
(2018) 09 MAN CK 0003
In the Manipur High Court
Case No : Writ Petition (c) No. 557 Of 2018

Sanangamba Akham

APPELLANT

Vs

State Of Manipur And Others

RESPONDENT

Date of Decision : 25-09-2018

Acts Referred:

Constitution Of India, 1950 — Article 14, 15

Citation : (2018) 09 MAN CK 0003

Hon'ble Judges : N. Kotiswar Singh, J

Bench : Single Bench

Advocate : HS Paonam, S. Gunabanta, Ch. Sundari

Final Decision : Allowed

Judgement

N.Kotiswar Singh, J

1. Heard Mr. HS Paonam, learned Sr. Counsel assisted by Mr. S. Gunabanta, learned counsel for the petitioner as well as Ms. Ch. Sundari, learned GA for the State Respondents.

[2] The only issue raised in this petition is regarding denial of admission of the petitioner by the authorities for undergoing B.Sc. Nursing course only on the ground that the petitioner is a male and rest of the students are female and there is no provision for hostel for male students.

[3] A Notification was issued on 04.05.2018 by Medical Directorate, Government of Manipur inviting applications from eligible candidates for selection for nomination to various courses including B.Sc. Nursing for the academic session 2018. Other conditions are also laid down in the said Notification. As regards eligibility qualifications for B.Sc. Nursing, the conditions required are mentioned in the said Notification as given below :

"Eligibility & Qualification :

B.Sc. Nursing :- (a) For RIPANS (Regional Institute Paramedical and Nursing

Sciences, Aizawl): 10+2 (Sc.)/equivalent exam passed from any recognized Board/University/Council with English, Physics, Chemistry & Biology with a minimum of 50% marks for General and 45% marks for SC/ST/OBC candidates.

(b) For other Institutes: 10+2 (Sc.)/equivalent exam passed from any recognized Board/University/Council with English, Physics, Chemistry & Biology individually with a minimum of 50% marks for General/OBC and 40% marks for SC/ST candidates.

(c) Age shall be 17-24 years for General/OBC & 17-27 years for ST/SC/OBC candidates as on 31.12.2018."

[4] There is no such condition mentioned in the Notification that the applicants should be females only and no male candidates would be eligible for selection.

[5] On the basis of the aforesaid Notification dated 04.05.2018, the petitioner applied for selection as a nominee of the State Government for which the petitioner appeared in the written test as well as in the counseling.

The authorities issued the select list on June, 2018 notifying the list of the selected candidates as well as the Wait List.

[6] The petitioner, a male, belongs to the OBC(M) and his name is placed at Sl. No. 2 of the Wait List candidates for the OBC (M) category. As far as select list for OBC category is concerned, as many as 8 candidates were included and the Wait List was also published containing names in which the petitioner is placed at Sl. No. 2 of the Wait List. It has been stated that out of the said eight selected candidates one surrendered her candidature and another candidate did not turn up for counseling. Thus, two vacancies arose under the OBC(M) category. The first candidate in the Wait List, Soraisham Murtika Devi has been stated to have been selected. So far, there is no dispute. However, when the turn came for the petitioner for admission, who is placed as Sl. No. 2 below Soraisham Murtika Devi, in the Wait List, his candidature was not accepted though vacancy existed under the OBC(M) category, only on the ground that he is not a female candidate and there is no hostel facilities available for male students in the Nursing College under the Medical Directorate at Lamphelpat. Accordingly, being aggrieved, the petitioner has filed this petition seeking a direction to the respondents to give admission for undergoing B.Sc. Nursing courses in the College of Nursing under the Medical Directorate, Government of Manipur.

[7] The State Respondents have contested this writ petition on the ground that male candidates can be admitted only in the College of Nursing of RIMS and in RIPANS, Aizawl, Mizoram and there is no provision for admission of any male candidate at the College of Nursing at Lamphelpat under the Medical Directorate at Lamphelpat by referring to an earlier Notification dated 24.05.2017.

[8] This stand of the State however, has been contested by the petitioner by contending that the said Notification dated 24.05.2017 was applicable for admission to the B.Sc. Nursing course for the earlier session 2017 and not for

this session of 2018. In fact, there is no such stipulation mentioned in the Notification dated 04.05.2018 whereby only female eligible candidates were invited for selection as nominees of the State and notifying that no male student will be admitted in the Nursing College at Lamphelpat. In fact, because of the Notification dated 24.05.2017, the authorities accepted the application form of the petitioner who is a male candidate and the petitioner was also recommended to be kept in the Wait List after counselling as mentioned above.

[9] It has been submitted by Mr. HS Paonam, learned Sr. Counsel for the petitioner that the authorities have not notified at any point of time not to accept any male candidate. If the authorities did not intend to admit any male candidate, they ought to have clearly notified in the said Notification dated 04.05.2018 and also ought not have placed the petitioner in the Wait List at all. It is a fact that such stipulation that only female candidates will be admitted for undergoing B.Sc. Nursing courses at the Nursing School at Lamphelpat is neither mentioned in the Notification nor did the authorities reject the candidature of the petitioner and instead accepted the candidature of the petitioner and also placed him in the Wait List which has been acted upon by the authorities as regards other candidate as mentioned above.

[10] The respondents have contended as mentioned in their affidavit-in-opposition that as per guidelines of the Indian Nursing Council (INC), New Delhi, hostel provision is mandatory which shall be owned by the Institution and since there is no hostel facilities for male students in the Nursing School at Lamphelpat, the petitioner cannot be admitted.

