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W.P.No.10629 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2024

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.10629 of 2024
and W.M.P.Nos.11704, 11705 and 11706 of 2024

C.Vanitha

... Petitioner

Vs.

Tamil Nadu Public Service Commission
Frazer Bridge, Park Town
Chennai – 600 003
Rep.by its Secretary.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of ineligibility in Memorandum No.656/APD-B-Gr-11/2022 dated 10.04.2024 on the file of the respondent quash the same and direct the respondent to select and appoint the petitioner to the post of Group II and Group IIA.

For the petitioner : Mr.S.Doraiswamy

For the respondent : Mrs.G.Hema



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ORDER

This Writ Petition is filed for a Certiorarified Mandamus, calling for the records relating to the order of ineligibility in Memorandum dated 10.04.2024 on the file of the respondent and quash the same and consequentially direct the respondent to select and appoint the petitioner to the post of Group-II or Group IIA and pass further or other orders.

2. The grievance of the petitioner is that she studied all along in Tamil medium from 1st standard to 10th standard, as far as 11th and 12th standards are concerned, she studied by way of private study and appeared for the 12th standard examination. Thereafter, successfully completing the 12th standard examination, she underwent a graduation degree also in Tamil as the medium of instruction. Therefore, the petitioner applied for selection in respect of the posts under Group II or Group IIA services examination issued vide notification dated 23.02.2022.

3. Upon clearing the preliminary examination the petitioner was short listed for the main written examination. After the main written examination, she was not called for the oral test and interview. According to



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the petitioner, being the candidate under the category of PSTM (Persons Studied in Tamil Medium) quota, the petitioner is coming within the zone of consideration and as such the respondent is liable to include her name in the further selection process. However, by the impugned order dated 10.04.2024, the petitioner was informed that she would be considered in the General Turn category. Therefore, the present Writ Petition.

4. The Writ Petition is opposed by the respondent Commission (TNPSC).

5. The learned counsel appearing for TNPSC pointing out to the certificates which are uploaded by the petitioner, would submit that to avail the reservation under the 'PSTM' category, the candidates have to strictly apply with the requirements as per the Act and the Government Order. They shall produce the certificates in the prescribed format. The notification also clearly says that unless the certificates in the prescribed format for undergoing the entire education qualification is produced, the candidate will not be considered in the PSTM quota. Without undergoing the entire period of education up to the qualifying degree in Tamil, the petitioner will not be entitled to claim



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reservation. Reliance is placed on the Judgment of the Hon'ble Supreme Court in ***S.Shriram Vs. G.Sakthi Rao and Ors.***, (SLP (Civil) Nos.3364 to 3367 of 2022 dated 31.07.2023)

6. I have considered the rival submissions made on either side and perused the material records of the case.

7. At the outset, as rightly contended by the learned counsel for the respondent, the Hon'ble Supreme Court of India had considered the very provisions relating to the reservation for Tamil medium students in the aforesaid Judgment of ***S.Shriram's case*** (cited supra) and it is essential to extract paragraphs Nos.4 to 10, which read as follows:-

“4. Section 2(d) of the said Act defines “persons studied in Tamil medium” as under:

“persons studied in Tamil medium” means persons who have obtained the educational qualification or qualifications prescribed for direct recruitment in the Rules or Regulations or orders applicable to any appointment in the services under the State through Tamil medium of instruction;”

5. The Act was amended by the Tamil Nadu Appointment on Preferential Basis in the Services under the State of Persons Studied in Tamil Medium (Amendment) Act, 2020 where the definition of “persons studied in Tamil medium” is substituted under Section 2(d), as below:



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“(d)“person studied in Tamil medium” means a person who has studied through Tamil medium of instruction up to the educational qualification prescribed for direct recruitment in the rules or regulations or orders applicable to any appointment in the services under the State.”

6. The High Court in the impugned judgment observed that the Amendment Act, 2020 is a clarificatory amendment providing eligibility only for those who have pursued their education in Tamil medium entirely i.e., from first standard up to the qualification prescribed for the job in question.

7. We have considered the submissions made by Mr.Romil Pathak, the learned counsel appearing for the appellant. Also considered the submissions made by Mr. P. Wilson, the learned senior counsel appearing for the respondents.

8. The Act No. 40 of 2010 was enacted primarily to provide employment opportunities to persons who have studied in Tamil 2 medium at all levels of education and preferential appointment is envisaged under Section 3 to the extent of 20% of all vacancies for those who have studied in Tamil medium.

9. On reasonable construction of the various provisions of the Act, it is discernible that it was intended to provide preferential appointment opportunities for those who have pursued their studies in Tamil medium entirely, i.e., from first standard up to the qualification prescribed. It was not intended to provide the benefit of preferential appointment only on the strength of pursuing the qualification curriculum in the Tamil medium.

