



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.05.2017

CORAM:

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THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

W.P.(MD)No.19764 of 2014
and MP(MD)Nos.1 and 2 of 2014

N.Chitra

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
School Education and TRB Department,
Chennai-9.

2. The Chariman,
Teachers Recruitment Board,
E.V.K. Sampath Maligai,
DPI compound, College Road,
Chennai-6

3. The Director,
Directorate of Distance Education,
Palkalainagar,
Madurai-625 021.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records from the 2nd respondent in publishing the result dated 10.08.2014 against the petitioner and quash the same as illegal and consequently direct him to declare the petitioner's B.A (Tamil) as a valid UG (3 year) degree, by considering the certificate issued by the 3rd respondent dated 16.07.2014 and the petitioner's representation dated 25.07.2014.

For Petitioner	: Mr.M.Solaisamy
For R1 and R2	: Mrs.Bharathi
	Government Advocate
For R3	: No appearance

O R D E R

The prayer in the writ petition is for a writ of Certiorarified Mandamus calling for the records from the second respondent in publishing the result dated 10.08.2014 against the petitioner and quash the same and consequently direct the second respondent to declare the petitioner's B.A (Tamil) as a valid UG (3 year) degree, by considering the certificate issued by the third respondent dated 16.07.2014 and the petitioner's representation dated 25.07.2014.



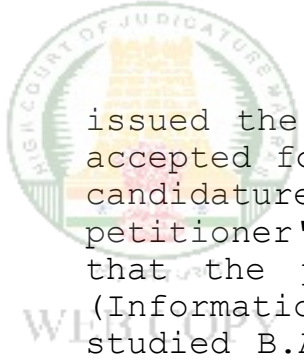
2. The averments made in the affidavit filed in support of this writ petition, in nutshell, would be as follows:

The petitioner, after completing her Higher Secondary Course (+2) in the year 2001, joined in Bachelor of Science (Information Technology) course at Sri Kaleeswari College, Sivakasi, which is one of the affiliated Colleges of the Madurai Kamaraj University, Madurai. The petitioner completed the first year of the said course and he has written two semester examinations also. She had also passed all the papers in the said two semesters and thereafter due to personal reasons, the petitioner could not continue her studies and therefore, she discontinued the said course namely B.Sc. (Information Technology).

3. Thereafter, the petitioner, only in the year 2004, wanted to pursue her studies and therefore, she had applied to the third respondent to join in Bachelor of Arts i.e B.A.degree course (Tamil). On consideration of the request of the petitioner as well as the completion of the first year course of Bachelor of Science (Information and Technology) at the said College, where the petitioner had cleared all the first year papers, the third respondent had permitted the petitioner to join in the second year B.A. (Tamil) Course at the third respondent's University Distance Education. Therefore, the petitioner had been given exemption to write two language papers namely Part-I first year Tamil (1A1 and 1A2) and Part -II English first year (3A1 and 3A2). In sofaras the other major and ancillary papers are concerned, the petitioner had to undergo the studies for two years. Accordingly, the petitioner had successfully completed B.A. (Tamil) degree at the third respondent University at Madurai Kamaraj University and degree to that effect had also been awarded by the University to the petitioner in the year 2006.

4. Based on the said qualification acquired by the petitioner, the petitioner also pursued further studies of Bachelor of Education B.Ed., degree at the Tamilnadu Teachers Education University, where the petitioner had completed the said course and degree was awarded in May 2010. Therefore, the petitioner has acquired qualifications of B.A.(Tamil) and B.Ed degree.

