



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2011

CORAM:

THE HONOURABLE MR. JUSTICE K. VENKATARAMAN

W.P. (MD) No. 1170 of 2011

and

M.P. (MD) No. 1 of 2011

P. Ramalakshmi

: Petitioner

Vs.

1. The Registrar,

Tamil Nadu Teachers Education University,
Chennai.

2. The Principal,

Meenakshi B.Ed., College,
Mangarai Pirivu,
Palani Road,
Dindigul-624 622.

: Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus, directing the first respondent to approve the petitioner's admission for studying B.Ed., course in the second respondent College for the academic year 2010-2011 and consequently, direct the respondents to allow the petitioner to complete the course.

For Petitioner : Mr. G. Thalaimutharasu

For Respondent No. 1 : Mr. N. Ilango
Government Advocate

For Respondent No. 2 : Mr. R. Vijayakumar

ORDER

The petitioner has come up with the present Writ Petition for a Mandamus, directing the first respondent to approve her admission for studying B.Ed., course in the second respondent College for the academic year 2010-2011 and consequently, directing the respondents to allow her to complete the course.

2. It is the case of the petitioner that she got admission to study B.Ed., course in the second respondent College for the academic year 2010-2011 under the quota reserved for Backward Class Community. The admission was given only after verification of her eligibility as well as the qualified marks secured in the U.G. Degree by the Selection Committee of the second respondent College. She has secured the admission fee, tuition fees, etc. as prescribed by the second respondent College. After completing all the formalities,



she has been allowed to attend the classes from 26.08.2010. Thereafter, the second respondent College authorities have orally instructed her that she is not eligible to study B.Ed., Course, since she does not possess the prescribed qualification. Later, on enquiry, it has been informed that the qualifying marks for the B.C. Category is 45% in U.G. Degree course Part III subject alone as per new regulation issued by the first respondent for the year 2010-2011. But, whereas, at the time of admission, the College authority has informed her that she possessed the requisite marks i.e. 45% in U.G. Degree and, therefore, she was selected. The petitioner, who has attended the classes for four months, is now prevented from attending the classes. Hence, the petitioner has come up with the present Writ Petition for the reliefs stated earlier.

3. On notice, the learned counsel appearing for the second respondent pointed out that a communication has been received from the first respondent stating that the petitioner is not qualified herself to be admitted in B.Ed., Course and hence, the first respondent University refused to approve the admission of the petitioner. In view of the above stated position, it is no other go for the second respondent to inform her about the same.

4. The learned Government Advocate appearing for the first respondent submitted that since the petitioner does not possess the minimum mark to be admitted in B.Ed., course, her admission made by the second respondent could not be approved.

5. I have heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the first respondent and the learned counsel appearing for the second respondent.

6. The facts, which are not disputed, are that the petitioner has secured 44.2% of marks and the eligible criteria is 45% for admission in B.Ed., Degree course. While so, the first respondent had rightly not approved the admission of the petitioner made by the second respondent. In similar circumstances, a Division Bench of this Court, by an order dated 11.03.2010, made in W.A.No.67 of 2010, in paragraph No.8 of the order, has held as follows:

"8. In the interest of justice as well as uniformity and consistency, Courts must apply the regulations strictly to all the students and when the students have not obtained the marks as required for the purpose of obtaining admission, the question of giving grace marks by exercising discretion and granting admission does not arise. We may feel sorry for the student, who has missed the winning post by a whisker. But the fact remains he has missed it. We have no authority nor the discretion to push him past it ignoring the law or the Rules or Regulations. Judicial discretion is limited. It cannot be absolute. Justice Aharon Barak (Supreme



Court, Israel) remarks in his great book "The Nature of Judicial Discretion" "Not every option that the Judge would prefer is possible, not every consideration is permissible". In the words of Lord Justice Greene M.R., "The Judge ('s) must avoid idiosyncrasies, his view of right and wrong must conform to a practical standard....." Judicial discretions are to be taken as precedents after examining the facts. Here the eligibility certificate was required for the purpose of obtaining admission to the B.Ed. Course for the academic year 2009-2010 and the impugned order passed by the appellant has rightly referred to the Regulations, which says that rounding off shall not be permitted. The learned Single Judge ought not to have interfered. The writ appeal is allowed and the order of the learned Single Judge is set aside. Consequently, the connected M.P. is closed."

7. In view of the above stated position, I am of the considered view that the prayer that has been sought for by the petitioner cannot be granted. Hence, the Writ Petition stands dismissed. However, the second respondent College, who has admitted the petitioner, has to return back all the fees that has been collected from the petitioner. The said exercise has to be carried out by the second respondent, within a period of fifteen days from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1.The Registrar,
Tamil Nadu Teachers Education University,
Chennai.

2.The Principal,
Meenakshi B.Ed., College,
Mangarai Pirivu, Palani Road,
Dindigul-624 622.

+1cc to Mr.K.M.Vijaya Kumar, Advocate, Sr.No.16067
+1cc to Mr.R.Vijayakumar Advocate, Sr.No.15941
+1cc to Mr.G.Thalaimutharasu Advocate, Sr.No.16057

Order made in
W.P. (MD) No.1170 of 2011
Dated:- 29.04.2011

SML