10. When we look at the 2010 enactment in the above light, the amendment incorporated in the year 2020 has to be construed as nothing more than a clarificatory amendment of what was originally provided for in the 2010 Act. Some ambiguity remained in the interpretation of the term “persons studied in Tamil medium” as defined under Section 2(d). The amending Act of 2020 is only to ensure proper construction of Section 2(d) to achieve the objective of the Act so that only those who have pursued their education in Tamil medium, would be entitled to compete for 20% of the jobs in the State earmarked for them.”



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8. Therefore, the question to be determined is that whether or not the petitioner had undergone the entire educational qualification in Tamil medium.

9. In this case, there is no quarrel about the fact that the petitioner has studied up to standards 1 to 10 in Tamil medium and has enclosed the appropriate certificate. Similarly, she has undergone the degree with Tamil as a medium of instruction and uploaded the certificate. As far as the 11th and 12th standards are concerned, the petitioner has uploaded the certificate, which reads as follows:-:

“அரசுத் தேர்வுகள் இயக்ககம்,
சென்னை 600 006.

ந.க.எண்.20937/வி1/2021

நாள் 31.03.2021

குறிப்பாணை

பொருள்: அரசுத் தேர்வுகள் இயக்ககம், சென்னை 6 மேல்நிலைப் பள்ளி விடுப்பு சான்றிதழ் பொதுத் தேர்வினை தமிழ்மொழி வழியில் தேர்வெழுதியது சான்றிதழ் அளித்தல் சார்ந்தது.

பார்வை: மனுதாரர் **VANITHA C** என்பவரிடமிருந்து பெறப்பட்ட கடிதம் நாள்.

.....
பார்வையில் குறிப்பிட்டுள்ள மனுதாரரின் கடிதத்துடன் இணைத்து அனுப்பப்பட்ட கீழ்க்காணும் விவரங்கள் அடங்கிய மதிப்பெண் சான்றிதழ் / சான்றிதழ்கள் இவ்வலுவலக ஆவணங்களுடன் ஒப்பிட்டுப் பார்த்ததில் அன்னார் தமிழ்மொழி வழியில் தேர்வெழுதியுள்ளார் எனத் தெரிவிக்கப்படுகிறது.

வ.எண்	பெயர்	பதிவேண்	பருவம்
1.	VANITHA C	913980 (only one)	Mar 2012

”



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10. Thus, the original certificate only reads that the petitioner had written her examination in Tamil. As a matter of fact, the petitioner has produced the Higher Secondary Certificate, which clearly mentions that the medium of instruction is Tamil. When the petitioner has read the courses in Tamil, certainly her medium of instruction was also in Tamil. Had the petitioner undergone the 11th and 12th standards in any school, the school authorities would have granted the certificate to that effect. But, since this is a case of self-study, the petitioner has approached the Directorate of Examination, Government of Tamil Nadu, who has issued the aforesaid certificate.

11. It can be seen that the Hon'ble Supreme Court in paragraph No.10 of the Judgment in *S.Shriram's case* (cited supra) has clearly stated that the objective of the Act is to provide for reservation to those who have pursued their education in Tamil medium would be entitled to compete for the 20 % of the posts. Therefore, the Act has to be seen purposively and if the stand of the respondent that there is no certificate from any authority to hold that the petitioner had undergone 11th and 12th standards in Tamil medium is accepted, the same would be a pedantic approach defeating the very purpose of the Act.



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In that background, when the matter came up for hearing before this Court on 26.04.2024, this Court had passed for the following interim order, which reads as follows:

“Part-heard.

2. It is seen from the documents uploaded by the petitioner that as far as XII standard is concerned, the authority, who issued the certificate, namely, the Member Secretary, State Board of School Examinations, had stated that the petitioner had written examination in Tamil whereas the form of certificate which is required is that the petitioner's medium of instruction in XI and XII standard was Tamil. Learned counsel for the petitioner has also produced the Higher Secondary mark sheet of the petitioner in which it is clearly stated that the medium of instruction is Tamil. Therefore, there should not be any difficulty for the petitioner to get a certificate to the effect that the medium of instruction of the petitioner in XI and XII standard was Tamil.

3. Since it is a mistake committed by the authority concerned in appropriately wording the certificate, the petitioner should not be deprived of an opportunity.

4. In that view of the matter, call this matter on 30.04.2024. 5. In the meanwhile, it is open to the petitioner to approach the authority concerned, namely, the Member Secretary, State Board of School Examinations, on 29.04.2024, along with a copy of this order and request him to issue the required certificate in the appropriate format.”

12. Thereafter, the authority has given the following certificate, which reads as follows:-

“தமிழ்மொழி வழியில் தேர்வெழுதியதற்கான சான்றிதழ்
திரு/திருமதி/செல்வி VANITHA C பதிவெண் 913980
பருவம்/ வருடம் MAR/2012 ஆகிய விவரங்களின்படி ஆவணங்களுடன்
ஒப்பிட்டுப் பார்த்ததில் அன்னார் தனித்தேர்வராக தமிழ்மொழி வழியில்
தேர்வெழுதியுள்ளார் என சான்றளிக்கப்படுகிறது”



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13. Therefore, it can be seen that the petitioner has undergone the examination on self study and has read the course and written the examination only in Tamil. Thus the petitioner categorically satisfies the definition as contained in Section 2 (d) and also the purpose of the Act to provide reservation for the persons who have completed their entire education only in Tamil medium. It defies any logic even to contend that the petitioner would have instructed herself in any other medium except Tamil as far as 11th and 12th standards are concerned.

