

Sukarnan Vs. Nuals

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Court : Kerala

Decided On : Jul-28-2015

Judge : Honourable Mr. Justice Anil K.Narendran

Appellant : Sukarnan

Respondent : Nuals

Judgement :

IN THE HIGH COURT OF KERALAAT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN TUESDAY, THE 28^H DAY OF JULY 2015 6TH SRAVANA, 1937 WP(C).No. 21647 of 2015 (E) ----- PETITIONER: ----- SUKARNAN, AGED 17 YEARS AGED 17 YEARS, MINOR REPRESENTD BY NEXT FRIEND/FATHER RAJEEVAN K., ADVOCATE R/AT KAKKANATH HOUSE PO KANHANGAD SOUTH KASARAGOD DISTRICT. BY ADVS. SRI. SURESH KUMAR KODOTH SRI. K.P. ANTONY BINU RESPONDENTS: ----- 1. THE NATIONAL UNIVERSITY OF ADVANCED LEGAL STUDIES (NUALS) KOCHI REPRESENTED BY ITS REGISTRAR, NUALS CAMPUS KALAMASSERY, ERNAKULAM-683 104.

2. THE COMMON LAW ADMISSION TEST (CLAT) 2015 ORGANIZING UNIVERSITY DR. RAM MANOHAR LOHYA NATIONAL LAW UNIVERSITY, SEC-D1 LDA COLONY KANPUR ROAD, LUCKNOW 22601 R1 BY ADV. DR. PAULY MATHEW MURICKEN, SC, (NUALS) THIS WRIT PETITION (CIVIL) HAVING

COME UP FOR ADMISSION ON 28.07.2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 21647 of 2015 (E)

----- APPENDIX PETITIONER(S)' EXHIBITS -----

EXHIBIT P1 COPY OF THE CLAT RESULT SHEET WITH RESPECT OF THE PETITIONER EXHIBIT P2 COPY OF THE CASTE CERTIFICATE ISSUED BY COMPETENT AUTHORITY DATED 28.4.2015 EXHIBIT P3 COPY OF THE GO(MS) NO. 10.2014/PSVV DATED 23.5.2014 EXHIBIT P4 COPY OF THE CERTIFICATES DATED 13.1.2015 CERTIFIED BY TAHASILDAR, HOSDURG EXHIBIT P5 COPY OF THE RELEVANT PAGE OF ALLOTMENT LIST OF CLAT. EXHIBIT P6 COPY OF THE REPRESENTATION DATED 22.5.2015 SUBMITTED BEFORE THE 1ST RESPONDENT EXHIBIT P7 COPY OF THE REPRESENTATION DATED 4.6.2015 SUBMITTED TO THE 1ST RESPONDENT EXHIBIT P8 COPY OF THE NOTIFICATION DATED 21.5.2015 ISSUED BY WBNUJS. EXHIBIT P9 COPY OF THE ONLINE NOTIFICATION OF CLAT EXHIBIT P10 COPY OF NOTIFICATION DT.17.7.15 ISSUED BY THE FIRST RESPONDENT. EXHIBIT P11: COPY OF APPLICATION FOR ADMISSION ON 18.7.2015 SUBMITTED BY THE PETITIONER. EXHIBIT P12: COPY OF NOTIFICATION DATED 24.7.15 ISSUED BY THE FIRST RESPONDENT. RESPONDENT(S)' EXHIBITS -----

ANNEXURE R1A: COPY OF NORMS RELATING TO ADMISSION, INTAKE AND RESERVATION RELATING TO BA.LLB (HONS.) COURSE OF THE 1ST RESPONDENT UNIVERSITY. TRUE COPY P.S. TO JUDGE dsr ANIL K.NARENDRA, J ----- W.P.(C)No.21647 Of 2015 ----- DATED THIS THE 28th DAY OF JULY, 2015

JUDGMENT

The petitioner applied for the Five year Integrated Law Course offered by 16 National Universities, including the 1st respondent herein, in response to an admission programme announced by the 2nd respondent herein, namely, Common Law Admission Test (hereinafter referred to as 'CLAT'). The petitioner's application was accepted and assigned with Register No.1015357. He appeared in the test held on 10.5.2015. As evident from Ext.P1 result of the examination, the CLAT score of the petitioner is 63.75 and his All India Rank is 4987. The All India