[11] Heard the learned counsel for the parties and considered the materials on record.

[12] It is not in dispute that the Notification dated 04.05.2018 did not stipulate that only male candidates would be eligible for applying for nomination for undergoing B.Sc. Nursing courses. It is also not mentioned anywhere in the Notification that only female students will be admitted in the Nursing College at Lamphelpat. It is also not in dispute that the petitioner's application was accepted by the authorities and his name was also included in the Wait List in terms of the inter se merit list of the candidates.

[13] It is also not in dispute that the Notification dated 24.05.2017 which was issued for the academic session 2017 was issued by the Medical Directorate stipulating that the male candidates can be admitted only in the Nursing Colleges of RIMS, RIPANS, Aizawl, Mizoram does not find reference in the Notification dated 04.05.2018 and as such, the aforesaid Notification dated 24.05.2017 cannot be applied as regards the academic session for the year 2018 in connection with which the said Notification dated 04.05.2018 was issued.

[14] Thus, the only issue that arises for consideration before this Court is whether denial of nomination by the State authorities of the petitioner for undergoing the B.Sc. Nursing Course in the Nursing College at Lamphelpat only

on the ground that the petitioner is a male candidate and since there is no hostel facilities in the Nursing College, can be sustained or not.

[15] Perusal of the relevant guidelines and the minimum qualifications required for establishment of College of Nursing as issued by the INC would show that certain conditions had been stipulated for establishment of Nursing College which includes providing teaching block and also for providing hostel facilities. It has been provided that there should be separate hostels for male and female students. It has been stated that while the hostel facilities for female students had been made available by the authorities of the Nursing College located at Lamphelpat, no such hostel facilities have been provided for male candidates.

It may be observed that while provision for hostel facilities for male and female students may be necessary requirements for establishment of Nursing College, it is not on record that the present Nursing College at Lamphelpat has been established exclusively for female candidates. Providing hostel facilities is primarily meant to make it convenient for the students to attend classes regularly and even during odd hours to avoid any dislocation in their studies. It has been stated that admission of Day Scholar students may create inconvenience to the students. In other words, providing hostel facilities is for the benefit of the students, for smooth imparting of academic and other instructions. It is merely an infrastructural issue not a fundamental issue, which can be improved by the Institute, if there be any shortcoming.

It is the responsibility of the College authorities to provide hostel facilities for male students also since the Nursing College at Lamphelpat has not been established exclusively for female students. The authorities in their affidavits or through relevant records have not brought to the notice of this Court that Nursing College at Lamphelpat has been established exclusively for female students where no male students can be admitted. Therefore, the only shortcoming with the said Nursing College is the lack of hostel facilities for male students. From records, it is seen that petitioner is the only male candidate who had been kept in the Wait List. Thus, it would be unfair to deny him the opportunity to undertake Nursing Course only on the ground that hostel facilities are not available for male students.

[16] The Notification dated 4.5.2018 is gender neutral and not gender specific, confining it to any particular gender. Hence, the opportunity provided for undergoing B.Sc. Nursing Course is open to anyone irrespective of one's gender. That is the reason, the application for male candidate were accepted and were allowed to participate in the public competition. For that reason, the petitioner, a male candidate was selected and placed in the Wait List without any qualification or condition that he can be admitted only in a specific institution as had been done for the academic session of 2017.

The gender neutral opportunity can not be gender restricted as has been done in the present case. Hence, to deny admission to the petitioner would violate the

mandate of Articles 14 of the Constitution which ensure that the state shall not deny to any person equality before law or the equal protection of the laws and Article 15 which guarantees that the state shall not discriminate against any citizen on the grounds only of religion, race, caste, sex, place of birth or any of them.

This Court holds that the infrastructural deficiency which is the basis to deny admission to the petitioner on the ground that he is a male and there is no hostel facility for the male, in the facts and circumstances of the case as discussed above, can not be an valid exception to the mandate of Articles 14 and 15 of the constitution.

[17] It has been submitted by Mr. HS Paonam, learned Sr. Counsel for the petitioner that the petitioner undertakes to make necessary arrangements for his stay in the vicinity of the College and also has undertaken to regularly attend courses even though no hostel facility has been provided for the male students.

[18] This Court is of the view that such deficiency can be taken care of if the authorities can make arrangement for stay of the petitioner in the vicinity of the College. The petitioner has also submitted before this Court that he would stay in a rented place, if necessary, in the vicinity of the College so that he can attend the courses without any disruption to the academic courses on account of his stay in a rented accommodation. Therefore, this Court is of the view that absence of hostel facilities for male students cannot be a valid legal ground to deny the petitioner admission for B.Sc. Nursing Course. The petitioner, a male candidate, who has been found suitable for undergoing the Nursing course in the said Institute, may be allowed to stay in the rented accommodation in the vicinity of the College so that he can undergo the B.Sc. Nursing Course without any interruption or disturbance.

[19] In view of the reasons discussed above, and the undertaking given by the petitioner, this Court is of the view that the petitioner should be given admission in terms of his merit position and be allowed to undertake the B.Sc. Nursing course at the Nursing College at Lamphelpat Union of India under the State government by staying in a rented accommodation in the vicinity of the Institute. Ordered accordingly.

[20] With the above observations and directions, the present petition is allowed.