

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.15319 of 2017

B.Gomathi

.. Petitioner

Vs

1.The State of Tamil Nadu,
Rep. By the Secretary to Government,
Education Department,
Fort St. George, Chennai - 9.

2.The Chief Educational Officer,
Kancheepuram District.
Kancheepuram.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No.300/A4/2017, dated 28.04.2017 and quash the same and consequently direct the second respondent to appoint the petitioner as Lab Assistant in the second respondent District.

For petitioner : Mr.R.Karunakaran

For Respondents : Mr.P.Sanjay Gandhi, AGP

O R D E R

By way of filing this writ petition, the petitioner seeks to quash the impugned proceedings dated 28.04.2017 of the second respondent / the Chief Educational Officer, Kancheepuram, in and by which, the petitioner was not allowed to participate in the counselling stating that she has produced a Community Certificate with her husband's name instead of father's name.

2. Learned counsel for the petitioner submitted that the petitioner, who belongs to MBC Community, comes under the Destitute Widow priority category. The second respondent issued a Notification dated 22.04.2015 inviting applications for the post of Lab Assistant. Pursuant to the said Notification, the petitioner applied for the said post and in the written examination, she secured 43 marks. Subsequently, she was called

for Certificate Verification on 10.04.2017, whereby, she has produced original community certificate issued with her husband's name, instead of her father's name as she has lost the same and thereby, she has also further produced a copy of the community certificate issued with her father name. However, the respondent did not accept the said community certificate issued by her.

3. In view of such circumstances, she has also applied for the community certificate in her father's name and after getting the same, on 24.04.2017, she made a representation to the District Collector, Kancheepuram, which was later-on forwarded to the second respondent. However, the second respondent, by way of the impugned proceedings dated 28.04.2017, rejected her request on the ground that she has not produced the same during the Certificate Verification. Therefore, it is submitted that the petitioner, having secured 43 marks which is higher than the cut-off marks, namely 40, fixed for the MBC priority category, has not committed any mistake or error in producing the Community Certificate with her husband's name, hence, he pleaded, the second respondent ought not to have rejected her request.

4. On instruction, Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondent submitted that under the MBC priority category, although the petitioner has secured 43 marks, which is 3 marks higher than the cut-off marks, due to unavailability of vacancy under the said category, her request to appoint her in the post of Lab Assistant is not feasible to be considered.

5. I find no error on the part of the petitioner. First of all, she has secured 43 marks, which is admittedly higher than the cut-off marks, namely, 40 marks. Secondly, she has also rightly produced the original Community Certificate issued in her husband's name. But, only the second respondent has insisted upon her to produce the Community Certificate issued in her father's name. Thereafter, it seems that she has also produced a copy of the Community Certificate issued in her father's name, but, that was rejected by the second respondent. However, on applying, when she again produced the Community Certificate with her father's name, the same was also rejected stating that she did not produce the same at the time of Certificate Verification.

6. Considering the fact that during certificate verification, she has produced the original Community Certificate issued in her husband's name, I do not find any justification on the part of the respondent in rejecting her request for appointment to the said post when she has already secured 43 marks which is admittedly higher than the cut-off

marks namely 40 marks and therefore, it is a clear negligence on the part of the respondent, for which the petitioner cannot be found fault with.

7. In such view of the matter, the second respondent is directed to appoint her in the post of Lab Assistant as she is fully qualified. Needless to state that if there is no vacancy in MBC priority category, she may be appointed in any other category while filling up of the said post.

8. With these directions, the writ petition is allowed by quashing the impugned proceedings. No Costs. WMP.No.16614 of 2017 is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

- 1.The Secretary to Government,
Education Department,
Fort St. George, Chennai - 9.
- 2.The Chief Educational Officer,
Kancheepuram District.
Kancheepuram.

+1cc to Government Pleader sr.44759

+3ccs to Mr.A.G.Umarani, Advocate Sr. 44565 (10.07.2017)

सत्यमेव जयते

W.P.No.15319 of 2017

rsI(co)
ss(6/7/2017)

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