Category Rank of the petitioner is 427 and his State Rank is 136. According to the petitioner, he belongs to Maniyani Community, which is included in the category Other Backward Hindu (OBH) by the Government of India and in the category Other Eligible Communities (OEC) by the State of Kerala. Ext.P2 is the caste certificate dated 28.4.2014 issued by the Tahsildar, Hosdurg certifying that the petitioner belongs to W.P.(C)No.21647/15 -2- Other Backward Communities (OBC) - Maniyani. Relying on Ext.P3 Government order, the petitioner would contend that the community 'Maniyani' is included in the list of OBC Communities which are eligible for educational concessions as is given to Other Eligible Communities (OEC) in the State of Kerala. By producing Ext.P4 certificate dated 13.1.2015 issued by the Tahsildar, Hosdurg, the petitioner claimed reservation as OBC under the All India seats.

2. It is admitted in the Writ Petition that, while applying for CLAT, the eligibility of the petitioner to be included in the State category of OBH/OEC was omitted to be stated, which resulted in the petitioner being treated as 'unreserved domicile category'. On coming to know about the mistake, the petitioner submitted Ext.P6 representation before the Registrar of the 1st respondent University, requesting that he may be considered for admission as reserved candidate in the said category for the purpose of allotment of seat and for other related purposes. This was followed by Ext.P7 representation dated 4.6.2015. Relying on Ext.P8, the petitioner would contend that, the practice W.P.(C)No.21647/15 -3- adopted by the West Bengal National University of Judicial Sciences is to make separate admission among the candidates belonging to State Domicile Category, from the list of CLAT.

3. As evident from Ext.P9, the CLAT admission process for the year 2015 was completed on 6.7.2015. In Ext.P9 notice, it was mentioned that, any seat left vacant after 6.7.2015 in any of the participating National Law Universities shall be filled by respective Universities in their own level and that, candidates seeking admission against vacant those seats shall contact the concerned Universities in this regard. It was at that point of time, the petitioner has approached this Court in this Writ Petition seeking a writ of mandamus commanding the 1st respondent to conduct admission process in the Under Graduate Course, 2015, against the

available seats left vacant and admit him on the basis of his rank and eligibility under the State Domicile Category, within a time frame. The petitioner has also sought for a declaration that he is eligible for admission in the available/likely to emerge seats on the basis of his rank, CLAT Score and also as SEBC-OBH State Reservation Category. W.P.(C)No.21647/15 -4- 4. On 25.7.2015, when this Writ Petition came up for admission, the learned Standing Counsel for the 1st respondent University submitted that a statement is being filed and the case was posted to today for further consideration.

5. A statement has been filed on behalf of the 1st respondent University in which it has been stated that the petitioner claims to be belonging to 'Maniyani' community, which is included in the OBH category under SEBC-OBH and he has not claimed any reservation benefit at the time of submission of the application for CLAT, 2015. Since he has not claimed any reservation benefit under the said category while submitting the application, any such claim cannot be entertained at a later point of time. The 1st respondent would also contend that Ext.P2 caste certificate relied on by the petitioner is dated 28.4.2015, whereas, the last date for submission of the application for CLAT was 14.4.2015. It was also pointed out that, the 1st respondent University is admitting students only on the basis of CLAT merit and subject to the claim for reservation made at the time of making application for registration to CLAT. In that view of the W.P.(C)No.21647/15 -5- matter, the petitioner cannot be considered under the SEBC-OBH category even in respect of any vacant seat arising or likely to arise in future, as he has not applied for reservation under the above category in his CLAT application.