14. This Court had also considered a similar issue, where under a person who has made a self-study in 1st standard was denied not to be treated in PSTM quota and it is essential to quote the relevant paragraph Nos.13,14 and 15 of the judgment made in W.P.No.29056 of 2022 dated 16.04.2024,

“13. When the law is enacted, the draftsmen of the legislation/the legislature will not be able to foresee every conceivable situation which may arise in the course of the implementation of the law. In these situations, the law has to be interpreted purposefully. The purpose of the very reservation itself is to consider the cases of the students who underwent their entire education in Tamil medium. Obviously, the petitioner has undergone all her education up to the essential qualification only in Tamil medium. Under no stretch of imagination, it can be said that the petitioner would have undergone Standard - I in non-formal education in any other language. Admittedly, the petitioner's mother tongue is



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Tamil. Therefore, insisting upon a proof that she studied the Standard - I also in Tamil would only operate to take away the benefit which is otherwise conferred by the *Act*. In this regard, useful reference can be made to the judgment of the Hon'ble Supreme Court of India in *Vijay Madanal Choudary Vs. Union of India*¹ to paragraph No.274, which reads as under : "274. We may profitably advert to the judgment in *Seaford Court Estates Ltd.* [1949] 2 K.B. 481, which states:

“The question for decision in this case is whether we are at liberty to extend the ordinary meaning of “burden” so as to include a contingent burden of the kind I have described. Now this court has already held that this sub-section is to be liberally construed so as to give effect to the governing principles embodied in the legislation (Winchester Court *Ld.v.Miller* [1944] K.B. 734); and I think we should do the same. Whenever a statute comes up for consideration it must be remembered that it is not within human powers to foresee the manifold sets of facts which may arise, and, even if it were, it is not possible to provide for them in terms free from all ambiguity. The English language is not an instrument of mathematical precision. Our literature would be much the poorer if it were. This is where the draftsmen of Acts of Parliament have often been unfairly criticized. A judge, believing himself to be fettered by the supposed rule that he must look to the language and nothing else, laments that the draftsmen have not provided for this or that, or have been guilty of some or other ambiguity. It would certainly save the judges trouble if Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, when a defect appears a judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of

¹ 2022 SCC OnLine 929



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finding the intention of Parliament, and he must do this not only from the language of the statute, but also from a consideration of the social conditions which gave rise to it, and of the mischief which it was passed to remedy, and then he must supplement the written word so as to give “force and life” to the intention of the legislature. That was clearly laid down by the resolution of the judges in Heydon's case (1584) 3 Co. Rep. 7a, and it is the safest guide today. Good practical advice on the subject was given about the same time by Plowden in his second volume *Eyston v. Studd* (1574) 2 Plowden 465. Put into homely metaphor it is this : A judge should ask himself the question : If the makers of the Act had themselves come across this ruck in the texture of it, how would they have straightened it out? He must then do as they would have done. A judge must not alter the material of which it is woven, but he can and should iron out the creases.”

(emphasis supplied)

14. The *Act* does not expressly specify from ‘Standard - I’. It only states 'up to the educational qualification prescribed'. Obviously, it would mean all the formal education from Standard - I. But, if any person did not have formal education of Standard - I, then, literally applying the clarifying Government Order would render violence to the Statute itself. The Government Order does not deal with the fact situation as the one. It is issued only with the purpose of weeding out persons, who undergo their education in English Medium etc., and only partly studied in Tamil Medium.

15. As a matter of fact, even in the earlier order of this Court in W.P.No.4129 of 2022, referred above, it is directed that the cases can be treated as special cases and this Court had permitted the petitioner to participate in the selection as the *PSTM* candidate. In view of the above



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reasonings, I hold that the petitioner falls with the definition of *PSTM* candidate as per Section 2(d) of the *Act*, on a correct reading of the provisions of the *Act* and the Government Order issued thereunder.”

15. Therefore, the Writ Petition deserves to be allowed and accordingly allowed on the following terms:

(i) The impugned Memorandum dated 10.04.2024 is quashed;

(ii) The respondent shall treat the petitioner as a *Person Studied in Tamil Medium* and consider her in appropriate merit position with reference to the selection under the notification No.03/2023 dated 23.02.2022 and if the petitioner comes within the zone of consideration, the petitioner's shall be included for further oral test / certificate verification etc., and upon selection include her name in the selection list and the same be forwarded to the appropriate authority for issuing appointment order;

(iii) No costs. Consequently connected miscellaneous petitions are closed.

30.04.2024

Jer

Note: Issue order copy on **08.05.2024**

Index: Yes

Speaking order

Neutral citation : Yes



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To
The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge, Park Town
Chennai – 600 003



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D.BHARATHA CHAKRAVARTHY, J.,

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