



W.P.No. 9880 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 21.03.2025

CORAM:

THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN

W.P.No.9880 of 2025 and
W.M.P. Nos.11098 & 11099 of 2025

Dr. R.S. Deepika, BNYS

... Petitioner

VS

1.State Represented by
The Secretary to Government,
Health and Family Welfare Department
Fort St. George, Chennai 600 009.

2. The Medical Service Recruitment Board,
Represented by its Member Secretary,
DMS Building, Teynampet,
Chennai 600 106.

3. The Director,
Indian Medicine and Homoeopathy,
Chennai 600 106.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ, particularly in the nature of Writ of Certiorarified Mandamus calling for records pertaining to the e-mail communication dated 04.11.2024 issued by the 3rd respondent to the petitioner, by which the earlier office order No.IRT/14 dated 17.09.2024 was cancelled and consequently direct the respondents to give effect to



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the office order No.IRT/14 dated 17.09.2024 transferring the petitioner from the Auroville International Town branch to RBO - Puducherry, within the time limited stipulated by this Hon'ble Court.

For Petitioner : Mr. K. Gangadaran
For R1 & R3 : Mr. M. Bindran
Additional Government Pleader
For R2 : Mr. L. Murugavelu (MSRB)
M/s. M. Sneha

ORDER

This Writ Petition has been filed in the nature of a certiorarified mandamus seeking records relating to a Corrigendum Notification bearing No.09/MRB/2020 dated 04.03.2025 issued by the second respondent, the Medical Services Recruitment Board at Chennai and to quash the same and direct the second respondent to hold the selection process for the post of Assistant Medical Officer / Lecturer Grade-II (Yoga and Naturopathy) in the same manner as it would have been held on the dates of the notification.

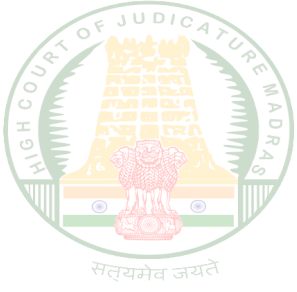
2. In the affidavit filed in support of the Writ Petition it had been contended by the petitioner that she had completed the BNYS course in the year 2020 and later, on the basis of the notification dated 14.08.2020



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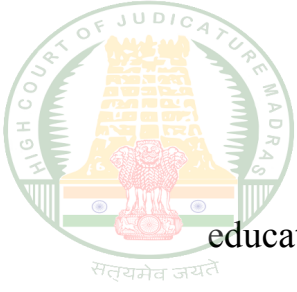
issued by the second respondent inviting applications through online mode till 10.09.2020 for direct recruitment to the post of Assistant Medical Officer / Lecturer Grade-II (Yoga and Naturopathy) and the subsequent notification again dated 26.10.2021 issued by the second respondent whereby the last date for submission of application for the aforementioned post was given as 10.11.2021, she had applied for the said post on 10.11.2021. There being no further progress on and from the date of issuance of the first notification dated 14.08.2020, or from the date of issuance of second notification dated 26.10.2021, owing to various writ petitions being filed questioning the notification itself, and seeking appointment of the writ petitioners therein. The matters were pending before this Court and finally, an order had been passed on 17.04.2024 by a Division Bench of this Court, wherein an interim order had already been granted that no appointment should be made consequent to the notification was modified. This was interpreted by the respondents to indicate that the selection process could go on. Accordingly, in pursuance of the notification, a written examination is now scheduled to be held on 23.03.2025.



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3. On 04.03.2025, the second respondent had issued a corrigendum, which is now impugned in the writ petition, wherein, they had introduced a partial modification to the notifications dated 14.08.2020 and 26.10.2021 and had introduced a Tamil language eligibility test to the level of 10th standard for a duration of one hour with maximum marks 50 and with minimum qualifying mark as 40% irrespective of the community to which the candidates belong to. It is to be noted that unless the candidate qualifies in this particular Tamil eligibility test, even though the candidate would be in a position to write main examination, the answer sheet in the main examination would not be evaluated. Questioning this particular corrigendum, the present Writ Petition has been filed.

4. It is contended by the learned counsel for the petitioner that the introduction of this particular condition that the candidates should also qualify in the Tamil Eligibility Test, has changed the Rules of the game and is violative of Section 21(A) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. It had been further contended that the petitioner is otherwise eligible so far as her

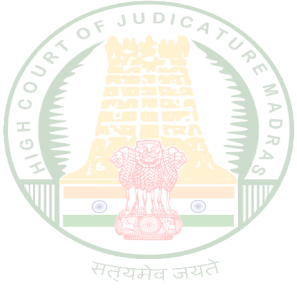


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educational qualifications are concerned, but she is deeply aggrieved by the introduction of this particular condition to write Tamil eligibility test.

