

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.33145 of 2017

P.Vinu Prasad

..Petitioner

-vs-

1. The Secretary
Law Department
The Secretariat, Fort St.George
Chennai 600 009
2. The Director of Legal Studies
Directorate of Legal Studies
Purasaiwalkkam High Road
Chennai
3. The Chairman
Teachers Recruitment Board
4th Floor, EVK Sampath Maligai
DPI Compound
College Road
Chennai 600 006
4. The Secretary
Education Department
The Secretariat, Fort St.George
Chennai 600 009
5. The Secretary
Bar Council of Tamil Nadu
NSC Bose Road
Chennai 600 104
6. The University Grants Commission
rep.by its Secretary
Bahadur Shah Zafar Marg
New Delhi 110 002
7. The Tamil Nadu Dr.Ambedkar
Law University
rep.by its Registrar
"Poompozhi", Greenways Road
Chennai 600 028

..Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in the Government Orders prescribing adhoc rules for appointment of pre-law teachers in Law Colleges in Rule 4, sub-rules b(ii) and (iii) of G.O.Ms.No.1349, Education dated 19.11.1985 issued by the fourth respondent and as amended by G.O.Ms.No.264 Law Department dated 20.12.2005 as Rule 4 sub-rule b (ii) and (iv), issued by the first respondent and quash the same as obsolete, arbitrary and unjustifiable and further direct the first, second and third respondents to follow the Bar Council of India Rules of Legal Education, 2008 and UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010 for the future recruitments for the post of Assistant Professors (Pre-Law) in the Government Law Colleges in the State of Tamil Nadu.

For Petitioner:: Mr.A.Thiyagarajan
Senior Counsel for
Ms.A.Vinu Pradha

For Respondents:: Mr.V.Jayaprakash Narayanan
Special Government Pleader
for R1 to 4
Mr.A.S.Vijayaraghavan
Standing Counsel for R6
Mr.M.Nallathambi for R7

ORDER

This writ petition has been filed by a Guest Lecturer teaching Sociology in the Dr.Ambedkar Government Law College, Chennai from August, 2012 challenging two old Government Orders viz., G.O.Ms.No.1349, Education dated 19.11.1985 issued by the Secretary, Education Department, the fourth respondent herein and yet another amended G.O.Ms.No.264, Law Department dated 20.12.2005 issued by the Secretary, Law Department, the first respondent herein inserting Rule 4 sub-rule b (ii) and (iv), to quash the same as obsolete, arbitrary and unjustifiable with a consequential direction to the first, second and third respondents to follow the Bar Council of India, Rules of Legal Education, 2008 and UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010 for the future recruitments to the post of Assistant Professors (Pre-Law) in the Government Law Colleges in the State of Tamil Nadu.

2. Learned senior counsel for the petitioner submitted that when the petitioner has completed his U.G. Degree in Sociology in the year 2009 with Second Class securing 52% of marks from the PSG College of Arts and Science, Coimbatore affiliated to Bharathiyar University and also completed the P.G.Degree in Sociology with First Class securing 64.5% of marks from the Department of Sociology, University of Madras in the year 2011, after passing the Tamil Nadu State Level Eligibility Test for appointment as Assistant Professor in Sociology in the year 2017, became eligible for appointment as Assistant Professor for teaching Sociology. However, he is ineligible for appointment as Assistant Professor (Pre-law, Sociology) at the law colleges in Tamil Nadu due to the unjustifiable qualification prescribed by the Government Orders mentioned above prescribing adhoc rules for appointment of pre-law teachers in law colleges in Rule 4, sub-rule b (ii) and (iii) of G.O.Ms.No.1349, Education dated 19.11.1985 and Rule 4, sub-rule b (ii) and (iv) as amended in G.O.Ms.No.264 Law Department dated 20.12.2005. The respondents have taken a stand that the candidate must possess a Master's Degree in the relevant pre-law subject with 55% marks along with the Master's Degree in Law with 55% marks and must have enrolled on the rolls of the Bar Council. This condition is being followed only for appointment in the Government Law Colleges in the State of Tamil Nadu, whereas this onerous condition has not been found or prescribed by the Tamil Nadu Dr.Ambedkar Law University which provides affiliation to the Government law colleges in Tamil Nadu. The said qualification is not found included in the National Law Schools. When there is no requirement for both Master's Degree in the relevant subject even in engineering and medicine, the onerous condition mentioned in G.O.Ms.No.1349 and G.O.Ms.No.264 dated 19.11.1985 and 20.12.2005 respectively, being arbitrary and unjustifiable, shall be liable to be quashed.

