

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-02-2016

Coram :

THE HONOURABLE MR. JUSTICE R. SUBBIAH

Writ Petition No. 5380 of 2016
and
W.M.P. No. 4690 and 4691 of 2016

T. Muruganantham

.. Petitioner

Versus

1. State of Tamil Nadu
rep. by its Principal Secretary/Convenor
Department of Higher Education
Fort St. George
Chennai - 600 028
2. The Registrar/Member Secretary TNSET 2016
Mother Teresa Women's University
Kodaikanal - 624 101
3. The University Grants Commission
rep. by the Secretary
Bahadursha Zafar Marg
New Delhi - 110 002

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Mandamus forbear the respondents 1 and 2 from conducting Tamil Nadu State Eligibility Test (TNSET-2016) for Assistant Professor on 21.02.2016 pursuant to the notification/Advertisement No.F-7-7/2015 (NET/SET) dated 20.01.2016 on the file of the second respondent without including Library Science subject.

For Petitioner : Mr. R. Bharath Kumar

For Respondents : Mrs. P. Rajalakshmi
Additional Government Pleader for R1

Mr. B. Pugalandhi for R2

Mr. P.R. Gopinath for R3

ORDER

The petitioner has come forward with this writ petition seeking for a Writ of Mandamus to restrain the respondents 1 and 2 from conducting the Tamil Nadu State Eligibility Test on 21.02.2016 without including Library Science subject.

2. The petitioner passed B.Sc., Degree in the year 2002, Master's Degree in Library and Information Science (M.L.I.Sc.,) in the year 2014, M.Phil (Library and Information Science) in the year 2007 and Bachelor of Education (B.Ed.,) during 2010. The petitioner belongs to Scheduled Caste Community. On 20.01.2016, the second respondent issued the impugned notification indicating that the Tamil Nadu State Eligibility Test (TNSET-2016) will be conducted on 21.02.2016 for determining the eligibility of the candidates to hold the post of Assistant Professor and those candidates who are desirous of writing the said examination shall submit their applications on-line. According to the petitioner, passing of State Level Eligibility Test is an essential qualification prescribed by the University Grants Commission to become Assistant Professors in Colleges or Universities. In other words, unless a candidate passed State Level Eligibility Test, he or she will not be considered for appointment to the post of Assistant Professor. According to the petitioner, as per the notification dated 20.01.2016, the second respondent has included 25 subjects, however, the second respondent excluded to include the Library Science as a subject for which the State Eligibility Test is conducted. According to the petitioner, by reason of non-inclusion of Library Science as a subject, the petitioner is deprived of attending the State Eligibility Test.

3. The grievance of the petitioner is that on 03.11.2015, the Central Board of State Education has issued notification for conducting Central Teacher Eligibility Test on 21.02.2016, the date on which State Teacher Eligibility Test is slated to be conducted by the second respondent. According to the petitioner, the impugned notification issued by the second respondent to conduct Tamil Nadu State Level Eligibility Test on 21.02.2016 overlaps with the date on which the Central Board of Secondary Education is conducting Central Teacher Eligibility Test, with the respondent, the petitioner was deprived of writing any one of the examinations. According to the petitioner, the second respondent failed to follow the procedures prescribed by the University Grants Commission in conducting the Tamil Nadu State Level Eligibility Test inasmuch there is no 30 days interval between the notification and the date of examination.

4. It is the further grievance of the petitioner that as per the norms of UGC, in the National Eligibility Test examinations, the candidates can carry booklets (question papers) along with the carbon copy (duplicate copy) of OMR sheet after writing the examination, but in the impugned notification issued by the second respondent, such a facility has not been provided. Thus, it is clear that the second respondent has contravened the procedures contemplated by the University Grants Commission in conducting the State Level Eligibility Test. Yet another grievance of the petitioner is that the fee prescribed by the second respondent is exorbitant when compared to the fee structure prescribed by University Grants Commission for applying and appearing in the National Eligibility Test. In such circumstances, the petitioner said

to have sent a representation to the second respondent praying to postpone the State Level Eligibility Test to some other date. However, as there is no response, the petitioner has come forward with this writ petition challenging the notification issued by the second respondent.

