

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.31294 of 2013 and
M.P.No.1 of 2013

S.Jayalakshmi

.. Petitioner

Vs

1.The Teachers Recruitment Board,
rep. by its Member Secretary,
E.V.K.Sampath Maligai, 4th Floor,
DPI Compound,
College Road, Chennai - 600 006.

2.The Director,
Directorate of School Education,
DPI Compound,
College Road, Chennai - 600 006.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents to include the petitioner name in the provision list for certificate verification for the post of P.G. Assistant (Economics) based on the marks secured by the petitioner in the written exam conducted by the respondents under the category of reservation of Tamil Medium Students and thereby allow the petitioner to attend the certificate verification and consider the petitioner's case for appointment to the said post for the year 2012-2013 within the time limit that may be stipulated by this Hon'ble Court.

For Petitioner : Mr.R.Govindaraj

For Respondents : Mrs.M.E.Raniselvam

Additional Government Pleader

* * * * *

This writ petition has been filed seeking a writ of mandamus directing the respondents to include the petitioner's name in the provision list for certificate verification for the post of P.G. Assistant (Economics) based on the marks secured by

the petitioner in the written exam conducted by the respondents under the category of reservation of Tamil Medium Students and thereby allow the petitioner to attend the certificate verification and consider the petitioner's case for appointment to the said post for the year 2012-2013 within the time limit that may be stipulated by this Court.

2. Brief facts are as follows:

The petitioner has completed her school education during 1998-1999. She has also completed her Bachelor degree and Post Graduate degree in Economics. In the Bachelor Degree as well as in the Post Graduate degree in Economics, the petitioner's medium of instruction was Tamil. The petitioner did her B.Ed. in V.P.Muthiah Pillai Meenakshiammal College Education of Women at Srivilliputhur, with medium as Tamil. The petitioner belongs to Backward Community.

3. By its advertisement, the first respondent called for application for the post of Post Graduate Assistant for Government Higher Secondary Schools for the academic year 2012-2013 and the prescribed qualification for the said post was M.A./M.Sc./M.Com. in relevant subject with B.Ed. The total number of vacancies were 2881, out of which 257 were earmarked for P.G. Assistant (Economics). The mode of selection was based on the written examination, certificate verification and social status. The petitioner applied for the said post along with copies of testimonials. She had attended the written examination held on 21.07.2013 and in the written examination, the petitioner secured 96 marks.

4. According to the petitioner, candidates who have secured lesser marks than the petitioner have been called for certificate verification on the ground that they have studied in Tamil medium. The petitioner also studied in Tamil medium, but by mistake, while filling up the application, the petitioner mentioned the medium as English instead of Tamil because in her employment registration, it has been wrongly mentioned as English medium. Therefore, the petitioner was not called for certificate verification.

5. The case of the petitioner is that in the previous year, the first respondent has called for certificate verification in the ratio of 1:2 for the post of P.G. Assistant, but in the present selection, the first respondent has adopted a new method of preparing the provision list for certificate verification in the ratio of 1:1, which is unjustifiable and arbitrary and the

same resulted in non-inclusion of candidates, who secured the next mark. Therefore, the petitioner is aggrieved by the action of the respondent calling for the certificate verification in the ratio of 1:1, has filed the present writ petition seeking a direction on the respondents to include the name of the petitioner in the provision list for certificate verification for the post of P.G. Assistant (Economics) based on the marks secured by the petitioner in the written examination conducted by the respondent under the category of reservation of Tamil medium students and other consequential reliefs.

6. Refuting the averments in the writ petition, the first respondent has filed the counter stating that the lowest eligible cut-off marks in Economics in respect of Backward Class General as well as Backward Class (Women) was 98 and since, the petitioner did not score the cut-off marks in B.C. General or B.C. (Women), she was not called for certificate verification. It is averred that since the petitioner filled the medium in the OMR application as English, she was not entitled to the benefit of G.O.(Ms) No.145, dated 30.09.2010 and the Government Letter No.99/S/2011-1, dated 11.01.2011. According to the first respondent, the fixation of 1:1 ratio was rational and logical pursuant to G.O.No.100, School Education, dated 10.08.2004 and prays for dismissal of the writ petition.

7. I heard Mr.R.Govindaraj, learned counsel appearing for the petitioner and Mrs.M.E.Raniselvam, learned Additional Government Pleader appearing for the respondents.

