

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.29379, 29681 and 29615 of 2017

1. S.Aripasath
 2. R.Jaiganesh
 3. T.Rajesh Kumar
 4. P.Ramu
- .. Petitioners in W.P.No.29379/17
- A.Vaishali
- .. Petitioner in W.P.No.29681/17
- S.Ramesh
- .. Petitioner in W.P.No.29615/17

Vs

1. Teacher Recruitment Board,
Rep. By its Member Secretary,
4th Floor, EVK Sampath Maaligai,
DPI Complex, College Road,
Chennai - 6.
 2. The Government of Tamil Nadu,
Rep. By its Principal Secretary to Government,
Higher Education Department,
Fort St. George, Chennai - 9.
- .. Respondents in W.P.No.29379/17
1. The Chairman,
Teacher Recruitment Board,
Government of Tamil Nadu,
4th Floor, EVK Sampath Maaligai,
DPI Complex, College Road,
Chennai - 6.
 2. The Member Secretary,
Teachers Recruitment Board,
Government of Tamil Nadu,
4th Floor, EVK Sampath Maaligai,
DPI Complex, College Road,
Chennai - 6.
- .. Respondents in W.P.No.29681/17

1.The Secretary to Government,
Department of Higher Education,
Secretariat, Fort St. George,
Chennai - 9.

2.The Director,
All India Council for Technical Education,
Nelson Mandela Marg Vasant Kunj,
New Delhi - 110 067.

3.The Chairman,
Teacher Recruitment Board,
Government of Tamil Nadu,
4th Floor, EVK Sampath Maaligai,
DPI Complex, College Road,
Chennai - 6.

.. Respondents in W.P.No.29615/17

Prayer in W.P.No.29379/17: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of declaration to declare that the certificate verification list prepared by the first respondent for filling up posts notified in the Notification No.06/2017, dated 28.07.2017 inviting application from candidates for the Direct Recruitment of Lecturers in Government Polytechnic Colleges for the year 2017-18 based on the written exam conducted by the first respondent on 16.09.2017 as illegal, arbitrary and violative of article 14 of the Constitution and consequently direct the first respondent to reconduct the written exam for filling up 118 vacancies in the post of Lecturer in Electronic and Communication Engineering in Government Polytechnic colleges in accordance with law.

Prayer in W.P.No.29681/17: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records pertaining to the impugned Notification issued by the first respondent in Notification No.6/17, dated 28.07.2017 and quash the same.

Prayer in W.P.No.29615/17: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the respondents to permit the petitioner to participate in the Certificate Verification for the Direct Recruitment of Lecturers (Engineering / Non-Engineering) in Government Polytechnic Colleges for the year 2017-18 going to be held from 23.11.2017 to 25.11.2017 and subsequently direct the respondents to provide the status of petitioner's application dated 11.10.2017.

For petitioners in W.P.No.29379/17 : Mrs.Nilini Chidambaram,
SC for M/s.C.Uma

For petitioner in W.P.No.29681/17 : Mr.G.Ranganathan

For petitioner in W.P.No.29615/17 : Mrs.Greetha Senthilkumar

For Respondents in all these WPs: Mr.K.Venkataramani, AAG
Assist. By Mr.R.A.S.Senthilvel, AGP

COMMON ORDER

Since the issues raised in these writ petitions revolve around the Notification dated 28.07.2017 published by the Teachers Recruit Board (TRB) inviting applications for the post of Lecturers in the Government Polytechnic Colleges for the year 2017-18, they are disposed of by this common order.

2. Mrs.Nalini Chidambaram, learned Senior counsel appearing for the writ petitioners in W.P.No.29379 of 2017 submitted that the petitioners have applied for the post of Lecturers in Government Polytechnic Colleges for the year 2017-18 through on-line mode. The respondent/TRB has notified totally 1058 vacancies for the said post, out of which, 118 seats were notified for the subject of Electronics and Communications Engineering (ECE) and again from those 118 seats, 24 seats were notified to WT/T i.e. Women Tamil Medium. Thereafter, the petitioners have participated in the written examination held on 16.09.2017. After the written test, the first respondent has published the tentative key answers for each of the 15 subjects on 06.10.2017. However, due to wrong questions and answers, the respondent TRB has awarded 23 grace marks, which amounts to 12% of the total 190 marks for 150 questions. Thus, it is contended, awarding of 23 grace marks is wholly unsustainable in law, hence, the entire written test should be scrapped, with a further direction to the TRB to conduct the fresh written test.

3. The second contention of the learned Senior counsel for the petitioners is that the Notification published by the respondent clearly mentioned that 69% Communal reservation will be followed vertically as per the existing Government Rules / Orders i.e., 18% shall be reserved for Scheduled Castes including 3% offered to Arunthathiars on preferential basis amongst the Scheduled Castes, 1% for Scheduled Tribes, 26.5% for Backward Classes (other than Backward Class Muslims), 3.5% for the Backward Class Muslims, 20% for Most Backward Classes and Denotified Communities and 31% shall be filled up on the basis of merit. However, contrary to the Notification, the respondents are permitting the candidates hailing from other States by accepting the Community Certificate issued by their respective States to take part in the Certificate Verification, which is ultimately depriving the rights of the candidates belonging to the State of Tamil Nadu. In support of her

submission, learned Senior counsel brought to the notice of this Court page No.2 of the additional typed set filed by the petitioners and thereby it is contended that the respondent TRB has wrongly shortlisted the candidates belonging to other States for Certificate Verification. Thus, it is contended, such a method adopted by the respondent TRB for filling of the said post is again contrary to the Notification published prescribing communal reservation.