5. The second respondent filed a counter affidavit contending inter alia that the second respondent is appointed as the Nodal agency by the Government of Tamil Nadu for conducting the State Eligibility Test. The guidelines for conducting the State Eligibility Test has been framed by the Steering Committee consists of the Secretary to the Government, Higher Education Department as the Chairperson, Registrar of Mother Teresa Women's University as a Member Secretary, a Member from the University Grants Commission, The Vice Chancellor of Anna University, the Vice Chancellor of Alagappa University, Karaikudi, the Director of Collegiate Education and two professors from the second respondent University. Such appointment of the second respondent as Nodal Agency by the State Government has also been approved by the University Grants Commission. The syllabus for State Eligibility Test and National Eligibility Test conducted by University Grants Commission are one and the same. The subjects to which the Eligibility Test has to be conducted has been finalised and shortlisted by the University Grants Commission. It is specifically stated that the subject "library science" may be included by the second respondent depending upon the vacancy in the next Eligibility Test conducted by the second respondent. This is also clearly stipulated in Condition No.4 of the notification dated 20.01.2016. Therefore, it is well open to the petitioner to write the Eligibility Test next year during which the subject "library Science" may also be included by the second respondent, subject to the approval to be accorded by the University Grants Commission.

6. It is further submitted that the notification for conduct of National Eligibility Test by the University Grants Commission was notified on 27.12.2015 itself and after two months, the second respondent proposed to conduct the State Eligibility Test. The allegations raised by the petitioner that there is no sufficient time gap between the date of notification and date of examination is incorrect. According to the second respondent, the time gap provided by the University Grant Commission between the date of notification and the examination is to enable the Nodal Agency to process the applications received and it cannot be construed as a time gap for preparing for the examination. The second respondent followed all the procedures prescribed by University Grants Commission for conducting the State Eligibility Test in which around 60,000 candidates are expected to participate. Even though in the impugned notification there was no reference made to returning the question or answer scripts to the candidates, if any candidate makes a request in writing, the scanned copy of the OMR sheet will be provided to him. The fee prescribed by the second respondent is in conformity with the decision taken by the committee in conducting the SET examination and it

cannot be compared with the fee prescribed by the University Grants Commission for conducting National Eligibility Test.

7. It is stated by the second respondent in the counter affidavit that the second respondent has made elaborate arrangements for conducting the State Eligibility Test on 21.02.2016. Even according to the petitioner, the second respondent has issued the impugned notification on 20.01.2016, however, at the fag end of the date fixed for examination, the petitioner has filed this writ petition. If the examinations to be conducted by the second respondent are postponed at the instance of the petitioner, it will cause acute prejudice and hardship to the second respondent. It is further stated that except the petitioner, no one has objected for the conduct of the examination on 21.02.2016 by the second respondent. It is also stated that the second respondent was appointed as Nodal Agency to conduct the State Eligibility Test for three years from 2016 and any one who missed the examination can very well write such examination during the next year. Therefore, in the interest of larger number of participants who are going to attend the State Eligibility Test on 21.02.2016, the second respondent prayed for dismissing the writ petition.

8. I heard the counsel for the petitioner as well as the counsel appearing for the respondents at length and perused the materials placed on record. The second respondent has issued the impugned notification on 20.01.2016 intimating that the State Eligibility Test will be conducted on 21.02.2016. The grievance of the petitioner is that in the notification, "Library Science" was not included as a subject even though 25 subjects were listed therein. The said grievance of the petitioner cannot be adjudicated by this Court. It is for the second respondent to include a subject or not to include a specific subject. It is not for this Court to issue a Mandamus to direct the second respondent to also include "Library Science" as one of the subjects to determine the eligibility of the candidates. It was a decision taken by the Steering Committee to include certain subjects in which the eligibility of the candidates will be determined. Even according to the second respondent, there are possibilities to include the "Library Science" as a subject in the next Eligibility Test to be conducted by them subject to depending upon the vacancies. While so, this Court cannot, in exercise of the powers conferred under Article 226 of The Constitution, issue a direction to the second respondent to either include a particular subject or to exclude a subject from the purview of Eligibility Test.

