

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2017

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P. No.31274 of 2016 and
WMP No.27145 of 2016

S.Yasodha

Petitioner

Vs.

1. The Member Secretary,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Campus, College Road,
Chennai - 600 006
 2. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006
 3. The Joint Director of School Education
(Personnel), Directorate of School Education,
DPI Campus, College Road,
Chennai - 600 006
- Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari and Mandamus to call for the records relating to the impugned proceedings issued by the 1st respondent in Rc.No.1011/L3/2015 dated 13.04.2015 and to quash the same and consequently direct the respondents to appoint the petitioner to the post of BT Assistant in Mathematics (Telugu) based on the selection conducted for the year 2012 as per call letter issued by 1st respondent Teachers Recruitment Board in Memorandum No.6055/Aa2/2011 dated 13.06.2012 retrospectively on par with juniors appointed with consequential and other attendant benefits including arrears of salary, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondent : Mr.K.Rajendraprasad
Government Advocate

O R D E R

The present writ petition is directed against the impugned order dated 13.04.2015 passed by the Member Secretary, Teachers Recruitment Board in Rc.No.1011/L3/2015, wherein the request of the petitioner to consider her for the post of BT Assistant in Mathematics (Telugu) on Most Backward Class is not complied with either on merits or in accordance with law, since the recruitment board selects the graduate teachers with pass in Teachers Eligibility Test only.

2. Learned counsel appearing for the petitioner would submit that the petitioner was a qualified candidate with M.Sc., (Maths) and B.Ed, Graduate in Minority Telugu language and she had also registered the said qualification in employment exchange, while so, the Teachers Recruitment Board conducted selection to recruit minority subject Graduate Teachers including backlog vacancies for the year 2010-11 through employment exchange seniority. Based on Teachers Recruitment Board Notification, Employment Exchange sponsored candidates following 1:5 ratio, including the petitioner for the post of B.T.Assistant in Mathematics (Telugu), out of 11 posts notified, one post was reserved for MBC-Women-Non priority.

3. Continuing further, learned counsel for the petitioner would aver that since one G.Dharanikota Srividhya also applied for the same post, in the selection list, her name was placed above the petitioner and she was also subsequently appointed, accepting her status as member of Most Backward Class community, whereas, it was the claim of the petitioner that the said G.Dharanikota Srividhya is a Hindu-Brahmin and on playing fraud, obtained a false community certificate. Therefore, the petitioner submitted a representation / complaint to the 2nd respondent that G.Dharanikota Srividhya secured community certificate by manipulation of records on 23.07.2012 even before appointment. Though the petitioner and G.Dharanikota Srividhya submitted applications for the post of BT Assistant in Maths (Telugu) pursuant to the notification issued by the Teachers Recruitment Board, considering the fact that G.Dharanikota Srividhya said to have belonged to Most Backward Class Community, she was appointed, accepting her status as a member of backward class community.

4. Learned Counsel for the petitioner further contends that thereafter, based on the complaint dated 23.07.2012 given by the petitioner, the Sub Collector, Thiruvallur District conducted an enquiry and confirmed that G.Dharanikota Srividhya obtained false community certificate, suppressing the fact that she belongs to Forward Community. With these facts, the petitioner, earlier filed W.P.No.9228 of 2013 and sought for a writ of mandamus directing the respondents 1 and 5 therein to terminate

the 4th respondent therein from functioning as Graduate Teacher B.Sc (maths) Telugu medium in the 3rd respondent school therein under the MBC - Women - Non Priority category and appoint the petitioner herein as Graduate Teacher B.Sc.(Maths) Telugu Medium. This Court on 23.01.2015 issued a direction to consider and dispose of the representation of the petitioner dated 13.03.2013, on merits and in the light of the report submitted by the Sub-Collector, Thiruvallur District dated 11.10.2012 with notice to 4th respondent therein within a period of two months from the date of receipt of copy of this order. Only thereafter, the Member Secretary, Teachers Recruitment Board took a decision to cancel the appointment of G.Dharanikotta Srividhya by following the due process and rules in force. The petitioner was also informed about the decision taken by the Member Secretary, Teachers Recruitment Board. Finally, the appointment of G.Dharanikotta Srividhya was cancelled on 13.04.2015.