8. The learned counsel for the petitioner submits that the first respondent has adopted a new method for preparation of the list for certificate verification in the ratio of 1:1, which is highly arbitrary and unjustifiable. He would submit that the petitioner was fully qualified and eligible to be allowed to attend the certificate verification. Learned counsel further submitted that as per Clause 14 of the prospectus, the petitioner will be entitled to three marks for her employment seniority. He further submitted that if the petitioner's name was included in the list for certificate verification in the ratio of 1:2, she would definitely have a chance to get appointment. Learned counsel would submit that the petitioner was qualified to be appointed as she had studied in Tamil medium.

9. The learned Additional Government Pleader appearing for the respondents submits that as per G.O.No.100, School Education (Q2) Department, dated 10.08.2004, 1:1 ratio has been fixed and

the same is rational and logical. Learned Additional Government Pleader would submit that since the petitioner did not score the lowest cut-off marks in the B.C. General or B.C. Women, she was not called for certificate verification. Learned Additional Government Pleader further submitted that in the OMR application itself, the petitioner filled up the medium as English.

10. The point arises for consideration is whether the petitioner is entitled to get her name included in the provision list for certificate verification for the post of P.G. Assistant (Economics) and for consequential reliefs.

11. The main grievance of the petitioner is that though the petitioner secured 96 marks in the written examination and studied in Tamil, candidates who have secured lesser marks than the petitioner have been called for certificate verification. The non-inclusion of the name of the petitioner in the list for certification verification caused great hardship to her and therefore seeks to include her name in the certificate verification list and consider her case for appointment to the post of P.G. Assistant (Economics) for the year 2012-2013.

12. Opposing the prayer of the petitioner, the learned Additional Government contended that the petitioner herself in her OMR application filled up the medium as English and therefore she was not included in the list of candidates called for certificate verification under the Persons Studied under Tamil Medium and that the petitioner is not entitled to the benefit of G.O. (Ms) No.145, dated 30.09.2010.

13. In the counter, the first respondent admits that the petitioner secured 96 marks in the written examination and she belongs to Backward Class community. But the lowest eligible cut-off marks in Economics in respect of Backward Class General or Backward Class (Women) was 98.

14. On a perusal of the typed set of documents, this Court finds that in employment registration identity card, it has been mentioned the medium studied as English. In paragraph 3 of the affidavit filed in support of the writ petition, it is averred that by mistake in the employment registration, it has been mentioned as English medium and the petitioner has taken steps to correct the same. Accordingly, the employment registration certificate was corrected and the corrected registration certificate has been filed by way of additional typed set of

documents, wherein the medium has been stated as Tamil in both Graduate and Post Graduate Degrees. The aforesaid certificate has not been denied by the respondents. It is pertinent to point out that in the admission order issued by the Madurai Kamarajar University to the petitioner for pursuing M.A. (Economics), it has been stated that the medium of instruction is Tamil.

15. In G.O.Ms.No.145, Personnel and Administrative Reforms (S) Department, dated 30.09.2010, it has been stated as under:-

"3.Manner of selection for appointment - Twenty percent of all vacancies in the appointment in the services under the State which are to be filled through direct recruitment shall be set apart on preferential basis to persons studied in Tamil medium."

A reading of the aforesaid would show that preference has to be given to the candidate who studied Tamil as medium of instruction. However, such preference is only for 20%.

16. The Tamil Nadu Appointment on Preferential Basis in the Services under the State of Persons Studied in Tamil Medium Act, 2010 came into effect from 29.11.2010 and the object and reasons of the Act is to give preference in the matter of appointment to Government services to those who had studied in Tamil medium. Thus, a reading of the Act would go to show that the persons, who studied in Tamil medium are entitled to preference in the matter of appointment. Therefore, it is to be held that the petitioner studied only Tamil medium both in Bachelor degree and Post Graduate degree and the petitioner should have been given preference as per the Tamil Nadu Appointment on Preferential Basis in the Services under the State of Persons Studied in Tamil Medium Act, 2010.

17. The petitioner has annexed the provisional list for certificate verification in the typed set of papers. On perusal of the same, this Court finds that 257 candidates in the subject Economics were shortlisted for certificate verification. Serial Nos.74, 75 and 78 have secured 94 marks in the written examination, who studied in Tamil medium. From the above, it is evident that candidates, who have secured lesser marks than the petitioner have been called for certificate verification.