But in the counter affidavit filed on behalf of the second respondent, the Medical Services Recruitment Board, it had been stated that G.O. (Ms) No.208, Health and Family Welfare (C2) Department, dated 11.07.2022 had been introduced adopting the stipulation by the Government that Tamil eligibility test should be made as the basis for further examination of scrutiny of the eligibility of the candidates and it had been contended that in G.O. (Ms) No.208 it had been stated that in future examinations, there would be a stipulation that the candidates should qualify with Tamil eligibility test. In order to examine this particular issue it is required to examine the policy of the Government by which Tamil Eligibility test had been introduced as a concept for any candidate who applies for Government posts in the State of Tamil Nadu. The State of Tamil Nadu has introduced this policy by issuing G.O.(Ms) No.133, Human Resources (M) Department, dated 01.12.2021, wherein giving necessary reasons, they had stated as follows:

“7. இவ்வாணை வெளியிடப்படும் நாள் முதல் தமிழ்நாடு
அரசுப் பணியாளர் தேர்வாணையத்தால் அறிவிக்கை



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செய்யப்படும் அனைத்துப் போட்டித் தேர்வுகளுக்கும் மேற்படி தமிழ் மொழித் தாள் கட்டாயமாக்கப்படும்.”

Pursuant to this Government Order, the second respondent had, in turn, passed G.O.(Ms) No.208 dated 11.07.2022 and they had stated as follows:

“5. இந்நேர்வினை உரிய ஆவணங்களுடன் அரசு கவனமுடன் பரிசீலனை செய்தது. மருத்துவ பணியாளர் தேர்வு வாரியம் வழங்கியுள்ள கருத்துருவினை ஏற்று இனி வரும் காலங்களில் மருத்துவ பணியாளர் தேர்வு வாரியத்தால் நடத்தப்படும் அனைத்துப் போட்டித் தேர்வுகளுக்கும் தமிழ் மொழித் தகுதி தாளினை (Qualifying Paper) கட்டாயமாக்கி கீழ்க்கண்ட வழிகாட்டு நெறிமுறைகளை வெளியிடலாம் என அரசு உத்தேசித்து அவ்வாறே ஆணையிடுகிறது:-

(i) மருத்துவப் பணியாளர் தேர்வு வாரியம் நடத்தும் போட்டித் தேர்வுகளில் இரு நிலை கொண்ட தேர்வுகள் தற்போது நடத்தப்படுவதில்லை. அவ்வாறாக two stage examinations, தேர்வு வாரியத்தால் நடத்தப்படுமாயின் (Prelims + Mains) முதன்மை தேர்வில் (Main Examination) கட்டாயத் தமிழ் தாள் விரிந்துரைக்கும் தாளாக (Descriptive Type) நடத்தப்படும்.”

5. The recruitment process consequent to the notification issued on 14.08.2020 was not a free flowing affair. The notification, as is seen



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from, was issued nearly more than four years earlier and the selection could not be conducted owing to litigations pending on other aspects.

Finally, the respondents had taken a decision that they could go ahead with the recruitment after the order dated 17.04.2024 had been passed by a Division Bench of this Court. After they had taken that particular decision, they had issued a corrigendum on 04.03.2025 which was a partial modification to the earlier notification and as stated above, they had introduced it in conformity with the policy of the Government in G.O.(Ms) No.133 dated 01.12.2021, further approved and adopted by the second respondent in G.O.(Ms) No.208 dated 11.07.2022. The only issue is whether the introduction of this particular clause or stipulation that candidates should qualify themselves in the Tamil Eligibility Test would directly affect the notifications already issued earlier or whether, the examination could be permitted to be conducted on 23.03.2025 as scheduled. If it is to be conducted and examination is to be permitted to be held, then the petitioner would be under an obligation to write the Tamil eligibility test and get qualifying marks in the same for the main examination paper to be then evaluated by the respondents.