5. That apart, learned counsel appearing for the petitioner by drawing the notice of this Court to the selection list issued by the Teachers Recruitment Board on 05.11.2012 submits that the petitioner was placed immediately next to G.Dharanikotta Srividhya. The selection list for the post of BT Assistant (Mathematics) Telugu shows that G.Dharanikotta Srividhya, as 1st candidate and the petitioner as a 2nd second candidate. Since the appointment obtained by G.Dharanikotta Srividhya on the basis of manipulation of false community certificate that she belongs to Hindu Agnikula Kshatriya Community and the said certificate bearing No.2560738 issued by the Zonal Deputy Tahsildar of Thiruvallur was cancelled, the appointment of G.Dharanikotta Srividhya was also cancelled on 13.04.2015.

6. It is the claim of the petitioner that automatically she should be appointed in the said post of B.T.Assistant (Maths) Telugu Medium. Since the respondents have not come forward to issue an appointment order, the petitioner again compelled to come to this Court with this present writ petition and this Court by an order dated 15.09.2016 appreciating the case of the petitioner, granted an interim direction by directing the respondents to keep one post of B.T.Assistant in Maths (Telugu) vacant pending disposal of the writ petition, therefore, when an interim order was already passed directing the respondents to keep one post vacant, the respondents should have given the said post to the petitioner after cancelling the appointment of G.Dharanikotta Srividhya on 13.04.2015. Hence he pleaded that the interim order granted in favour of the petitioner on 15.09.2016 shall be made absolute and prays for a direction to appoint her in the said post.

7. Learned Government Advocate appearing for the respondents by supporting the impugned order dated 13.04.2015 pleaded that although the petitioner was found to have requisite qualification for the post of B.T.Assistant in Maths (Telugu) as on the date of selection, i.e., 31.08.2012, on which date G.Dharanikota Srividhya was appointed, now, in much water has flown down, challenging the entire qualification for the post of BT Assistant. Moreover, in view of G.O.Ms.No.181 (School Education) Department dated 15.11.2011, a candidate should pass Teacher Eligibility Test, which is mandatory, along with requisite qualification, namely, M.Sc and B.Ed. Admittedly, the petitioner, has acquired Post Graduation and B.Ed, but, has not passed the Teachers Eligibility Test till date, therefore, she cannot be considered. The impugned order has been passed expressing the inability of the respondents to appoint the petitioner on the ground that from the year 2012 onwards, the Board recruited B.T.Assistants, who had passed Teachers Eligibility test and the said recruitments cannot be found fault with.

8. No doubt, the qualification for appointment to the post of B.T.Assistant, clearly says that any candidate seeking appointment to the said post should have passed Teachers Eligibility Test, without which no one can be appointed as BT Assistant, whereas, the appointment order dated 10.10.2012 issued by 3rd respondent, appointing one K.Dhananjayan in Government Higher Secondary School, Athimancheripettai, Thiruvallur District shows that pursuant to the G.O.Ms.No.181 School Education dated 15.11.2011, he was appointed on condition to pass Teachers Eligibility Test within 5 years from the date of appointment. When 3rd respondent even on 10.10.2012 has issued an order of appointment appointing K.Dhananjayan, as BT Assistant-Science-Telgu with a condition to pass TET within 5 years, in the light of G.O.Ms.No.181 School Education dated 15.11.2011, and the said time limit to pass the Teaches Eligibility Test has been extended by the Central Government by way of an Amendment Act, 2017 granting time till 31.03.2019, I do not find any impediment to direct the respondents to appoint the petitioner for the post of BT Assistant -Maths (Telugu) for two reasons:

(i) Firstly, on the date of issuance of the notification during the year 2010-2011 for the post of B.T.Assistants, admittedly, a pass in Teachers Eligibility Test was not a qualification.