5. With the said qualifications, the petitioner, in response to the Notification / Advertisement issued by the second respondent, had applied for an appointment to the post of Graduate Teacher (B.T Assistant). The petitioner has successfully written the eligibility examination, where she obtained 92 marks out of 150. Since the cut off marks for calling the candidates for certificate verification for selection was 90 marks and the petitioner had obtained 92 marks out of 150 marks, she had been called for certificate verification. Even though, the petitioner had been called for certificate verification and she had also attended the same, the second respondent by publication dated 10.08.2014 had



issued the result, where the petitioner's candidature had not been accepted for selection to the post of B.T. Assistant, instead, her candidature was rejected. The reason for rejection of the petitioner's candidature, according to the second respondent, is that the petitioner had studied first year Bachelor of Science (Information Technology) and then the second and third year, she studied B.A., (Tamil). Apart from these two lines, nothing has been given in the reasoning column of the proceedings of the second respondent dated 10.08.2014. Challenging the said rejection order made by the second respondent, the petitioner has filed the present writ petition with the aforesaid prayer.

6.Mr.M.Solaisamy, learned counsel appearing for the petitioner would invite attention of this Court to the proceedings issued by the third respondent dated 26.03.2004 where the first year papers of Part-I and Part-II since had already been passed by the petitioner when she studied the Bachelor of Science (Information Technology) course, the same had been given exemption and in this regard Para 1 and 2 of the said memorandum issued by the third respondent dated 26.03.2004 is extracted for better understanding of the issue.

MADURAI KAMARAJ UNIVERSITY

DIRECTORATE OF DISTANCE EDUCATION

Ref.No.D.D.E./B.A/ Re Admn University Buildings,
Palkalai Nagar,
MADURAI- 625 001
Dt.26.03.2004

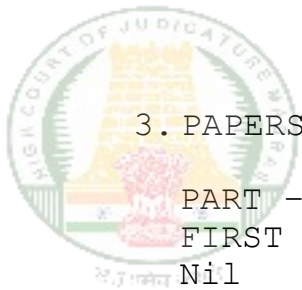
MEMORANDUM

Sub: 200-0- -Readmission to Second Year B.A.,B.Sc., Degree Course-Exemption in subjects intimated - Reg.

Ref: This Office letter dated:

1. In Continuation of this Office letter cited, he/she is informed that he/she has been granted exemption in the following papers as in para 2 in which he/she has already passed in the First/Second year B.A., B.sc., Degree in ----- and he/she should appear for the remaining papers in First/ Second year as in para 3 in this University under D.D.E. Non - Semester pattern along with Second/Third year papers.
2. He/She is exempted in the following papers in which he/she has already passed:

PART - I	PART - II - ENGLISH	PART - III
FIRST YEAR	FIRST YEAR	<u>MAJOR</u>
1A1 1A2	3A1 3A2	FIRST YEAR
SECOND YEAR	SECOND YEAR	SECOND YEAR
NIL	NIL	<u>ANCILLARY</u>
		FIRST YEAR
		SECOND YEAR



3. PAPERS TO BE APPEARED THROUGH D.D.E. OF THIS UNIVERSITY

PART - I
FIRST YEAR
Nil

PART - II - ENGLISH
FIRST YEAR
Nil

PART - III
MAJOR
FIRST YEAR (TA1 TA2)
SECOND YEAR (TB1TB2)
THIRD YEAR (TE1 TE2)

SECOND YEAR
2A1 2A2

SECOND YEAR
4A1 4A2

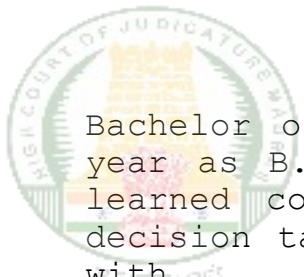
ANCILLARY
FIRST YEAR
SECOND YEAR

DIRECTOR

7. The learned counsel for the petitioner would further submit that only Part-I and Part-II of first year i.e Tamil and English papers (namely 1A1, 1A2, 3A1, 3A2) alone were exempted and for the second and third year subjects both first part, second part as well as third part i.e major and ancillary papers, the petitioner had to undergo for the full two years at the third respondent institute. The petitioner had successfully completed the B.A.(Tamil) degree. Only based on the said Under Graduate degree, the Tamilnadu Teachers Education University had also admitted the petitioner in the Bachelor of Education Course and after successful completion of the same, the said University had also issued B.Ed degree in May 2010. These are all the two essential qualifications, which are required to be considered for the selection to the post of B.T Assistant. In this regard, the learned counsel for the petitioner would also invite the attention of this Court at clause 3-b of the Notification / Advertisement issued by the second respondent and the said clause 3B reads as thus:

"Candidates who have passed a Bachelor's Degree (B.A. / B.Sc. / B.Litt.) with Tamil, English, Mathematics, Physics, Chemistry, Botany, Zoology, History and Geography or a Degree with any one of the equivalent subjects (Regarding equivalent subject, Government orders issued prior to the date of this notification alone will be considered) from a Recognized University under 10+2+3 pattern and a Bachelor's Degree in Education (B.Ed.) from a Recognized University and seeking an appointment as Teacher for classes VI to VIII can write Paper II".

8. Only on the strength of the qualifications acquired by the petitioner, which are the essential/required qualifications as per the Notification issued by the second respondent, the petitioner was called for certificate verification. After certificate verification, when the petitioner was fondly expecting the favourable result from the second respondent, as she has successfully obtained 92 marks out of 150 where the cut off marks fixed was only 90, the rejection order made by the second respondent citing the said reason that the petitioner studied the first year as



Bachelor of Science (Information Technology) and second and third year as B.A., (Tamil) is absolutely unjustifiable. Therefore, the learned counsel for the petitioner would contend that the said decision taken by the second respondent is liable to be interfered with.

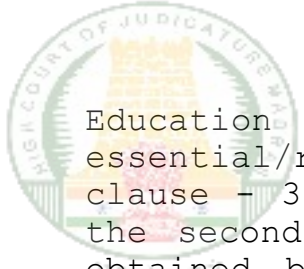
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9. Per contra, Mrs.S.Bharathi, learned Government Advocate appearing for the respondents 1 and 2 would submit that though it has been mentioned at clause 3-b of the Notification that candidates who have passed a Bachelor's Degree (B.A. / B.Sc. / B.Litt.) with various subjects or a Degree with any one of the equivalent subjects from any recognized University under 10+2+3 pattern and also B.Ed., degree from a recognised University can seek appointment as a teacher for classes VI to VIII and can write paper-II at the second respondent's examination, the qualification actually acquired by the petitioner i.e the first year as Bachelor of Science (Information Technology) and second and third year as B.A., (Tamil) cannot be equated to the qualification to a Bachelor degree i.e., B.A., B.Sc., B.Lit as has been mentioned at paragraph 3B of the Notification.

10. The learned Government Advocate would further submit that all those who have applied for selection / recruitment on *prima facie* satisfaction, would be permitted to write the examinations and only at the time of certificate verification, it would be verified as to whether the candidate actually acquired the qualification as prescribed by the 2nd respondent through the Notification or not. It is further submission of the learned Government Advocate that in the case of the petitioner, such verification was made, it was found that the petitioner studied first year as Bachelor of Science (Information Technology) and second and third year as B.A., (Tamil). Therefore, this cross major qualification of two courses cannot be treated as a Bachelor Degree of B.A., B.Sc., or B.Lit., within the meaning of Clause 3-b of the Notification. Even though the petitioner obtained 92 marks out of 150 marks and was called for certificate verification, her candidature was rejected only on these reasons. Therefore, according to the learned Government Advocate, the impugned order is fully justifiable and it requires no interference by this Court.

