

V. Premanand Vs. the State of Tamil Nadu and Others

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Court : Chennai

Decided On : Apr-27-1995

Reported in : AIR1995Mad316; (1995)IIMLJ325

Judge : K.A. Swami, CJ. and; Raju, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W. No. 339 of 1995

Appellant : V. Premanand

Respondent : The State of Tamil Nadu and Others

Advocate for Def. : D. Murugesan, Special Govt. Pleader

Advocate for Pet/Ap. : S. Subramanian, Sr. Adv. for ;D. Rajagopal

Judgement :

ORDER

K. A. Swami, CJ.

1. This appeal is preferred against the order dated 16-3-1995 passed by the learned single Judge in Writ Petition 19008 of 1994. The petitioner has sought for a direction to the respondents to select and appoint him to the I Year MBBS Course for the Academic Year 1994-95 Session under the special category reserved for children born of inter-caste marriage. Learned single Judge has

disposed of the writ petition with a direction that the petitioner should be provided a seat from the academic year 1995-96. Hence, the petitioners has come up in appeal.

2. Facts necessary for the purpose of adjudicating as to whether the petitioner is entitled to the relief sought for in the writ petition, are no more in dispute. The petitioner is born of an inter-caste marriage between a scheduled caste/scheduled tribe and a forward community. The State Government in order to encourage inter-caste marriage and that too between a member of scheduled caste/scheduled tribe and forward community, has reserved certain seats in educational institutions for the children born of inter-caste marriage. As per clause 3.5 (viii) of the prospectus issued by the Directorate of Medical Education, Tamil Nadu, for the professional courses in Tamil Nadu in Medical and Pharmaceutical for the academic year 1994-95, 12 seats are reserved for children born of inter-caste marriages. Preference is also provided according to the nature of the nature of the inter-caste marriage. That preference is as follows :

'Candidates claiming admission against the reservation for the children born of inter-caste marriage should submit a certificate from the Tahsildar of the respective area regarding the castes of the parents, vide G.O.Ms. No. 477, Social Welfare Department, dated 27-6-1995. The following order of preference shall be followed for selection of candidates from the category:

(a) The children born of inter-caste marriage between S.C./S.T. and forward communities.

(b) The children born of inter-caste marriage between S.C./S.T. and backward class communities.

(c) The children born of inter-caste marriage between S.C./S.T. and most backward class and denotified communities.'

As already pointed out, the petitioner falls in the first category, viz., children born of inter-caste marriage between S.C./S.T. and forward community, therefore, he will have preference over other two categories. In addition to this, it is also not in

dispute that the petitioner has secured the marks not only above the marks fixed for eligibility but more marks than many of the candidates admitted in the aforesaid three categories. He had filed the application within time and had also mentioned in the application that he was born of inter-caste marriage between S.C./S.T. and forward community. However, in the application, he had mentioned that he had applied for a certificate from the Tahsildar and the same had not yet been issued and the same will be produced as soon as it is issued. He was able to produce such certificate before the Selection Committee considered the applications for admission relating to the special category in question.

3. However, the Selection Committee has rejected the application relying upon cl. 13.5 of the Prospectus, which states that the candidates seeking admission against special category seats should submit necessary certificates obtained from appropriate authorities in the prescribed form and submit them along with the application to the Selection Committee in the form prescribed. It is true that along with the application, the petitioner was not able to produce the certificate, but, nevertheless, he mentioned that such a certificate had been sought for and the same would be furnished as soon as it is issued.

4. The point for consideration is as to whether it is the undisputed fact that the candidate belonging to the category of children born of inter-caste marriage between S.C./S.T. and Forward Community, determines his right for selection to the seats reserved for children born of inter-caste marriage or it is the certificate issued by the authority to that effect.

5. It must be pointed out that clause 13.5 only prescribed the procedure in order to eliminate persons who do not belong to that category, to take undue advantage. As long as it is not in dispute that the petitioner belongs to that category of children born of inter-caste marriage between S.C./S.T. and Forward Community and in addition to this, he was able to produce the certificate before the application was scrutinised for admission, rejection of such application amounted to giving greater value to the procedure than to the substantive right. The procedure is intended to facilitate enforcement of substantive right and not to defeat the substantive right. Procedure is hand-maid of justice and not to defeat justice. Therefore, the

Selection Committee acted arbitrarily when it rejected the application, even though it had before it the certificate produced by the petitioner to the effect that he satisfied the category of children born of inter-caste marriage between S.C./S.T. and Forward Community. As long as the application was filed in time and the applicant was able to satisfy the requirement of production of certificate from the appropriate authority, before his application was considered for selection, it was not at all open to the Selection Committee to refuse to consider the application only on the ground that such a certificate had not been produced along with the application. We have already pointed out that as per the marks obtained by the petitioner, he was entitled to be admitted to the medical course for the academic year 1994-95. We are informed that the academic year 1994-95 has not yet been over. Therefore, there is no difficulty in issuing a direction to the respondents to admit the petitioner to the course in question, viz., I MBBS for the academic year 1994-95. Even though he may not be able to appear for the examination, at least, he would be entitled to continue the course in the next year without seeking fresh admission.

6. We accordingly, allow the writ appeal, set aside the order dated 16-3-1995 passed in Writ Petition No. 19008 of 1994 direct the respondents to admit the petitioner to the I Year of MBBS Course for the academic year 1994-95 before the close of the academic year. Whether as per the rules, the petitioner/ appellant is entitled to admission in Madras Medical College or any other medical colleges shall be examined by the Selection Committee as per the norms prescribed in this regard. The C.M.P. is also disposed of. No order as to costs.

7. Appeal allowed.