6. In order to substantiate the aforesaid contention, the learned Standing Counsel would rely on Annexure R1(a) prospectus dealing with the admission norms for the course in question. The learned Standing Counsel would also contend that Annexure R1(a) is in tune with the mandate contained in Sub- section (4) of Section 4 of NUALS Act, 2005. He would also point out that, going by the norms in Annexure R1(a) prospectus, seats reserved for the Scheduled Castes and Scheduled Tribes shall be inter-changeable. In case sufficient candidates are not available for seats reserved for Backward and Other Backward Classes/Socially and Educationally Backward Classes, such seats shall be filled up under State

merit quota. The seats unavailed by the SC/ST candidates shall be filled up by Other Eligible Community (OEC) candidates and in case of seats remaining vacant under the Persons with Disability (PWD) Quota, such seats W.P.(C)No.21647/15 -6- shall be filled up under All India Merit Quota. Candidates seeking admission against seats reserved for State Merit Quota shall produce 'Nativity Certificate' as prescribed by the Government of Kerala for admission to professional courses in the State. Subsequent to Ext.P9, Ext.P10 notification was issued by the 1st respondent University for filling up the available vacancy strictly in accordance with law. Pursuant to Ext.P10 notification, the petitioner submitted Ext.P11 application claiming the benefits of OEC-Kerala. His application was processed along with other applications and the 1st respondent issued Ext.P12 notification dated 24.7.2015 publishing the provisional ranked list of candidates for admission to the course in question. In Ext.P12 the petitioner is Sl.No.71 under All India Merit Quota and Sl.No.12 under the State Merit Quota, Sl.No.1 in the OEC Quota (for admission against seats unavailed by SC/ST candidates). Therefore, the learned Standing Counsel for the 1st respondent would submit that, the entitlement of the petitioner for admission pursuant to Ext.P10 notification can be considered only in accordance with his rank in Ext.P12. The learned Standing W.P.(C)No.21647/15 -7- Counsel would also point out that, as stated in Annexure R1(a), 7 vacancies are there under All India Merit Quota, 3 vacancies under State Merit Quota, one vacancy under the Scheduled Caste Quota and two vacancies under the SEBC - Muslim Quota.

7. I heard arguments of the learned counsel for the petitioner and also the learned Standing Counsel for the 1st respondent University.

8. From the pleadings and documents on record, it is explicitly clear that, when the petitioner submitted application pursuant to the notification issued by the 2nd respondent for CLAT-2015, he failed to claim reservation under State category of OBH/OEC. It was in such circumstances, when the result was published, the petitioner was treated as a General Candidate under State Reservation Category. That is also reflected in his rank, which is evident from Ext.P1. In the admission process conducted by the 2nd respondent, the petitioner could not secure admission since he was treated as a general candidate under State Reservation

Category. The aforesaid process was closed on 7.7.2015 and the seats left vacant in the participating W.P.(C)No.21647/15 -8- Universities including the 1st respondent University was permitted to be filled up by those Universities at their own level. It was pursuant to Ext.P9, the 1st respondent University issued Ext.P10 notification, pursuant to which the petitioner submitted Ext.P11 application. Based on the claim made by the petitioner in Ext.P11, his candidature was also considered under OEC and he was included in Ext.P12 rank list at Sl.No.71 under All India Merit Quota, at Sl.No.12 under the State Merit Quota and at Sl.No.1 in the OEC quota (for admission against seats unavailed by SC/ST candidates).

9. The petitioner has no case that the total number of vacancies stated in Ext.P12 is incorrect. Though the learned counsel appearing for the petitioner would contend that priority given in Ext.P10 for filling up the vacancies is patently illegal, I find absolutely no merit in the aforesaid contention raised by the learned counsel for the petitioner. As rightly pointed out by the learned Standing Counsel for the 1st respondent University the criteria prescribed in Ext.P10 is strictly in terms of Annexure R1 (a) prospectus issued by the 1st respondent University. I also W.P.(C)No.21647/15 -9- notice that, Ext.P10 notification is not under challenge in this Writ Petition. The petitioner participated in the selection process pursuant to Ext.P10 even without objecting the criteria for selection prescribed thereon. If that be so, after preparation of the rank list, the petitioner cannot contend that the criteria prescribed in Ext.P10 notification is arbitrary or illegal.

10. In the result, I find absolutely no merit in the various contentions raised in the Writ Petition. The Writ Petition fails and the same is dismissed. It is made clear that the dismissal of the Writ Petition will not stand in the way of the 1st respondent University in considering the candidature of the petitioner for admission in the available seats strictly in terms of Ext.P12 ranked list. Sd/- ANIL K.NARENDRAN, JUDGE dsn/skj

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