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B.V. Latha Vs The Director of Medical Education Office of Directorate of Medical Education, The State Level Community Certificate Scrutiny Committee and The Dean Madurai Medical College

Court: Madras High Court

Date of Decision: Oct. 5, 2009

Hon'ble Judges: P. Jyothimani, J

Bench: Single Bench

Advocate: G. Nagarajan, for the Appellant; G. Sankaran, Spl. Government Pleader, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

P. Jyothimani, J.
The writ petitioner is stated to have born on 8.6.1985 at Chennai and she belonged to Kondakapu community, which is a

Scheduled Tribe community. It is her case that her father also belongs to the same community and he is in Railway service. It is her further case

that her father''s sister has also been given a community certificate by the competent authority to the effect that she belongs to Kondakapu

community. The Personal Assistant to the Collector issued a community certificate on 29.9.1998 to the petitioner denoting her community as

Kondakapu, based on which she applied for MBBS course in the year 2002. In the entrance examination she stood as No. 2 among the

Scheduled Tribe candidates. She was selected and also joined in the third respondent'' Madurai Medical College in the year 2002.

2. It is stated that in the routine course, the community certificate of the petitioner was sent for verification to the District Collector, Chennai. There

was an enquiry conducted by the District Level Scrutiny Committee in which the father of the petitioner was directed to be present on 3.4.2003

and on enquiry, the certificate granted to the petitioner by the Personal Assistant to the Collector was cancelled on 11.6.2003 on the basis that he

is not a competent person to issue certificate to a person belonging to Scheduled Tribe community. It was against the said order the petitioner filed

an appeal on 11.7.2003 before the second respondent, namely the State Level Scrutiny Committee.

3. It is the case of the petitioner that the second respondent posted the appeal for hearing on 10.11.2003 and thereafter, there was no hearing

conducted by the second respondent at all. In the meantime, the third respondent" Madurai Medical College has suspended the petitioner from the

College from 30.9.2003 on the ground that her community certificate has been cancelled. It was against the said order the petitioner has filed W.P.

No. 28190 of 2003 and this Court has granted an order of stay on 10.10.2003, which was made absolute on 9.7.2004.

4. The first respondent has issued a general circular on 19.12.2006 stating that in respect of the candidates relating to whom the community

verification report has not been received from the competent authority their Course Completion Certificates should not be issued. After issuance of

the said circular, the petitioner filed W.P. No. 6297 of 2007 challenging the direction of the first respondent not to issue Course Completion

Certificate in those cases in which the issue of Community Certificate is pending, on the basis that there was no fault on her part and that the appeal

is pending before the first respondent. The said writ petition came to be disposed of on 21.2.2007 with various directions, including a direction to

the second respondent to dispose of the appeal filed by the petitioner dated 11.7.2003 on or before 31.3.2007. Even thereafter, according to the

petitioner the appeal has not been disposed of by the second respondent and she has also made another representation on 26.11.2008 and there

was no reply.

5. In the meantime, the petitioner has completed her M.B.B.S. course, including CRRI training. She has also applied for admission to Post

Graduation course. Since the respondents are refusing to issue Course Completion Certificate, this writ petition is filed for a direction against

respondents 1 and 3 to issue the Course Completion Certificate to the petitioner in respect of her completion of MBBS Course and CRRI Training

during the period of 2002 to October, 2008 at the 3rd respondent" Madurai Medical College.

6. By G.O.(2D) No. 108, Adi Dravidar and Tribal Welfare (CV-1) Department, dated 12.9.2007, the Government has now clarified that as far

as the issuance of the community certificate to the Scheduled Tribe Community is concerned, the competent authority is the State Level Scrutiny

Committee, namely the second respondent, before whom the appeal filed by the petitioner dated 11.7.2003 is pending.

7. On the facts and circumstances of the case, it is clear that the petitioner was admitted in the M.B.B.S. course in the year 2002 on the basis of

the community certificate issued by the Personal Assistant to the Collector indicating her community as Kondakapu, a Scheduled Tribe and she

completed her MBBS course, including CRRI training in the year 2008 itself by virtue of the direction of this Court. But, the only thing to be

completed is the issuance of the Course Completion Certificate without which the petitioner cannot apply for Post Graduation.

8. It is relevant to note at this stage, as submitted by the learned Counsel for the petitioner, that the appeal filed by the petitioner dated 11.7.2003

before the second respondent, being the competent authority as per G.O.(2D) No. 108, Adi Dravidar and Tribal Welfare (CV-1) Department,

dated 12.9.2007, has not been disposed of.

9. Mr. G. Sankaran, learned Special Government Pleader (Education) has brought to the notice of this Court that in one of the cases the First

Bench of this Court in exactly similar circumstances (W.P. No. 1884 of 2008, order dated 31.1.2008) relied upon the judgment of the Supreme

Court in State of Maharashtra v. Milind AIR 2001 SC 393 wherein the Supreme Court has held that after completion of the course by an

individual even if it is found later that the communal status of the individual concerned is something different, it is not for the Court to interfere as the

individual has already completed the course, and taking into consideration the undertaking by way of an affidavit given by the petitioner therein as

well as his father that they will not claim any benefit under the Scheduled Tribe category, has issued a direction to the respondents therein to issue

Course Completion Certificate and further directed the petitioner therein and his father to surrender their community certificates without prejudice

to their right to obtain fresh caste certificates in accordance with law.

10. In another case, the learned Single Judge of this Court by order dated 9.7.2009 made in W.P. No. 5251 of 2009 has held that the Course

Completion Certificate can be directed to be issued subject to the condition that the petitioner will not claim any benefit from and out of the said

community certificate for future education or employment and that any admission based on the Course Completion Certificate shall be subject to

the final result in the proceedings before the competent authority.

11. Mr. G. Nagarajan, learned Counsel for the petitioner submits that Course Completion Certificate may be directed to be issued subject to the

final decision in the proceedings pending before the second respondent.

12. While disposing earlier writ petition in W.P. No. 6297 of 2007, by order dated 21.2.2007, this Court has held that till the State Level Scrutiny

Committee passes final order in the appeal filed by the petitioner, the petitioner should not be put to any hardship and that the third respondent

shall permit the petitioner to continue the course and take part in the examination and to admit her in CRRI training. It was also stated that such

continuation of course, the completion of training and issue of course completion certificate will be subject to the ultimate outcome of the order

passed by the State Level Scrutiny Committee.

13. However, it is an admitted fact that the petitioner has completed her MBBS Course and CRRI training and the second respondent has not

passed any order in the appeal dated 11.7.2003 preferred by the petitioner.

In such view of the matter, the writ petition is disposed of with a direction against the third respondent'' Madurai Medical College, Madurai to issue

Course Completion Certificate to the petitioner in respect of MBBS Course and CRRI Training undergone by the petitioner in the third respondent

College on production of the copy of this order. It is made clear that issuance of the said certificate shall be without prejudice to the right of the

second respondent to pass appropriate order and subject to the result of the appeal filed by the petitioner dated 11.7.2003. It is also made clear

that if the petitioner by using the Course Completion Certificate of MBBS course as well as the CRRI Training obtains any admission to Post

Graduation Degree, the said admission also shall be subject to the final order to be passed in the appeal by the second respondent, which should

be passed by the second respondent as per the earlier direction of this Court dated 21.2.2007 made in W.P. No. 6297 of 2007. No costs.

Consequently, M.P. Nos. 1 of 2008 and 1 of 2009 are closed.