11. This Court has considered the said rival submissions made by both sides.

12. In sofaras the qualifications prescribed by the second respondent for selection/ recruitment to the post of Teacher to handle classes for VI to VIII, in other words, the post of BT Assistant, is concerned the qualifications have been specifically mentioned only at Clause 3-b of the Notification, which has also been extracted hereinabove. On reading of Clause 3-b of the Notification, it can be ascertained that any Bachelor Degree like B.A., B.Sc., B.Lit, etc in Tamil, English and Mathematics etc. from a recognized university under 10+2+3 pattern and Bachelor of



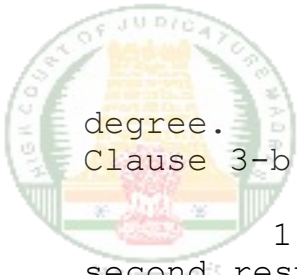
Education degree from any recognized University are the only essential/required qualifications. Apart from this prescription at clause - 3-b, nothing has been given in the Notification issued by the second respondent as to whether a degree i.e. Under Graduate obtained by a candidate must be a same degree/subject of three years. In other words, the first year subjects passed by the petitioner from an institution which is also affiliated to third respondent University, since has been exempted by the very same University after evaluating the said papers cleared in the first year while she was studying BSC (IT) Course, it is the domain of the University concerned.

13. The University (i.e.) Madurai Kamaraj University, after having considered the papers cleared by the petitioner at her first year studies in Bachelor of Science (Information Technology) had given exemption specifically on 26.03.2004 which has already been extracted hereinabove. The Part-I and Part-II papers which had been given exemption by the University is the decision of the University as both courses namely, Bachelor of Science (Information Technology) and B.A., (Tamil) are conceived by the very same University. After having completed the said degree of B.A., (Tamil), the petitioner also applied for joining B.Ed Course at an institution affiliated to Tamil Nadu Teachers Education University where also the petitioner's qualification was considered and accepted by the said University. Only thereafter, she was permitted to undergo the said B.Ed., course. After having successfully undergone the said course, the petitioner had been given a degree of Bachelor of Education by the Teachers Education University.

14. When two Universities functioning in the State of Tamil Nadu under respective legislation of the State issued degrees to the petitioner, the second respondent cannot take a different view as to the validity of the said degrees. Moreover, in the impugned communication dated 10.08.2014, only the following has been mentioned as the reason for rejection of the petitioner's candidature:

"She has studied first year B.Sc (IT) and then second and third year she has studied B.A., (Tamil)".

15. Except these remarks, the second respondent has not given any other reason as to why the qualifications acquired by the petitioner have not been accepted by the second respondent. If Clause 3-b of the Notification issued by the second respondent is applied to the case of the petitioner, it can be easily found that the petitioner has acquired the qualification of B.A., (Tamil) under 10+2+3 pattern. Suppose if the petitioner had studied only two years and obtained degree then it can be stated that he has violated the said system of 10+2+3. Here in this case, since the petitioner has completed 10th Standard, +2 and thereafter the first year at an institution affiliated to the same University ofcourse in a different course and subsequently, completed two more years for UG course and altogether she has completed three years for obtaining UG



degree. She can also satisfy 10+2+3 pattern as required under Clause 3-b of the Notification.

16. Moreover, in view of the said objection raised by the second respondent, the petitioner has also requested to the Madurai Kamaraj University i.e the third respondent, the Director, the Directorate of Distance Education to clarify the position as to whether B.A. Tamil degree obtained by the petitioner through distance mode of education from the third respondent is a valid degree as three years Under Graduate degree for the purpose of public employment. The third respondent has given a certificate dated 16.07.2014 in reference No. MKU/DDE/UG/2014 and the import of the the said certificate issued by the third respondent is re-produced hereunder for better appreciation.

