



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2018

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7199 of 2018

S.Sri Harish
rep. by his father and natural guardian
K.Sankar .. Petitioner

Vs.

1.National Council of Educational
Research and Training,
rep. by its Head/Secretary,
Educational Survey Division,
Sri Aurobindo Marg,
New Delhi - 110 016.

2.The Liaison Officer/Director,
National Talent Research Examination,
O/o. Directorate of Government Examinations,
DPI Campus,
College Road,
Chennai - 600 006.

.. Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying for Writ of Mandamus, to direct the second respondent to select the petitioner in Stage I - State Level of the National Talent Search Examination held on 18.11.2017 and consequently, permit the petitioner to participate in the Stage II - National Level of the National Talent Search Examination to be held on 13.5.2018.

For Petitioner : Mr.S.Manikandan
For R1 : Service Awaited
For R2 : Mr.A.Raja Perumal, GA

ORDER

The petitioner by name S.Sri Harish, who is a 10th standard student, represented by his father and natural guardian K.Sankar, has preferred this writ petition seeking a Mandamus, directing the second respondent to select him in Stage I - State Level of the National Talent Search Examination and consequently, permit him to participate in the Stage II -



National Level of the National Talent Search Examination to be held on 13.05.2018.

2.It is the case of the petitioner that he belongs to Backward Community. The first respondent NCERT is the authority to conduct the National Talent Search Examination for the students studying in 10th standard, which is scheduled to be held every year at two stages ie., Stage I -State Level and Stage II - National Level. On 31.7.2017, the first respondent issued a notification for the National Talent Search Examination and the second respondent is authorized to conduct the State level examination in Tamil Nadu. The petitioner applied for the said Examination through school and Roll No.4518 3208027 was assigned to him. He wrote the examination and got 119 marks out of 150, but was not selected. According to the petitioner, the candidates, who secured lesser marks than him i.e., 118, 115, 112, 110 and 107, have been selected and hence, the action of the second respondent in not selecting him, is illegal and arbitrary.

3.It is the further case of the petitioner that his father submitted a representation dated 21.3.2018 to the second respondent requesting to consider the marks secured at Stage I and permit his son to appear for the Stage II - National level of the National Talent Search Examination, which is scheduled to be held on 13.05.2018. Finding no response on the said representation, the present writ petition came to be filed.

4.The learned counsel for the petitioner submitted that the notification has prescribed the qualifying marks for the candidates from General category as 40% in each paper and for the candidates from SC, ST and Physically Handicapped as 32% in each paper. As the petitioner has secured more marks than the cut off marks and the candidates, who secured lesser marks, have been selected, the second respondent ought to have considered him and permitted him to appear for the Stage II - National Level of the National Talent Search Examination.

5.Though the second respondent has not filed any counter affidavit, the learned counsel appearing for the second respondent submitted that the candidates, who secured lesser marks than the petitioner, were said to have belonged to different category, whereas, the petitioner, being a B.C candidate, has applied under the general category and the cut off marks prescribed for the general category is 120. Since the petitioner has secured only 119 marks, which is less than the cut off marks prescribed for the General category, he would not be entitled to any relief.



6. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

7. It is not in dispute that the petitioner has appeared for the State Level of the National Talent Search Examination and secured 119 marks. Though the names of some other candidates, who were said to have been selected for National Level Examination, have been referred to by the petitioner, they have not been made as parties to this writ petition. In such circumstances, without verifying the communal status of those candidates, this Court cannot render a finding on the allegation so raised by the petitioner.

8. Further, admittedly, the cut off marks prescribed for the general category is 120 marks and the petitioner has applied only under general category. The petitioner, for the first time in this writ petition, has stated that he belongs to Backward Community. As such, he cannot be considered along with others.

9. Even assuming but without conceding that the petitioner belongs to B.C and he applied for the examination under General category due to inadvertence, he should have brought the same to the knowledge of the authority concerned and sought rectification of the said mistake within a reasonable time, whereas, he has made a representation to the second respondent belatedly like Rip Van Winkle, i.e., on 21.03.2018, that too, after declaration of the results, though the Examination for Stage I -State Level was conducted on 18.11.2017. Much water has flown down by that time.

10. At this juncture, it is apropos to state that it is a settled legal position that the Court gives the benefit only to the persons, who are vigilant about their rights and not to those who sit on fence [See: Chairman, U.P. Jal Nigam and another v. Jaswant Singh and another reported in JT 2006 (10) SC 500].

11. In such view of the matter, as the petitioner applied under General category, he should have fulfilled the norms prescribed for the General category and secured more than the cut off marks, which admittedly, has not been done by him. Hence, the petitioner is dis-entitled to get any relief in this writ petition.

12. In fine, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS IV)

//True copy//

Sub Assistant Registrar

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To

1.National Council of Educational
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rep. by its Head/Secretary,
Educational Survey Division,
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New Delhi - 110 016.

2.The Liaison Officer/Director,
National Talent Research Examination,
O/o. Directorate of Government Examinations,
DPI Campus,
College Road, Chennai - 600 006.

+1cc to Mr.M.P.Jothimanian, Advocate SR.No.26239
+1cc to Government Pleader SR.No.27228

W.P.No.7199 of 2018

RR(CO)
GN(08/05/2018)