

(2009) 09 MAD CK 0127

Madras High Court

Case No: Writ Petition No. 17202 of 2009

A. Divya rep. by her father and
natural guardian - Mr. Arun

APPELLANT

Vs

The Secretary to Government
Department of Education, The
Joint Director (Higher Secondary)
Department of Government
Examinations, Directorate of
Medical Education (Selection
Committee) and The Secretary to
Government Department of
Health

RESPONDENT

Date of Decision: Sept. 8, 2009

Hon'ble Judges: P. Jyothimani, J

Bench: Single Bench

Advocate: S. Arunkumar, for the Appellant; V. Arun, A.G.P., for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

P. Jyothimani, J.

The writ petitioner, who studied Plus 2 in Ewatts Matriculation Higher Secondary School, Chennai, in the examination

held in March, 2009 secured 86.41% of marks as follows:

1. Tamil : 178 out of 200
2. English : 176 out of 200
3. Maths : 166 out of 200
4. Physics : 174 out of 200

5. Chemistry : 157 out of 200

6. Biology : 186 out of 200

Total : 1037 out of 1200

2. The petitioner is physically disabled in her right hand and consequently, was unable to write the examinations in the normal speed. As per the report of the Medical Board of the Government General Hospital, Chennai-600 003, the petitioner was permitted to be given 30 minutes to one hour extra time than the allotted time taking note of her physical disability. She belongs to Scheduled Caste community and she studied with an aim of becoming a Doctor. She was given only 30 minutes extra time for writing all the examinations with the result she was able to secure only 86.41%. If only the petitioner was given one hour time as found by the Medical Board there was possibility for her to have obtained more marks making her eligible for competing for admission to MBBS Course. In the counselling for admission to the first year MBBS Course which took place from 6.7.2009 to 17.7.2009 she was allotted the registration number in A.R. No. 6669 and there was no possibility for her to get admission in the first year MBBS Course for the academic year 2009-2010.

3. It is the case of the petitioner that the Government Order enables the respondents to give extra time up to one hour and if only the said period was given, being a physically disabled person belonging to Scheduled Caste community, she would have secured good marks and thereby a fair chance for getting admitted in the first year MBBS Course. In this regard, it is seen that she has made a representation on 20.6.2009, i.e., after the examinations were over, results were declared and counselling was also completed. Since no order was passed she approached this Court by way of a writ petition in W.P. No. 11747 of 2009 and this Court, by order dated 24.7.2009, directed the second respondent to pass appropriate orders and thereafter, the impugned order came to be passed by the second respondent which is challenged in this writ petition.

4. A reference to the impugned order dated 12.8.2009 shows that while it is true that as per the Medical Board report the petitioner was entitled to extension of time from 30 minutes to one hour, the petitioner who was given 30 minutes time has not raised any objection and she has never

stated either during the time of examination or immediately thereafter that she should be given one hour as per the medical certificate. It is only after the examination results were published and the petitioner who tried for admission to first year MBBS Course failed in her efforts, she made representation to the respondents which resulted in passing of the present impugned order.

5. It is an admitted case that the mark sheet in respect of the Plus 2 examination conducted in March, 2009 was issued as early as 14.5.2009. It is also not in dispute that neither at the time of writing of examination nor thereafter, i.e., before results were published, the petitioner has ever raised any objection that she was unable to write examination as an usual candidate within the extended time of 30 minutes and she requires 30 minutes more. It is seen that after the results of the qualifying examination were declared in which she secured 86.41%, she applied for admission to first year MBBS Course and she was called for counselling on 17.6.2009 and it was only on 17.6.2009 when she understood that for the marks which she has secured she would not be selected for admission, she immediately made a representation to the second respondent on 20.6.2009 stating that she should have been given 30 minutes more for writing Plus 2 examinations.

6. A reference to the Medical Certificate issued by the Regional Medical Board of the Government General Hospital, Chennai-600 003 no doubt shows that in the Plus 2 examination she could be given extra time of 30 minutes to one hour. Therefore, a discretion has been given to the Examiners to give 30 minutes time and thereafter up to one hour. It is for the Examiner to decide. It is not the case of the petitioner that during the time when she was writing examination after the extended period of 30 minutes she found it difficult to write because of her disability and therefore, she required another 30 minutes in order to have the benefit granted to the physically disabled person. In fact, while writing all the six papers she has never raised any objection that she requires 30 minutes more. As it is seen in the impugned order, the answer sheets were written not in a hurried manner and in usual manner the answer were given. In such circumstances, it is not possible to accept the contention of the learned Counsel

for the petitioner that she should have been given one hour time, which is the maximum time.

7. A reference to the Government Order in G.O.Ms. No. 110, School Education V-1 Department, dated 17.7.2003 also makes it clear that in

respect of the students who are effected by Dyslexia certain privileges have been given which includes the extension of time limit for writing

examination up to one hour. This certainly depends upon the facts and circumstances of the case. The petitioner as a physically disabled person is

certainly entitled to the extra time of 30 minutes to one hour, provided when 30 minutes time has been granted and she requires some more time to

write the examination due to her disability. In the absence of such a request being made by the petitioner at the earliest point of time, it is not

possible to accept the contention of the learned Counsel for the petitioner that the petitioner should have been given one hour time.

In such view of the matter, I do not see any reason to interfere with the impugned order passed by the second respondent. The writ petition fails

and the same is dismissed. No costs. Consequently, M.P. No. 1 of 2009 is closed.