18. As stated supra, the petitioner has pursued her Bachelor degree as well as the Post Graduate degree in Tamil medium only. In the written examination, the petitioner has

secured 96 marks. Therefore, the petitioner is entitled to inclusion of her name in the provisional list for the certificate verification.

19. Coming to the ratio adopted by the first respondent in preparing the provision list for certificate verification is concerned, it is the discretion of the respondent authorities and the discretion so exercised by the respondent authorities and the policy decision taken by the Government to fix a particular ratio cannot be called into question in a writ petition and that apart, the prayer made by the petitioner is only qua inclusion of her name in the provisional list for certificate verification and not challenging the ratio fixed by the Government.

20. It was argued by the learned counsel for the petitioner that the petitioner would be entitled to three weightage marks for her employment seniority and she should have been awarded 3 marks. Clause 14 of the prospectus provides that weightage marks will be given after certificate verification for the shortlisted candidates and the said weightage marks will be added to the written examination marks for preparing the final merit-cum-communal selection list. The fact that the petitioner has studied in Tamil Medium is borne out by records, as recorded supra.

21. In fine, the writ petition is allowed with a direction to the respondents to include the name of the petitioner in the provision list for certificate verification for the post of P.G. Assistant (Economics). After certificate verification, if she is found to be eligible for appointment, the respondent authorities are directed to select and appoint the petitioner to the post of Post Graduate P.G. Assistant (Economics), on merits and in accordance with law. The said exercise shall be done by the respondent authorities within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, M.P.No.1 of 2013 is closed.

Sd/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

vs

To

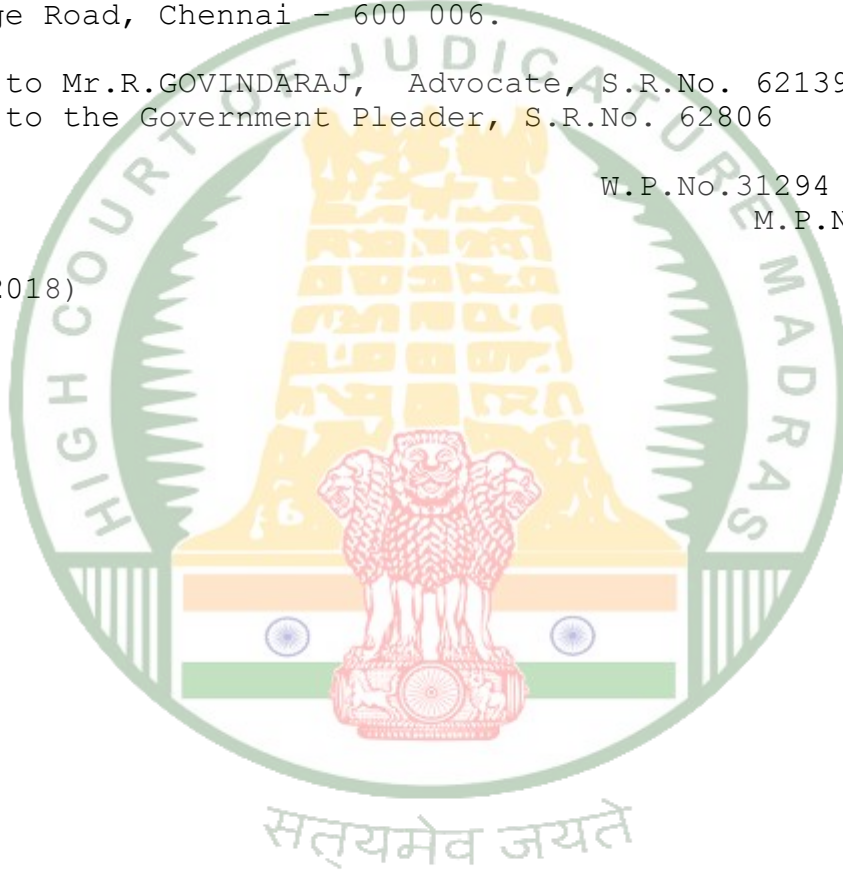
1.The Member Secretary,
Teachers Recruitment Board,
E.V.K.Sampath Maligai, 4th Floor,
DPI Compound,
College Road, Chennai - 600 006.

2.The Director,
Directorate of School Education,
DPI Compound,
College Road, Chennai - 600 006.

+1cc to Mr.R.GOVINDARAJ, Advocate, S.R.No. 62139
+1cc to the Government Pleader, S.R.No. 62806

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SSD(CO)
TR(11/01/2018)



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