IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.1048 of 2015

R.Ayesha ... Petitioner

vs.

The Government of Tamilnadu,
Rep. by its Secretary,
Tamil Nadu Public Service Commission,
Frazzer Bridge Road,
Park Town, V.O.C.Nagar,
Chennai - 600 003. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India for the issuance of writ of mandamus, directing the respondent to consider the petitioner representation dated 28.08.2014 and pass appropriate order to consider her under the Communal Category of Backward Muslim (BCM).

For Petitioner : Ms.A.Ajimath Begam

For Respondent : Mr.M.Devendran

O R D E R

The petitioner, by birth, is a Hindu belonging to Backward Class. She converted to Islam and embraced it from 28.11.2005. She also obtained Community Certificate, dated 12.08.2014, issued by the Headquarters Deputy Tahsildar, Maduranthakam Taluk, Kancheepuram District to the effect that she belongs to Muslim Labbai. It is recognised as Backward Class as per G.O.(Ms)No.28 Backward Classes and Most Backward Classes Welfare Department, dated 19.07.1994.

2. When Tamil Nadu Public Service Commission called for applications for the post of Junior Assistant / Typist Group IV, she applied for the post of Typist. The examination took place on 21.12.2014. She scored 153 marks. The respondent by letter dated 31.07.2014 called the petitioner for certificate verification. The petitioner attended the certificate verification on 20.08.2014.

3. According to the petitioner, the official, who verified the certificates of the petitioner informed that she has applied under

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the Backward Class Muslim category, but she is not eligible for that past, as she is not a Muslim by birth and rejected her case. Hence, the petitioner made a representation to the respondent to consider her as Backward Class Muslim. Since no order was passed, the petitioner has filed this writ petition.

4. A counter affidavit is filed by the respondent. In paragraph 6 of the counter affidavit, it is stated that in view of the Government Letter No.11373/பிநசிநி/2009-1 dated 22.08.2012, converted Muslim has been classified under "others" category. It is further stated that if the petitioner is treated under "others" category, she is over aged. It is further stated that her date of birth is 03.01.1981 and she is 32 years and the maximum age limit for "others" category is 30 years.

5. Heard both sides.

6. When the matter came up of for hearing on 03.06.2015, the learned counsel for the petitioner has submitted that the issue was covered by my judgment reported in 2014 (1) CWC 695 [MU.Aariffaa v. The Secretary to the Government, Chennai -9.]. However, the learned counsel for the respondent submitted that as against the said order, writ appeal was filed, but he is not aware as to whether any stay was granted. Hence, the matter is posted to day to get instructions as to whether any stay was granted.

7. Today, the learned Standing Counsel produced a letter dated 04.06.2015 issued by TNPSC. The letter discloses that the Commission has filed writ appeal in W.A.SR.No.23222 of 2014 and not even brought to admission.

8. In MU.Aariffaa's case (cited supra), after referring to various judgments of the Apex Court, I have considered the issue in detail and held that a Hindu Nadar, who belongs to Backward Class Community, on conversion to Islam as Labbai Muslim shall be considered as Backward Class Muslim.

9. In the light of the judgment referred to above, a direction is issued to the respondent to treat the petitioner as Backward Community Muslim while considering her for the post of Typist in Group IV Services.

The writ petition is ordered accordingly. No costs.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

The Secretary,
The Government of Tamilnadu,
Tamil Nadu Public Service Commission,
Frazzer Bridge Road,
Park Town, V.O.C.Nagar,
Chennai - 600 003.

+1cc to Mr.A.Ajimath Begam, Advocate, S.R.No.27435
+1cc to Mr.M.Devendran, Advocate, S.R.No.27281

W.P.No.1048 of 2015

KSJ(CO)
CA(24/06/2015)

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