions of the Court normally such candidate will not be denied the benefit of that course. Nevertheless, this benefit to the candidate to issue the course completion certificate and other necessary certificates would only to enable the candidate to practice in practice the profession and not to seek any employment against the vacancies earmarked for Most Backward Classes.

6. In view of the above law, similar benefit can be made available to the petitioner in the event Government considers the representation to include

Telegu Patti Chetty also under Most Backward Class category in future. As the petitioner was admitted on the strength of the certificate certifying himself belonging to Most Backward Class and has completed the course and the said certificate has been cancelled only recently by the order dated 04.12.2009, the submission of the learned Special Government Pleader that the petitioner should make good the loss to the Government cannot be accepted. Accordingly, that request is rejected.

7. In view of the above, this Writ petition is disposed of with a direction to the Director of Medical Education and Dean, Coimbatore Medical College to issue necessary M.B.B.S. Degree certificate, Course completion Certificate and all other certificates to the petitioner to which he is otherwise entitled. The petitioner can make use of those certificates for the purpose of practicing the profession and not to seek for employment as against the vacancies earmarked for Most Backward Class candidates. We make it clear that the right of the petitioner to apply for employment with the Government or the State or any public undertaking where the rule of reservation is followed on the basis of the Course completion certificate, M.B.B.S. Certificate etc as against the seat earmarked for Most Backward Class would depend upon the orders that may be passed by the Government on the representation made by the petitioner to include the petitioner as Telegu Patti Chetty under the Most Backward Class in the list.

8. No costs. Consequently, connected M.P. No. 2/2009 is also disposed of.