சித்ரா என்ற மாணவி 2001-ல் சிவகாசி காளிஸ்வரி கல்லூரியில் B.Sc.(IT) ஓராண்டு பயின்ற பின், தூத்துக்குடியில் காரணத்தால் இடைமுறிவு செய்து பின்னர் 2003 கல்வியாண்டில் B.A.(தமிழ்) இரண்டாமாண்டு admission பெற்றுள்ளார் (A4A4095813). மதுரை காமராசர் பல்கலைக்கழக பாடத்திட்டத் தின் படி B.Sc.(IT) பயின்ற சமயம் தேர்ச்சி பெற்ற பகுதி I தமிழ், பகுதி II ஆங்கிலம் ஆகியவற்றுக்கு விதிவிலக்கு அளித்து B.A.(தமிழ்) இரண்டாமாண்டு மற்றும் முன்றாமாண்டுக்குரிய பாடங்களில் தேர்வு எழுதி தேர்ச்சி பெற்றுள்ளார். பல்கலைக்கழகத்தின் அனுமதியுடன் Re-admission வழங்கும் முறை கீழ்க்கண்டவாறு குறிப்பிடப்பட்டுள்ளது.

"Those who might have completed i.e. attended First year or Second year of study in a college affiliated to Madurai Kamaraj University or other recognized Universities or in our Directorate or in the Institute of Correspondence Course of a recognized University and thereafter discontinued their studies are eligible for admission to Second year, Third year respectively in this Directorate."

17. After getting the said certificate from the third respondent, the petitioner had requested once again to the second respondent on 25.07.2014 through a representation. However, the second respondent has issued the proceedings dated 10.08.2014 with the aforesaid two line remarks that the petitioner had stated that she studied first year B.Sc., (IT) and second and third year B.A., Tamil. It is not known whether the clarificatory certificate issued by the third respondent produced by the petitioner through her representation dated 25.07.2014 was considered by the second respondent before issuing the proceedings dated 10.08.2014 because there is no whisper to state in the said proceedings dated 10.08.2014 that the second respondent has considered all these aspects.

18. For all these reasons, this Court is of the view that the rejection made by the second respondent by the impugned proceedings dated 10.08.2014, the candidature of the petitioner on the alleged ground as mentioned at clause 10 of the proceedings under the heading 'Remarks' is un-sustainable and un-justifiable. Therefore, this Court is inclined to interfere with the said decision of the second respondent.

19. Resultantly, the impugned communication dated 10.08.2014 issued by the second respondent is quashed. The second respondent is directed to consider the degree of B.A., (Tamil) issued by Madurai Kamaraj University as well as the B.Ed., qualification degree issued by the Tamil Nadu Teachers Education University along with the clarificatory certificate dated 16.07.2014 issued by the third respondent with the University seal, and accordingly consider the candidature of the petitioner for selection and recruitment to the post of B.T. Assistant i.e., Teacher for handling classes VI to VIII.

20. It is needless to mention that since the petitioner has already secured 92 marks out of 150 marks and it was also said that the minimum marks/cut off marks fixed in this regard by the second respondent is only 90 marks, the petitioner shall be entitled to get selection, provided, if the degrees of the certificates of the petitioner as referred to above is accepted by the second respondent.

21. It is also made clear that since no other reason cited in the impugned proceedings for rejecting the candidature of the petitioner, certainly, the petitioner would be entitled to claim selection on the basis of her qualification as well as the marks secured by her in the examination conducted by the second respondent. Hence, needful, as directed above, shall be done by the second respondent within a period of four weeks from the date of receipt of a copy of this order and based on such decision, the selection / recruitment of the petitioner can also be communicated to her forthwith.

22. With the above directions, the writ petition is disposed of. No costs. Consequently, connected M.P.(MD) Nos. 1 and 2 of 2014 are closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub-Assistant Registrar

To

1. The Principal Secretary to Government,
State of Tamil Nadu, School Education and TRB Department,
Chennai-9.

2. The Chariman,
Teachers Recruitment Board, E.V.K. Sampath Maligai,
DPI compound, College Road, Chennai-6.

3. The Director, Directorate of Distance Education,
Palkalainagar, Madurai-625 0021.

+One cc to The Special Government Pleader, SR.No.55976

+One cc to Mr.M.Solaisamy, Advocate, SR.No.55975

CM/RM/MR/TSG

RL/6C/8P/JC/SAR2/22/11/2017

W.P. (MD) No.19764 of 2014