

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.34653 OF 1997

ORDER:

The petitioner prays for Mandamus directing respondents to produce all the records pertaining to the B.Ed examination conducted in 1988 in which petitioner appeared and consequently direct respondents to issue the Memorandum of Marks and Provisional Certificate, as if she passed the exams in the year 1988.

Heard Mr.Raju, holding for Sri P.V.Krishnaiah, learned counsel for petitioner and Mr.P.Govinda Reddy, counsel for respondents.

Learned counsel appearing for parties have made detailed submissions, though the prayer is **much ado about nothing**.

The averments in brief are that petitioner was working as a Teacher in Elementary School in Kota Mandal. The petitioner with a view to further career prospects decided to acquire B.Ed qualification and accordingly joined in B.Ed course (distance mode) in the respondent University. According to petitioner, she has taken admission for correspondence course in 1986-88 batch. The petitioner appeared for theory and practical examinations conducted in the year 1988 with Hall Ticket No.2362. On 05.10.1988, the respondents issued memorandum of marks. The memorandum of marks dated 05-10-1988 contained inaccurate details showing petitioner as absent in part-B practical examination. According to petitioner, it is a patent mistake, a representation was made to respondents to review the details vis-à-vis memorandum of marks and do the needful. On 20-07-1989, the respondents issued Memorandum of marks showing that petitioner has obtained 95 marks in Unit-I and she was absent for Unit-II.

The grievance of petitioner is that showing petitioner as absent for practical unit-II is incorrect and according to her, she has completed all the subjects in the year 1988 and the issue of provisional certificate

bearing 1994 date as illegal and contrary to the material on record.

Learned counsel for the petitioner, to point out the alleged anomaly in issuing marks card, places strong reliance upon the memorandum of marks dated 05-10-1988 and 20-07-1989. At appropriate stage of my order, I will consider and record my findings on these contentions.

The petitioner paid fees for issue of provisional certificate. There is dispute on the date of payment of challan into the treasury. According to petitioner it was 1990 and according to respondents, it was 1994. Therefore, the issue of provisional certificate with date bearing 26-11-1994 is incorrect and not according to material available on record and petitioner prays for directions, as already referred to.

The respondents filed counter affidavit and the complete answer to all the objections raised by petitioner is borne out by paragraph '2' which reads as follows:-

"I submit that the writ petitioner registered for B.Ed. Examination under Distant Mode during – 1988. She appeared for the examinations with regd. No.2362 in 1988 and failed in Paper-VI Content Methodology of School Subject II Telugu Theory and absented for part-B Practical Unit II. She again appeared for Paper VI Theory in January 1990 with Hall Ticket No.584-A and passed the same. However she did not submit her practical records pertaining to Part-B Practical. Therefore she was not declared pass. She was advised to submit her practical record vide Memo No.B.VI/4/B.Ed./89-90, dated 19-3-1990 of the University and accordingly she submitted her records in 1994 along with the examination fee. She was allotted Registration Number 591100 in 1994. She passed the practical Examination in March, 1994. Accordingly she was issued Memorandum of marks and Provisional Certificate of 1994."

Now the point for consideration is whether the issue of provisional certificate with the date of issue as 26-11-1994 is proper, legal and tenable in the facts and circumstances of the case ?

Briefly reiterated, the case of petitioner is that she has completed all the examinations in 1988 itself and Unit No.II and other

practical work was submitted within time and the provisional certificate should be issued with 1988 as year of completion.

I have, with the assistance of learned counsel appearing for the parties, undertaken the job of a court of appeal only to satisfy the learned counsel for petitioner that he is heard and the prayers are not rejected in limini.

The marks copy dated 05-10-1988 discloses the following aspects against the petitioner.

The petitioner has written Methodology of School Subject-II Telugu/Sessional work and theory under paper-VI. The pass marks required are 35. In the marks card dated 05-10-1988 as well as 20-07-1989, it shows that the petitioner has secured 30. That means, the petitioner has not passed this subject under paper-VI, referred to above.

Therefore, from the above details it cannot be said that the petitioner has completed all the examinations by 1988 itself. From the other memorandum of marks filed by the petitioner, it is clear that left over papers were completed later on and the provisional certificate is issued in the year 1994.

Regulation-IX of Degree of Bachelor of Education reads as follows:-

“Admission to the B.Ed. Degree:

No candidate shall be admitted to the B.Ed. Degree unless he has passed both the parts of the examinations.

Candidates applying for the examination for the first time shall apply for both the parts of the examination, but a failed candidate shall have the option to re-appear at a subsequent examination by applying for one or more of the parts in which he failed, and when he passes both the parts be declared to have passed the B.Ed. Degree Examination.

A candidate shall not be permitted to appear for part-B of the examination on more than two occasions, provided however, it shall be competent for the Syndicate, if the Board of Examiners so recommend, to permit the candidate to appear on a third occasion.”

The above narration clearly discloses that petitioner has suppressed true and correct facts, has filed the instant writ petition, an order was passed, later on recalled at the instance of respondents herein and filed Contempt Case.

For the above conduct of petitioner, this court is of the view that petitioner shall be mulcted with costs.

Learned counsel requests the Court not to impose costs, condone the lapses while dismissing the writ petition.

Having regard to the oral submissions of the learned counsel, costs are not imposed.

The writ petition is dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V. BHATT, J

Date: 23.03.2016

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HON'BLE SRI JUSTICE S.V. BHATT

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