(ii) Secondly, on the date of appointment, G.Dharanikota Srividhya has not passed TET.

The selection list dated 05.11.2012 clearly shows that the petitioner was selected as a second candidate immediately, after G.Dharanikota Srividhya. However, since G.Dharanikota Srividhya has secured employment by producing bogus community certificate

and the same was also subsequently cancelled on 10.03.2015, on the basis of the complaint, given by the petitioner on 23.07.2012, in my considered opinion, since a conditional appointment order was passed by 3rd respondent by directing the said K.Dhananjayan to pass Teachers Eligibility Test within a period of 5 years and taking note of the order passed by this Court in W.P.No.21840 of 2012 dated 10.08.2012 and yet another order passed by this Court in W.P.No.9228 of 2013 dated 23.01.2015, the petitioner is also entitled to be appointed with the same condition. Accordingly, the respondents are directed to appoint the petitioner with a specific condition that she should pass the Teachers Eligibility Test on or before 31.03.2019 within a period of four weeks from the date of receipt of copy of this order.

9. With the above observation, the Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssd

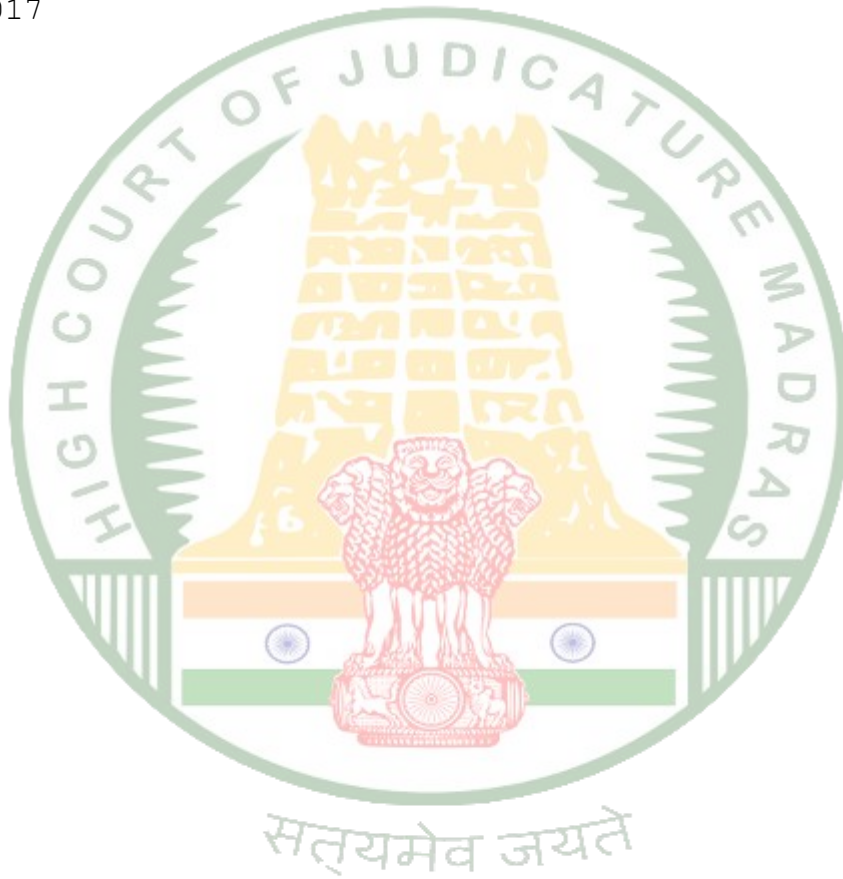
To

1. The Member Secretary,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Campus, College Road,
Chennai - 600 006
2. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006
3. The Joint Director of School Education
(personnel), Directorate of School Education,
DPI Campus, College Road,
Chennai - 600 006

+1 cc to M/s.G.Sankaran Advocate sr 75617
+1 cc to the Government Pleader sr 76951

W.P. No.31274 of 2016 and
WMP No.27145 of 2016

mp(co)
aa14/11/2017



WEB COPY