4. It is further contended that when there is no College in Tamil Nadu offering the medium of studies in Tamil for the candidates studying B.E. (ECE), the the Notification prescribing 20% reservation for PSTM candidates pertaining to B.E. (ECE) is wholly unsustainable in law and on this basis, it is contended that since the Notification being a defective one, the same is liable to interfered with.

5. Learned counsels appearing for the writ petitioners in W.P.No.29681 and 29615 of 2017 have also adopted the above said arguments of the learned Senior counsel for the writ petitioners in W.P.No.29379 of 2017.

6. Opposing the above said submissions, Mr.K.Venkataramani, learned Additional Advocate General, by taking instruction from Mr.R.Kallapiran, P.A. to the Members of the TRB, who is also present in the Court, submitted that the respondents have decided to adjust 20% reservation given for PSTM candidates in the open category, as no one has applied for the said post under the PSTM category.

7. Meeting the second contention of the learned Senior counsel for the petitioners that the candidates hailing from other States with the Community Certificate issued by their respective States were shortlisted for Certificate Verification, learned Additional Advocate General submitted that no candidate carrying the Community Certificate issued by other States would be considered in the reserved category and it is also stated that they will be able to verify the veracity of such certificate only at the time of Certificate Verification. It is further stated that they have not fixed date for Certificate Verification till date, however, for non-engineering students, the Certificate Verification is scheduled to be held on tomorrow. Finally, it is stated that 69% reservation strictly for the candidates belonging to the State of Tamil Nadu. The above said submissions of the learned Additional Advocate General are recorded.

8. Finally, answering the contention of the learned Senior counsel for the petitioners that the respondent TRB has to scrap the entire written test conducted on 16.09.2017 as they

have awarded 23 grace marks out of 190 marks which amounts to 12% of the total marks, learned Additional Advocate General submitted that since the respondents themselves have wrongly framed the questions and answers, they have awarded 23 grace marks irrespective of the fact that whether the candidates have attempted to answer those questions or not, therefore, the apprehension of the learned Senior counsel cannot stand to scrutiny.

9. I fully agree with the above said submission, for the reason that the respondent TRB, by realizing their mistake that they have wrongly framed questions and answers for 23 questions, have come forward to award 23 grace marks, that too, to all those candidates whether they have attempted to answer such questions or not. Thus, when such being the admitted scenario, I do not find any arbitrariness in exercise of power by the respondent TRB in awarding 23 grace marks.

10. No doubt, as stated by the learned Senior counsel for the petitioners, had the TRB rightly framed the questions and answers, the candidates, who have thoroughly prepared for the examination, could have secured higher marks and other candidates, who have not prepared well, could have secured lesser marks. But, since in the present case, for the wrong questions, the TRB has come forward to award one mark each to all those wrong questions, I do not find any error or infirmity in such approach adopted by the TRB.

11. One of the contentions of the learned counsel for the petitioner in W.P.No.29681 of 2017 is that while the respondents are adjusting 20% quota reserved for PSTM category, they will have to ensure that such adjustment benefit is given only towards the respective category. Readily agreeing with the said submission, learned Additional Advocate General ensured before this Court that the benefit of 20% reservation for PSTM category is going to be given only towards the respective category. The said submission is recorded.

12. With regard to W.P.No.29615 of 2017, it is submitted by the learned counsel for the petitioner that although the petitioner has made a representation dated 11.10.2017 raising some disputes regarding some of the wrong questions so framed by the TRB in the written examination conducted on 16.09.2017, the said representation till date has not been considered by the TRB. In view of such prayer, the respondents are directed to pass appropriate orders on the pending representation dated 11.10.2017 well before the date of Certificate Verification.

13. In fine, in view of strong objections raised by the learned Senior counsel for the petitioners in W.P.No.29379 of 2017, the respondents are directed to publish the tentative

selection list in the official website of the TRB so that the candidates can see as to where they do stand in the tentative selection list.

14. With the above observations, the writ petitions are disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

rkm

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

- 1.The Member Secretary,
Teacher Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Complex, College Road,
Chennai - 6.
- 2.The Principal Secretary to Government,
Higher Education Department,
Fort St. George, Chennai - 9.
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- 4.The Secretary to Government,
Department of Higher Education,
Secretariat, Fort St. George,
Chennai - 9.
- 5.The Director,
All India Council for Technical Education,
Nelson Mandela Marg Vasant Kunj,
New Delhi - 110 067.

+1cc to Government Pleader SR.No.83678
+1cc to Mr.C.Uma Advocate SR.No.83215

W.P.Nos.29379, 29681 and
29615 of 2017

RJ(CO)
sm:15.12.2017

22.11.2017

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