



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2017

CORAM :

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**THE HONOURABLE MS.INDIRA BANERJEE, CHIEF JUSTICE
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

W.A(MD)No.1433 of 2017

and

C.M.P(MD)No.10931 and 10932 of 2017

Deepa @ Bhagavathi

... Appellant

vs.

The Chairman,
Teachers Recruitment Board,
College Road,
Chennai.

... Respondent

Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 18.09.2017 in W.P(MD)No.17557 of 2017 and allow the Writ Appeal.

Prayer in WP(MD). 17557/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the rejection order of certificate verification results published through on line /website of the respondent in the case of the petitioner in connection with the appointment to the post of P.G.Assistant/physical Education Directors Grade I 2016-17 and quash the same and consequently direct the respondent to appoint the petitioner in the said post.

For Appellant	: Mr.V.Kathirvelu, Senior Counsel for Mr.K.Prabhu
For Respondent	: Mr.VR.Shanmuganathan Special Government Pleader

JUDGMENT

(Judgment of this Court was made by
Hon'ble THE CHIEF JUSTICE)

This appeal is against the judgment and order dated 18th September, 2017, whereby, the writ petition filed by the appellant/writ petitioner was dismissed at the admission stage without calling for affidavits.



2.The writ petition was directed against the rejection of the candidature of the petitioner for the post of Post Graduate Assistant under the School Education Department on the ground that she had simultaneously pursued her B.Ed., degree and her post graduation degree.

3.The mark sheets and certificates filed along with the writ petition reveal that the petitioner obtained Secondary School Leaving Certificate after appearing in the written examination held in March 1999. Thereafter, she successfully appeared for the Higher Secondary Examination, which was held in 2001.

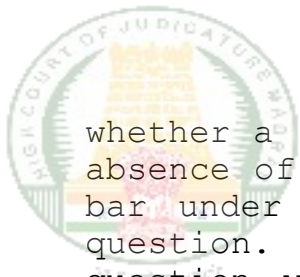
4.The petitioner apparently graduated as a student of Sri Parasakthi College for Women, Courtallam, in April 2004. The petitioner thereafter obtained her B.Ed., degree from Tamil Nadu Teachers Education University in May 2010. It appears that she passed the B.Ed., examination with distinction. Thereafter, in 2011, she appeared for the Master of Arts examination. She passed the examination in the first class. The certificate enclosed does not reveal that she obtained her post graduation degree through distance education.

5.At the admission stage, the writ petition was dismissed on the ground that the writ petitioner had pursued two courses i.e., her B.Ed., course and her post graduation course simultaneously, on the reasoning that she could not otherwise have cleared the B.Ed., examination in 2010 and then the Master of Arts examination in 2011, the Master of Arts course being of two years duration.

6.It is now contended before us on behalf of the appellant/writ petitioner that the petitioner started her Master's course in 2009 itself through distance education mode, pursued the post graduation course for a year. Thereafter, she joined the B.Ed., Course through distance education mode and appeared for the B.Ed., examination in 2010 after which, she again reverted to the Master's degree course and obtained Master degree in 2011.

7.The respondents were apparently not called upon to produce the rule or regulation in terms whereof the petitioner's candidature could be rejected on the ground of simultaneous pursuit of two courses. For the time being, we need not go into the question of whether the appellant/writ petitioner pursued the post graduation and the B.Ed., courses through the mode of distance education or as a regular candidate, as the certificates do not specifically indicate that she had obtained her degree through the distance education mode.

8.*Prima facie*, it appears that a degree conferred by a University constituted under a Statute and/or recognised by the University Grants Commission is a valid degree. It is doubtful



whether a person can be deprived of the fruits of a degree in the absence of any valid rule, regulation and/or order, if there was no bar under the notification inviting applications for the post in question. The notification inviting applications for the post in question would have also to be looked into to ascertain if only regular candidates who had obtained post graduation degree by attending an institution for two years were eligible.

9.If eligibility was not restricted only to regular candidates and the same was open to candidates who had pursued the course through the mode of distance education, it is difficult to understand and appreciate why there should be any bar to simultaneous pursuit of two courses, since the object behind the bar to pursuit of two courses simultaneously, if any, was possibly to preclude candidates from enrolling themselves in two courses on paper, but attending only one or alternatively, half-heartedly attending two courses just to secure a minimum percentage of attendance in both. The object of the bar, if any, appears to be to encourage serious pursuit of a single course. Any way, we need not further delve into academic questions in the absence of the rules relating to recruitment. We deem it appropriate to set aside the order under appeal which does not bear reference to the rule or regulation which renders the petitioner ineligible and we remit the writ petition for fresh hearing upon affidavits.

10.The respondents may file their affidavits within two weeks from the date of receipt of copy of this judgment. The appellant/writ petitioner may file her rejoinder to the affidavits within one week thereafter. Let the writ petition be listed before the appropriate Bench.

11.We make it clear that any observations made by us in this order are only *prima facie* observations which will not sway and/or influence the final decision in the writ petition. The observations are not to be construed as any finding *prima facie* or final of eligibility of candidates obtaining educational qualification by simultaneous pursuit of two courses or obtaining the same through the mode of correspondence course or candidates obtaining a degree through the correspondence course.

Accordingly, the Writ Appeal is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub-Assistant Registrar

To

The Chairman, Teachers Recruitment Board,
College Road, Chennai.

Bala/sj

RL/2C/3P/JC/SAR1/11/12/2017

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JUDGMENT MADE IN
W.A (MD) No.1433 of 2017
28.11.2017