3. The learned senior counsel for the petitioner, continuing his arguments, submitted that indicating all these infirmities in the aforementioned Government Orders, a detailed representation also has been given on 28.8.2017 requesting the first, second and third respondents to follow the UGC norms and Bar Council of India, Rules of Legal Education for future recruitment of Assistant Professor (Pre-law) in the Government Law Colleges in Tamil Nadu with a further request to the fourth, fifth and sixth respondents, who are the higher authorities to direct the first, second and third respondents to strictly follow the UGC norms and Bar Council of India rules for the future recruitment of Assistant Professor (Pre-law) in the Government Law Colleges in Tamil Nadu. The said representation, till date, has not been considered and they have also proceeded further with the recruitment process even for pre-law subjects, in spite of the fact that the qualification fixed in the

impugned Government Orders is against the norms prescribed by the UGC for recruitment of Assistant Professor. Adding further, it is pleaded that the University Grants Commission, the sixth respondent herein, which is the authority providing affiliation to the law colleges in Tamil Nadu also does not follow the conditions mentioned in the aforementioned Government Orders and on the other hand, they follow the qualifications prescribed by the UGC and Bar Council of India Rules. Therefore, the representation given by the petitioner on 28.8.2017 to the first, second and third respondents to follow the UGC norms and Bar Council of India Rules for future recruitment of Assistant Professor (pre-law) in the law colleges in Tamil Nadu cannot be kept in cold storage. Moreover, without passing any final order on the petitioner's representation, they cannot proceed further to recruit any candidate for the post of Assistant Professor (pre-law), which will go against the qualification prescribed by the UGC and Bar Council of India. The learned senior counsel for the petitioner further submitted that two other writ petitions filed in the year 2014 are also pending consideration before this Court.

4. But this Court is unable to entertain the writ petition. The reason is that the fourth respondent had already issued the G.O.Ms.No.1349 Education dated 19.11.1985 and yet another amended G.O.Ms.No.264 Law Department dated 20.12.2005 was also issued by the first respondent long time ago. On the basis of these Government Orders, when the recruitments have been done to the post of Assistant Professor in pre-law subject fixing of course a higher qualification than the one fixed by the UGC and Bar Council of India, the petitioner cannot have any grievance. Only in case where in an effort to belittle or deteriorate the quality of education, if the first/fourth respondent had issued any Government Order lowering the qualification as against the norms or educational qualifications fixed by the UGC or the Bar Council of India, it may be a ground for the petitioner to come to this Court citing that the first/fourth respondent cannot fix a lesser qualification that will spoil the standard of education to the students. But in the present case, when the first/fourth respondent has taken a decision to improve the quality and the standard of education to be imparted to the students in pre-law course, I do not find any justification or any merit in the contentions made by the petitioner. Moreover, while entertaining a similar issue in W.P.No.32405 of 2017, by order dated 13.12.2017, I have also held that the State Government is entitled to fix higher qualification than the norms prescribed by the UGC. The relevant portions of the said order read as follows:-

"4. This Court is not able to find any merit in the said submission of the learned Counsel for the petitioner for the reason that the TNPSC, in order to improve the quality of education,

has fixed the higher qualification than the one fixed by the UGC, therefore, in my view, the contention of the petitioner that the TNPSC has prescribed the qualification higher than the one fixed by the UGC cannot be entertained. In all matters, it is not necessary that the State Government is bound to follow the Education Qualification mentioned by the University Grants Commission. It is open to them to fix higher qualification than the criteria fixed by the UGC Norms. In the present case, the stand taken by the petitioner that the impugned Notification issued by the Tamil Nadu Public Service Commission insisting upon all the eligible candidates should have good academic record shall be deleted as it is against the norms of the University Grants Commission, is wholly misconceived.

5. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petitions are also closed."

5. In view of the above, there is nothing wrong in fixing a higher qualification for recruitment to the post of Assistant Professor (pre-law) than the one prescribed by the UGC and the Bar Council of India pertaining to the Rules of Legal Education, in this case. Moreover, the impugned G.O.Ms.No.1349, Education dated 19.11.85 has been in vogue for more than three decades. Again G.O.Ms.No.264 dated 20.12.2005 also has been followed for the last 12 years. When the respondent-Law University has been following the Government Orders for several decades, the belated prayer in the present writ petition is wholly unsustainable. Further, this Court is not inclined to unsettle what was settled in the last three decades. Therefore, due to long passage of time, the writ petition is not legally maintainable. On this score also, the prayer fails. Accordingly, the writ petition is dismissed. Consequently, W.M.P.Nos.36546 & 36547 of 2017 are also dismissed. No costs.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The Secretary
Law Department
The Secretariat, Fort St.George
Kamarajar Salai
Chennai 600 009
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Purasaiwalkkam High Road
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Chennai 600 006
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6. The Secretary
University Grants Commission
Bahadur Shah Zafar Marg
New Delhi 110 002
7. The Registrar
Tamil Nadu Dr.Ambedkar
Law University
"Poompozhi", Greenways Road
Chennai 600 028

+1 CC to Ms.A.Vinu Pradha, Advocate sr 91606.
+1 CC to Govt. Pleader sr 92560.

W.P.No.33145 of 2017

KJ(CO)
SP(24/01/2018)