



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

W.P (MD) No. 12302 of 2017

and

W.M.P. (MD) Nos. 9463 to 9465 of 2017

WEB COPY

M. Sivasubramani

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government
Higher Educational (C2) Department,
Secretariat,
Chennai - 09.

2. The Chairman,
Tamil Nadu Teacher Recruitment Board,
E.V.K Sampath Malligai,
College Road,
Chennai-6.

3. The Commissioner,
The Directorate of Technical Education,
Sardarpatel Road,
Guindy,
Chennai.

.. Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the second respondent made in advertisement No.4/2017 dated 16.06.2017 and quash the same and consequently direct the second respondent to notify the first class in Master Degree in Engineering is also a qualification for recruitment to the post of Lecturer in Government Polytechnic Colleges in terms of G.O(MS) No.111 - Higher Education (C2) Department dated 25.05.2010.

For Petitioner : Mr.R.Murali

For Respondents : Mr.D.Muruganantham, A.G.P

O R D E R

This Writ petition has been filed challenging the impugned
Admission to the service No.04/2017, dated 16.06.2017, on the file of the
Chairman, Teachers Recruitment Board, second respondent herein and
to quash the same as illegal.



2. Heard Mr.R.Murali, learned counsel appearing for the petitioner and Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents.

3. By consent of both sides, this writ petition itself is taken up for final disposal.

4. The crux of the issue is that the petitioner has obtained first class in Master Degree, after obtaining Bachelor's Degree in Engineering in the relevant subject. However, the impugned notification prescribed first class in Bachelor's Degree in the branch of Engineering relating to the post concerned, but the petitioner secured first class in Master's Degree, which is also eligible as per the impugned notification dated 16.06.2017, irrespective of the fact that the petitioner secured second class in Bachelor's Degree.

5. When the matter was taken up for hearing today, the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents jointly and fairly submitted before this Court that the very same impugned notification was quashed by this Court on 05.07.2017 in W.P.No.16666 of 2017 in the case of *P.Sellamuthu vs. Teachers Recruitment Board*, in which it has been followed,

"18. The learned Additional Advocate General - VII submitted that the respondents are willing to consider all the writ petitioners before this Court. This Court is unable to accept such proposal mooted out by the learned Additional Advocate General. In view of the fact that the matter relating to the challenge of recruitment notification affecting large number of candidates in general, this Court has to consider the State wide implications and repercussions and it is the mission of the Constitutional Court to visualize the plight and agony of the candidates, who are not before this Court. The rights of all the citizens concerned are to be taken care of, while deciding such kind of matters, having State wide repercussions. This Court is duty bound to consider the plight of the poor candidates, who will not be in a position to approach this Court, on each and every occasion. Thus, this Court is of the considered view that, the plight of all the candidates has to be considered irrespective of the fact whether all the candidates are party to this writ proceedings, or not, more specifically when the very notification is under challenge and it is necessary to take care of the interest of all aggrieved persons.

19. When such being the legal principles to be adopted by the Constitutional Court, this Court is of the view that the arguments advanced by the learned Additional Advocate General that the respondents are



ready to consider all these writ petitioners, deserves to be rejected at the outset.

20. It is the further contention on behalf of the petitioners that the last date for application is fixed as 07.07.2017, and as such the urgency of deciding this matter was expressed by the learned counsel appearing for the writ petitioners. Though the learned Additional Advocate General # VII pleaded that it is suffice to pass an interim order in all these matters. This Court is not inclined to do so. In view of the fact the interest of large number of candidates are involved in this notification, which is impugned in this writ petition, the right of all the candidates as a whole is to be taken care of by this Court. If this exercise is not done, it will create an anomaly in the recruitment process and granting of interim order at this stage will pave way to multiplicity of litigations and large number of candidates will approach this Court seeking relief one way or other. This apart, keeping this writ petition pending for an unspecified period by this Court will create mental agony to the aspiring candidates seeking appointment to the post of Lecturer. Age is a vital factor for appointment of candidates and as the age runs, the scope of getting appointment will be reduced. Such being the view taken by this Court, the question of considering and passing of an interim order, does not arise all and the issue being brought down in a narrow campus to this Court, it would be proper to decide the issue and pass final orders in this writ petition.

21. More so, the pleadings were completed and all the parties in the writ petition are present and submitted their arguments and the learned Additional Advocate General also submitted his valuable points on behalf of the Government. Now, the core point to be decided is that whether the notification impugned in this writ petition dated 16.06.2017 is to be proceeded with or not. The factum of this case, that it is not only the case of violation of the standard of qualification prescribed by the AICTE, but it is the case where the State Government has accepted and adopted the regulations issued by the AICTE. After accepting the educational qualifications fixed by the AICTE, the State Government has no option except to follow the same in strict adherence. In other words, the State Government is estopped from prescribing different educational qualification for appointment to the post of Lecturers in Diploma level Government Polytechnic, other than that of the educational qualification prescribed by the AICTE in its regulations. Such being the view of this Court, the



notification deserves to be cancelled and a fresh exercise ought to have been undertaken by notifying the qualifications as prescribed by AICTE and as accepted by the State Government vide its G.O.(Ms) No.111, Higher Education (C2) Department, dated 25.05.2010. Accordingly, this Court is inclined to consider the merits in this writ petition and the notification issued by the respondents on 16.06.2017 is quashed and the respondents are directed to issue a fresh notification incorporating the educational qualifications prescribed under the Pay Scales, Service Conditions and qualifications for the Teachers and other academic staff in Technical Institutions (Diploma) Regulations 2010, within a period of two weeks from the date of receipt of copy of this order. The candidates applied pursuant to the notification dated 16.06.2017 need not submit their applications once again and the application already received shall be considered.

Accordingly, this writ petition stands allowed. However, there is no order as to costs. Consequently, connected M.P.s are closed.

6.Recording the submissions made by both sides, this Writ Petition is disposed of in terms of the same order. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Principal Secretary, State of Tamil Nadu,
Higher Educational (C2) Department, Secretariat, Chennai - 09.
- 2.The Chairman,
Tamil Nadu Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Complex, College Road, Chennai - 06.
- 3.The Commissioner,
The Directorate of Technical Education, Sardarpatel Road,
Guindy, Chennai - 25.

+One cc to Mr.R.Murali, Advocate, SR.No.63886

+One cc to The Special Government Pleader, SR.No.63930

Ns/gns

RL/6C/4P/KP/SAR1/25/9/2017

W.P(MD)No.12302 of 2017