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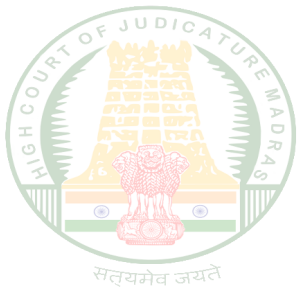
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6. The learned counsel for the petitioner had placed reliance on the decision of the Constitution Bench of the Hon'ble Supreme Court in the case of ***Tej Prakash Pathak and others vs. Rajasthan High Court and others*** reported in ***(2025) 2 Supreme Court Cases 1***, wherein, the Hon'ble Supreme Court had examined the ratio of an earlier Bench in the case of ***K.Manjusree vs. State of Andhrapradesh*** reported in ***(2008) 3 SCC 512*** and had finally held as follows:

"65. We, therefore, answer the reference in the following terms:

65.1. Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies;

65.2. Eligibility criteria for being placed in the select list, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the



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test of non arbitrariness."

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The Constitution Bench had very clearly stated that the eligibility criteria as notified in the commencement of recruitment process cannot be changed midway through the recruitment process unless the extant Rules permit or if the advertisement which permits or introduces a change is not contrary to the extant Rules. It had been further held by the Constitution Bench that even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution of India and satisfy the test of non arbitrariness. It is thus seen that the Constitution Bench had very clearly held that the notification once issued cannot be changed midway during the recruitment process, but conscious of various situation arising, the Constitution Bench had also given a small lever or a small window permitting introduction of any change, but had placed a word of caution that the court should ensure that the said change introduced is again within the extant rules which would indicate the rules which govern the recruitment process and satisfy the test of equality under Article 14 of the Constitution of India and does not fall foul of arbitrariness. The change now introduced, is not a change introduced as a stand alone change by the second respondent, but, it had been introduced in continuation of



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policy of the Government which policy, to the knowledge of this Court, had not been quashed by any earlier orders of this Court.

7. This particular policy of the Government had been introduced by way of G.O.(Ms) No.133 dated 01.12.2021 giving reasons why a Tamil Eligibility Test is required to be held for the candidates appearing and seeking consideration for selection for Government posts within the State of Tamil Nadu and why the Government had thought it necessary for introduction of a Tamil Eligibility Test. They had however placed a word of caution and had stated in paragraph 7 which had been extracted above that this would apply to all notifications issued (அறிவிப்பு) or notified after the particular date of introduction of the Government order dated 01.12.2021. Thereafter, it had been stated that this would be applicable to the various recruitment Boards of the State, namely, the Teachers Recruitment Board, the Medical Service Recruitment Board, the Uniformed Services Recruitment Board, the Forest Uniformed Service Recruitment Board and such other recruitment boards. Each Recruitment Board, thereafter adopted this particular Government Order. The second respondent in the instant case had passed G.O.(Ms) No.208 dated 11.07.2022. While adopting the policy of the Government, the



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second respondent had not stated that it would be introduced for every

notification issued on and after that particular date but for every

examination to be conducted on and after the said date. The crucial

words are that, in G.O.(MS) No.133, wherein the policy was introduced,

the Government had used the word “தேர்வாணையத்தால் அறிவிக்கை

செய்யப்படும்”, which would mean a notification issued by the

Recruitment Board. Any notification issued after the introduction of

G.O.(Ms) No.133 would require a Tamil Eligibility Test to be stipulated

as a condition. But while the second respondent adopted this policy, they

had not used the word “அறிவிப்பு” but rather they used the word “மருத்துவ

பணியாளர் தேர்வு வாரியத்தால் நடத்தப்படும் அனைத்து போட்டி

தேர்வுகளும்” which would mean that in every examination to be

conducted after the introduction of G.O.(Ms) No. 208 dated 11.07.2022,

the second respondent has a vested right to stipulate that there should be

a condition of qualifying in the Tamil eligibility test. There is a

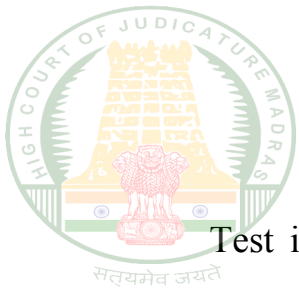
difference in the words “அறிவிப்பு” and “நடத்தப்படும்”. One refers to the

issuance of notification and other refers to conducting of an examination.

This conducting of examination could even refer to the notification

already issued. There is no specific statement made that for notifications

to be issued afresh by the second respondent alone the Tamil eligibility



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Test is applicable. It would be applicable for every examination to be conducted after G.O.(Ms) No.208 dated 11.07.2022.

