

LOCAL CANDIDATE — NEED FOR RELAXATION OF PRESIDENTIAL ORDER FOR JUDICIAL OFFICERS

By

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1. Every one is having Moral, Social and Legal obligation to provide education to his/her children. Education is now become a part of life to all the individuals and the Government is also taking so many steps to avoid the illiteracy among all the people even by introducing a compulsory education.

2. Transfer is an inevitable to a Judicial Officer, because of the transfer for every 3 years, the Judicial Officer is putting his family wherever he was posted and thereby the education of the children is somewhat primarily disturbed because of adjustment in teaching, adjustment of atmosphere and also other surrounding circumstances. Because of the Social restrictions the children of Judicial Officers may not mingle with the others unlike the other people. So normally the Judicial Officers are carrying their children whenever they have transferred to other places and there they are admitting the children for the education in the Schools or Colleges. It was proclaimed by the Government that the services of individual officers cannot be compared with other people.

3. With this above background I would like to mention my views with regard to the difficulties faced by all the Judicial Officers especially and particularly in getting the seats in MBBS., or Engineering Colleges, though the students might have secured more marks when compared with the others, but because of the local candidate and non-local candidate (Percentage of seats of local candidate and non-local candidate) they are not getting the seats because of the Presidential Order. Though this seems to be a simple problem

but it gives a lot of mental agony to all the Judicial Officers thereby they cannot render the services happily.

4. In a judgment reported in AIR 2002 Andhra Pradesh, Page 115 Full Bench (In the case of *Bathina Rajya and etc., etc., v. NTR University of Health Science, Vijayawada and others*) delivered by the then Chief Justice *S.B. Sinha, B. Sudershan Reddy and V.V.S. Rao* deciding that case, their Lordships also discussed about the local candidate and requirements of the local candidates in Para 40 of this judgment reads as follows:

Local candidate :—

(1) A candidate for admission to any course of study shall be regarded as a local candidate in relation to a local area—

- (a) If he has studied in an educational institution or educational institutions in such local area for a period of not less than four consecutive academic years ending with the academic year in which he appeared or as the case may be, first appeared for the relevant qualifying examination : or
- (b) Where during the whole or any part of four consecutive academic years ending with the academic year in which he appeared, or as the case may be, first appeared for the relevant qualifying examination he has not studied in any educational institution, if he has resided in that local area for a period of not less than four years immediately preceding the date of commencement of the qualifying examination in which

he appeared or as the case may be, first appeared.

(2) A candidate for admission to any course of study who is not regarded as a local candidate under sub-paragraph (i) in relation to any local area, shall—

(a) if he has studied in educational institutions in the State for a period of not less than seven consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared for the relevant qualifying examination be regarded as local candidate in relation to—

(1) such local area where he has studied for the maximum period out of the said period of seven years, or

(2) Where the period of his study in two or more local areas are equal, such local areas he has studied last in such equal periods;

(b) If during the whole or any part of the seven consecutive academic years ending with the academic year in which he appeared or, as the case may be, first appeared for the relevant qualifying examination, he has not studied in the educational institutions in any local area, but has resided in the State during the whole of the said period of seven years, be regarded as a local candidate in relation to :

(i) where the periods of his residence in two or more local areas are equal, such local area where he has resided last in such equal periods:

Explanation :

It was also further mentioned in Para 41 that Paragraph 8 of the Presidential Order empowers the President to authorize the State Government to issue instructions for efficient enforcement of the Presidential Order.

In accordance with such authorization, the Government issued instructions from time to time. In Para No.42 their Lordship also held that it is clear on an analysis of the above, it is clear that a candidate for the purpose of admission in any institutions shall be regarded as a local candidate in relation to a local area under sub-paragraph (1) of Para 4 if he or she fulfils either clause (a) or clause (b) of sub-paragraph (1). Clause (b) is applicable only to candidates who have not studied in any educational institutions but have resided in the local area for a period of not less than four years immediately preceding to the date of commencement of the relevant qualifying examination in which he or she appeared or first appeared.

In order to be treated as local candidate in relation to a local area under Clause (a) one must have studied in an educational institution or educational institutions in the local area for a period of not less than four consecutive academic years ending with the academic year in which he or she first appeared in the relevant qualifying examination.

5. In that case though the petitioner therein study in the State of A.P. for more than 10 years in Guntur from Kindergarten to SSC and instead of that she could not be treated as local candidate because she studied in Gujarath 2 years preceding to qualifying examination. So she was not treated as local candidate.

In Para No.48 their Lordship also observed the same as :—

“We do agree that a candidate who is a resident of the State of Andhra Pradesh and who had studied in educational institutions right from the Kindergarten to SSC in the State except for the two years could not be treated as a local candidate in relation to any of the local areas whereas it may be possible that a candidate who do not belong to the State of Andhra Pradesh but who had studied

4 consecutive academic years in any local area of the State ending with the academic year in which he appeared or first appeared for the relevant qualifying examination could be regarded as a local candidate though he is not a resident of the State of Andhra Pradesh and studied only for four years in the State. But, having regard to the provisions of the Presidential Order and in the absence of any provision having been made in the Presidential Order governing such situation, no relief can be granted to the petitioner”.

6. It is not possible for an officer to work continuously more than 3 years in a station. So there is no possibility for an officer to study his son in the same college or area for a period of four (4) years preceding to qualifying examination. Why because 85% of seats will be given to the local candidates and only 15% will be provided for non-local candidates.

For example :

An Officer was posted at Chittoor and his son studied VIII, IX and Xth Class at Chittoor. Subsequently he was transferred and posted to Guntur. Where his son studied Intermediate for a period of 2 years. Then afterwards he appeared for EAMSET

examination, he might have secured below 100 rank. But as he was happened to be a non-local candidate in the Guntur area only 15% seats will be available under that category of non-local candidate. So that there is no possibility for that candidate even though he secured below 100 rank, why I am stressing on this aspect because if some relaxation was given to the application of Rule of local candidate and non-local candidate especially to the judiciary, the above problem could be avoided.

7. We can argue that to circumvent the above problem, the officer can join or can admit his son in private college (or) Hostel. But the financial status of Judicial Officer may permit his son to join in a private hostel, but he cannot work happily by leaving his son or his daughter, in a separate area by going every week to that place his judicial work will certainly be suffered when compared with the other officers' work. Though this kind of problem might not have brought to the notice of the Government or to the Hon'ble High Court of A.P., but really this is a problem where the Government can come to the rescue to the judiciary and it is also the high time for the Hon'ble High Court to recommend for giving relaxation of these rules to the judiciary.