9. As regards the conduct of National Eligibility Test, a notification was issued even on 03.12.2015. Even though the petitioner is fully aware of the conduct of both the examinations on 21.02.2016, the petitioner has chosen to file this writ petition only on 11.02.2016 and this writ petition came up for admission before this Court on 12.02.2016. In the meantime, according to the second respondent, they have made all arrangements for conduct of the State Eligibility Test and

it is expected that around 60000 candidates will take part in the examinations. In such view of the matter, I find force in the submission of the counsel for the second respondent that at the instance of the petitioner, the entire process relating to conduct of the examination on 21.02.2016 cannot be postponed. The petitioner ought to have approached this Court immediately after the notification and at the fag end of the examination, the petitioner has approached this Court. On this ground, I am not inclined to grant any relief in this writ petition.

10. As regards the provision for return of question and answer scripts, it is clearly stated in the counter affidavit that if any candidate is willing to receive the same, he or she can apply to the second respondent and the second respondent is willing to provide scanned copy of the question and answer scripts. In such view of the matter, I am of the view that the grievance expressed by the petitioner in this regard no longer survives for consideration of this Court when the second respondent is willing to provide scanned copy of the question or answer scripts on request.

11. Similarly, as regards the fee structure, it is stated by the counsel for the second respondent that the fee prescribed by the second respondent is on the basis of a decision taken by the Steering committee and it cannot be compared with the fee prescribed for conduct of National Eligibility Test. I find force in the said submission of the counsel for the second respondent. In any event, the fixation of fee for conduct of examination is a decision taken by the steering committee appointed by the State Government and this Court cannot go in to the correctness or otherwise of the same. The committee is competent to fix the fee based on various factors which are required to be assessed and this Court cannot issue any direction to the respondents to fix the fee on par with the one fixed for conduct of National Eligibility Test.

12. In the result, the writ petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rsh

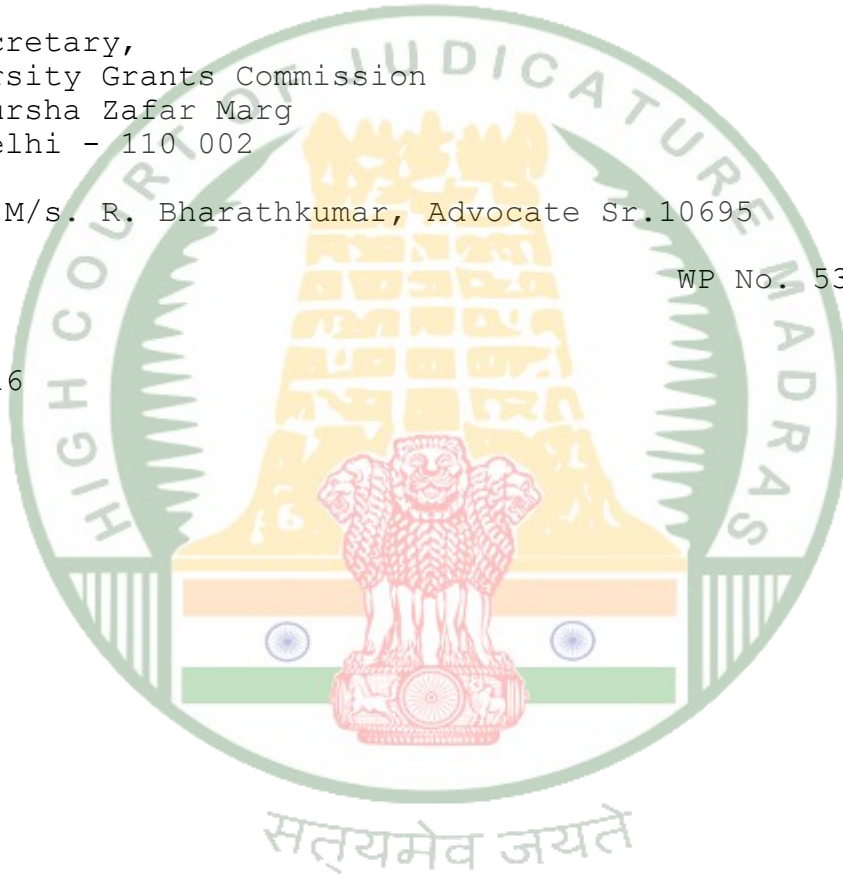
To

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+ 1 cc to M/s. R. Bharathkumar, Advocate Sr.10695

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RSK(CO)
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