8. It is trite in law to point out that every Government Order is a public document and the petitioner must be aware of this particular fact. This Court will now have to examine whether this introduction by a corrigendum which stipulates the qualification in a Tamil eligibility test would fall foul of the dictum laid down by the Constitution Bench. The Constitution Bench had permitted a change midway through the recruitment process if such advertisement introducing that particular change is not contrary to the extant rules and if such change or advertisement meets the requirement of Article 14 of the Constitution of India and does not fall foul of arbitrariness. In the instant case, the stipulation that the Tamil Eligibility Test is required, is to bring about a level playing field for all candidates who have studied in Tamil Medium within the state of Tamil Nadu. As a matter of fact, for persons who studied in Tamil Medium, there is a separate reservation also granted. If this particular test is not introduced, then there would not be a level playing field as anybody and everybody will participate in the test irrespective of the nature of their Educational qualification. This would



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also ensures that those who studied in Tamil and those who would be answering papers in Tamil are screened away during the process of recruitment. To the knowledge of this Court, as repeated, neither has G.O.(Ms) No.133 dated 01.12.2021 nor has G.O.(Ms) No. 208 dated 11.07.2022 been quashed by any order of the Court. They still hold the field.

9. The learned counsel for the petitioner had further stated that Section 21(A) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, stipulates that notwithstanding anything contained in Section 21 of the said Act, which incidentally deals with linguistic qualification, that any person who applies for recruitment shall pass the Tamil language paper. The learned counsel for the petitioner placed specific stress on the word “applies” and stated that this would indicate that this particular provision can be reckoned only for those who are to apply in future and not to those who had already applied in response to notification issued for any post. The learned counsel for the petitioner stated that the petitioner herein had already applied for the post on 10.11.2021 and therefore stated that the Government Orders cannot override the provisions as stipulated in the Tamil Nadu Government



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Servants (Conditions of Service) Act, 2016. To examine Section 21(A)

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which had been introduced by an amendment Act 5/2023 dated 14.03.2023 with effect from 01.12.2021, it is to be noted that originally the Act had Section 21 relating to linguistic qualification. As stated, thereafter, the Government had introduced as a policy as eligibility in Tamil eligibility test and had introduced G.O.(Ms) No.133 dated 01.12.2021. In line of that particular Government Order, Section 21(A) had also been introduced in the legislation to come into effect on and from 01.12.2021. There cannot be any quarrel over the same and there cannot be any dispute over the same. But the second respondent had taken a cautious decision that for every examination they conduct on and after G.O.(MS) No.208, they would stipulate that Tamil Eligibility Test is a requirement and an essential qualification for every candidate. This particular Government Order in G.O.(Ms) No.208 has not been put to test and even if put to test earlier in any other litigation it has not been quashed by any order of the Court. The petitioner herein has not challenged the correctness of the said Government Order. The said Government Order has to be taken as being in force for which it intended to, namely, that for every examination to be conducted on an after the introduction of that particular Government Order, the second respondent



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has a right to stipulate a qualification in the Tamil eligibility Test. The petitioner will have to abide by that particular direction. The corrigendum is only a reaffirmation of G.O.(Ms) No.208 dated 11.07.2022. The entire issue reverts back to the change in the notification issued earlier, but, I hold that introduction of this Tamil Eligibility Test does not fall foul of the cautions placed by the Hon'ble Supreme Court. It cannot be said to be arbitrary as reasons have been given for introduction of G.O.(Ms) No.133 dated 01.12.2021 by the Government and those reasons have not been challenged or put to test by the writ petitioner. It does not fall foul of Article 14 of the Constitution as again that particular argument had not been advanced had not been raised. The petitioner has to abide by the condition stipulated. The petitioner also has a choice of not appearing for the examination, but, it only in her interest that she actually attends the examination and qualifies this particular examination which is only of 10th standard level and not of any other level.

10. For the reasons, I hold that the notification or the corrigendum cannot be interfered with. The Written examination can go on as scheduled on 23.03.2025. The Writ Petition stands dismissed. No costs.



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W.M.P. No.11098 of 2025 which was filed to dispense with the production of the original impugned corrigendum notification, stands allowed. Consequently, connected miscellaneous petition is closed.

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Internet : Yes / No

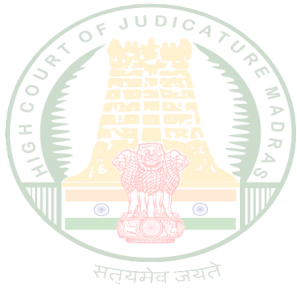
Index: Yes / No

Speaking order / Non speaking order

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