
(2007) 09 OHC CK 0077
In the Orissa High Court
Case No : Writ Petition (C) No. 9781 of 2007

Vidya Balusu

APPELLANT

Vs

Chairman, JEE (2007) Orissa and Another

RESPONDENT

Date of Decision : 19-09-2007

Acts Referred:

Citation : (2007) CLT 379 Supp

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Advocate : P.R. Dash and Associates, for the Appellant; R.K. Das, for the Respondent

Final Decision : Allowed

Judgement

A.S. Naidu, J.—Petitioner Vidya Balusu, daughter of Sri. B. Virabhadra Rao, after completing her +2 Science course had appeared in the Joint Entrance Examination (for short JEE), 2007 for admission to the First Year Degree Course in Engineering. The said examination was conducted according to the Orissa Professional Education Institutions) Regulations of Admission and Fixation of Fees) Ordinance, 2007. She qualified herself in the said examination having ranked at Sl. No. 4197 of merit list of general category and at Sl. No. 4120 of women category. The Chairman, JEE called upon her to attend the counselling which was scheduled to be held on 4th August, 2007. Accordingly the Petitioner appeared for counselling at the venue along with her testimonials and a demand drafts of Rs. 16,000.00 and Rs. 202.00 drawn in favour of JEE (Orissa), 2007. Her grievance is that though she attended the counselling she was not given admission mainly on the ground that her father was not a permanent resident of Orissa. Being aggrieved by the said action she has approached this Court with a prayer to issue a Writ of Mandamus to the opposite parties to admit her in Engineering Stream.

2. In support of her stand, the Petitioner has averred that her father Sri. B. Veerabhadra initially was a native of East Godavari in the State of Andhra

Pradesh, but then later on he has settled in Orissa since long and has been permanently residing at Rayagada, which place is in the border of Orissa and Andhra Pradesh, having purchased agricultural lands and constructed his house. To substantiate such contention she produced the Voter's Identity Cards in the names of her father and mother issued by the Election Commission, Holding Tax Receipt issued in the name of her father in respect of his residential house at Rayagada, Receipts with regard to payment of land revenue in respect of lands owned by her father at Rayagada, a certificate awarded by the Government of Orissa showing him to be the best horticulturist of the district of Rayagada and the Resident Certificate issued by the Tahasildar, Rayagada in consonance with the Miscellaneous Certificate Rules in RMC No. 1967 of 2007. She has also submitted the permanent residence certificate for JEE (Orissa), 2007 issued by the Addl. Tahasildar, Rayagada.

3. Learned Counsel for the Petitioner forcefully submitted that the aforesaid documents clearly revealed that the father of the Petitioner was a permanent resident of Rayagada and as such the Petitioner could not have been denied admission specially when she had been selected for admission on merit.

4. After receiving notice, a counter-affidavit has been filed by the opposite parties taking the stand that the permanent residence certificate issued by the Addl. Tahasildar, Rayagada indicated that the Petitioner was a permanent resident of East Godavari in the State of Andhra Pradesh and as the Petitioner could not satisfy the requirement of Clause 2.1 of the Information Brochure of JEE (Orissa), 2007, she was not eligible for admission. The further stand taken in the counter-affidavit is that the counselling for women candidates of reserved category being over on 20th July, 2007 and for women of general category on 4th August, 2007, the Writ Petition has become infructuous and is therefore liable to be dismissed.

5. This Court heard learned Counsel for the parties at length and perused the materials. Clause 2.1 of the Information Brochure is with regard to admission of candidates to colleges under State category. It reads as follows:

2.1 Orissa State Candidates (S-Category)

For admission to colleges under State category one has to satisfy at least one of the following three criteria. They will be eligible for admission to Government colleges on the basis of their merit rank. However, for MBBS/BDS course in Govt. Colleges and lateral entry the parents of the candidate must be permanent resident of Orissa.

(a) The candidate must have passed/appeared 10+2 examination from any of the recognised institution in the State.

(b) Parents of the candidate must be permanent resident of Orissa. To claim benefit under this category, a candidate shall furnish at the time of counselling a permanent residence certificate, in prescribed form (Appendix-I) from a Revenue

Officer not below the rank of Tahsildar of the area where his/her parents have permanent residence.

(c) Sons/daughters/spouse of the permanent employees of Government of Orissa/Govt. of India/Govt. of Orissa Undertakings/Govt. of India Undertakings serving in the State of Orissa at the time of application. To claim the benefits under this category, candidate has to submit a certificate from the employer of his/her parents/spouse in the prescribed form (Appendix-II) at the time of counselling.

Reservation of Seats under State Categories:

The reservation of seats in different colleges under various categories will be as per the policy of the Government of Orissa. The percentage of reservation of seats to be reserved for different categories are subject to change and the decision of the State Government as on the date of admission will be applicable.

6. A perusal of the aforesaid Clause leads to an irresistible conclusion that the parents of a candidate must be permanent residents of the State of Orissa. To satisfy such requirement, a permanent resident certificates per Appendix- I was insisted upon.

7. In the case at hand, the permanent resident certificate had been granted to the Petitioner by the Addl. Tahsildar, Rayagada. In the certificate it was stated Petitioner Vidya Balusu was the daughter of B. Veerabhadra Rao, a native of East Godavari in the State of Andhra Pradesh and he/she belongs to P.S. Rayagada, Tahsil-Rayagada. According to Mr. Das, learned Counsel for the opposite parties, the father of the Petitioner is a native of East Godavari and as such the Petitioner was not eligible to take admission. But then a close perusal of the said certificate reveals that the Addl. Tahsildar had certified that he belongs to P.S. Rayagada and Tahsil-Rayagada.

8. The Chambers English Dictionary defines the meaning of the word "belong" inter alia "to be a native or inhabitant or member".

Webster's Encyclopedic Unbridged Dictionary defines the word "belong" as "Inhabitant".

Thus the Permanent Residence Certificate for JEE granted by the Addl. Tahsildar, Rayagada as well as the Residence Certificate granted by the Tahsildar, Rayagada vide RMC No. 1967 of 2007 coupled with the Holding Tax Receipt granted by the Rayagada Municipality, Land Revenue receipt granted by the Tahsildar and other documents annexed to the Writ Petition leads to an irresistible conclusion that the father of the Petitioner is a permanent resident of Rayagada which is within the State of Orissa.

9. Mr. Das, learned Counsel for the Petitioner, relying upon the decision of the Supreme Court in the case of Krishna Priya Ganguly and Others Vs. University of Lucknow and Others, , submitted that High Court should not give a go-by to the

rules framed by an Admission Committee. He submitted that same is the ratio of the decision of the Supreme Court in the case of Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others, , wherein it was held that Court cannot sit on the judgment over a policy evolved.

10. The facts of the case in both the aforesaid decisions were distinctly separate from that of the present case. According to the policy of JEE, 2007 as stipulated in Clause 2.1 of the Information Brochure quoted supra, to avail admission under the Orissa State candidate category the parents of a candidate must be permanent residences of the State of Orissa. In view of the fact that the father of the Petitioner is a permanent resident of Orissa, as would be evident from the documents referred to above and annexed to the Writ Petition, this Court finds absolutely no reason why the Petitioner after qualifying on merit should be deprived of admission in Engineering Degree Course.

A Division Bench of this Court earlier by order dated 17.8.2007 specifically directed that counselling and admissions might proceed but the same would be subject to result of this Writ Petition. Thus, all the admissions in Engineering Degree Course made would be subject to this decision. This Court directs the opposite parties to take immediate steps to admit the Petitioner in the Engineering Degree Course forthwith.

The Writ Petition is allowed.