



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

**W.A.(MD)No.1374 of 2017
and
C.M.P(MD)No.9805 of 2017
Against
W.P(MD)NO.15740 OF 2017**

1. The Director of School Education,
College Road, DPI Campus,
Chennai - 600 006.

2. The Chairman,
Teacher Recruitment Board,
E.V.K.Sampath Building,
Collge Road, DPI Campus,
Chennai - 600 006.

: Appellants/Respondents

.vs.

K.Manikandan

: Respondent/Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.15740 of 2017, dated 22.08.2017.

Prayer in WP(MD). 15740/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the 2nd respondent to award 1 mark for Question No.13 in respect of Botany Paper Booklet Series C and to revise the total mark for written examination awarded to the petitioners as 86 and consequently to allow the petitioner to participate in the further process of selection including Certification Verification and to select and appoint the petitioner in the post of P.G. Assistant (Botany) under Schedule Caste Reserved Category.

For Appellants : Mr.VR.Shanmuganathan
Special Govt.Pleader



JUDGEMENT

[Judgement of the Court was made by **M.VENUGOPAL, J.**]

Heard the Learned Counsel for the Appellants/Respondents.

2. Since the main Writ Appeal itself is taken up for final disposal at the admission stage itself, notice to the Respondent is not ordered by this court, in furtherance of substantial cause of justice.

3. The Appellants/Respondents have focussed the instant Writ Appeal before this Court as against the order order, dated 22.08.2017 in W.P(MD)No.15740 of 2017 passed by this Court.

4. Earlier, this Court in W.P(MD)No.15740 of 2017 filed by the Respondent/Writ Petitioner, on 22.08.2017, had made the following observations in paragraphs 2 to 4, which run as under:

"2.A perusal of the same does not show the stand taken by the respondents for denial of the mark to the petitioner for answering the question No.13 is prima facie correct. Therefore, the Petitioner, in my view, could have given one mark.

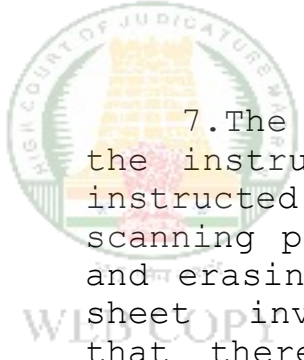
3. In any event, the matter requires consideration. However, since the Certificate Verification going to take place on 28.8.2017 and 29.9.2017, the respondents are directed to permit the petitioner to take part in the Certificate Verification. However, the results will be subject to the result of the Writ Petition.

4. Mr.R.Karthikeyan, learned Additional Government Pleader, takes notice for the respondents. Post after two weeks for filing counter, if any."

5. Assailing the order, dated 22.08.2017 in W.P(MD)No.15740 of 2017 passed by the Learned Single Judge, the Appellants have preferred the present Writ Appeal mainly contending that the Learned Single Judge could have considered the fact that the answer book is the form of OMR Sheet (Optical Mark Reader) and as such, the evaluation is by means of electronic process and hence, once the candidate shaded two options the serial in which the computer which evaluates the answer cannot evaluate.

6. Advancing his arguments, the Learned Special Government Pleader appearing for the Appellants took a plea that the Learned Single Judge should have borne-in-mind that in S.No.4 of the 'Instruction' in question Booklet, it is stated as under:

"04.....In the OMR Answer Sheet for each and every question shade only one answer. If more than one answer is shaded that question will be rejected for valuation."



7. The core contention on the side of the Appellants is as per the instructions issued in the OMR Sheet, it is very clearly instructed that the answer sheet was evaluated through electronic scanning process and hence incomplete, incorrect, double marking and erasing the entries would render the Respondent's answer sheet invalid one. It is submitted on behalf of the Appellants that there cannot be any compromise in committing mistakes breaching the instructions issued. Furthermore, if the compromise course is permitted, then it will set a bad precedent and open the flood gates for litigation.

8. While winding up, the Learned Special Government Pleader for the appellants submits that shading the columns in OMR Sheet is mandatory and failure to shade will result in rejection of OMR sheet. Apart from that, the selection process stipulated in advertisement must be scrupulously followed.

9. At this stage, this Court had a mere running of the eye, over the observations of the Learned Single Judge in paragraphs 2 and 3, is of the considered view that they are only tentative in nature and since the main W.P(MD)No.15740 of 2017 itself is posted after two weeks for filing counter if any, the tentative observations may not weigh with the Writ Court at the time of passing final orders in the main Writ Petition.

10. Viewed in that perspective, this Court is of the earnest and considered opinion that it is always open to the Appellants to file counter, if any, and take all such available defenses before the Learned Single Judge in W.P(MD)No.15740 of 2017 for redressal of their grievances, of course, in the manner known to Law and in accordance with Law, if they deem it fit and proper.

11. Before parting with the case, liberty is granted to the Appellants to make a request before the Learned Single Judge for taking up the matter as expeditiously as possible, but the only rider is that the Appellants shall file the counter to the said Writ Petition as quickly as possible.

12. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

vsn

AE/SV MMS/SAR1/17.11.2017/3P/1C