

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.08.2018

CORAM

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

W.P. No.22102 of 2018 and WMP.No.25901 of 2018

R.Sivaperumal

..... Petitioner

Vs

Tamil Nadu Uniformed Services Recruitment Board,
Represented by its Chairman (DGP)
Old Commissioner of Police Campus,
Pantheon Road,
Egmore, Chennai 600 008.

..... Respondent

PRAYER Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondent to consider and dispose of the petitioner's representation dated 16.08.2018 within the time frame fixed by the Hon'ble Court and permit the petitioner to participate in the physical test conducted for the common Recruitment 2017 - 2018 for the post of Gr.II PC, Jail Warden, Fireman and pass such order.

For Petitioner : Mr. V.M.Venkatramana
For Respondents : Mrs.Narmadha Sampath
Additional Advocate General
Assisted by
Mrs.Thanga Vadana Balakrishnan
Government Advocate

सत्यमेव जयते

O R D E R

It appears that the petitioner had submitted his application for recruitment to the post of Gr-II PC, Jail Warden, Fireman in different wings of Tamil Nadu Police conducted by Tamil Nadu Uniformed Service Recruitment Board. The petitioner while uploading the online application form had not furnished the required community certificate and as such, considered as General Category and wrote the examination and having not secured the cut off mark, not selected for the next round of test i.e physical Eligibility test. The petitioner has now come out with a case that since he belong to priority category of Scheduled Tribe and also secured the cut-off mark in

that category and the non uploading of his community certificate which he was in possession, was due to technical glitch and as such, the respondent be directed to include him in the provisional list of selection for consideration to the next round of test in the priority category.

2. The learned counsel appearing for the petitioner submits that the petitioner being admittedly belonging to Scheduled Tribe, so also in possession of such certificate and having applied in that category, he should have been considered in that category and called for certificate verification to participate in the next round of selection. In such premises, the petitioner has made the aforesaid prayer with an interim relief to keep one post vacant in the schedule Tribe Category of common Recruitment 2017-2018, pending disposal of the writ petition.

3. The learned Additional Advocate General appearing for the respondent submit that the petitioner was given a second chance to upload the certificate, but still the petitioner having not uploaded the required community certificate, he cannot be heard of saying that his non-inclusion in the Scheduled Tribe category was illegal, arbitrary and as such, he cannot be considered to Scheduled Tribe Category and hence, the writ petition being devoid of merit and he is not entitled to the interim relief also.

4. The case of the petitioner is that he belong to Scheduled Tribe priority category, so also, he had filled up the application being belong to that category. But inspite of chances given, the petitioner could not upload the same. However, the petitioner is residing in a remote area where there is no easy access to Internet and at time technical glitches also occurred, such technical glitches are also frequent in this country. Therefore, inspite of opportunity given, even if the petitioner had not uploaded, as he is stated to be belonging to the Scheduled Tribe category and was also in possession of the community certificate on the date of his application, non furnishing of the certificate of the petitioner at the time of application as such cannot be viewed adversely, dis-entitling him to be considered in the Scheduled Tribe Category to which he belongs particularly when he is a meritorious candidate in that category and inclusion of his name in the provisional list on the basis of minimum cut of marks is not going to adversely affect any other candidature in his category as gathered from the counsel for the respondent. Therefore, this Court is of the view that this writ petition can very well be disposed of granting the relief to the petitioner without seeking any reply affidavit. Hence, the writ petition stands disposed of with a direction to the respondent to verify the certificate of the petitioner indicating his category and if the respondent is

satisfied of the fact of his possessing the priority category certificate on the date of application and also other required qualification and has secured required cut off marks for inclusion in the provisional list of the said category, to include his name in the provisional list for qualifying for second round of test i.e physical efficiency test. The order having been passed in the presence of the learned counsel appearing for the respondent, the same be communicated to the respondent that this Court has allowed him to participate subject to verification of his community certificate and other qualification and also the qualifying cut off marks in the priority category. The petitioner may also furnish an affidavit in this regard before the respondent, who on receipt of the same shall act accordingly without awaiting for this order but the petitioner shall produce the order immediately on receipt of the same. However, production of affidavit should not be condition precedent as this Court has already directed the respondent counsel to intimate the order. No costs. Consequently, the connected miscellaneous petition is closed. However it is made clear that the petitioner if does not possess the qualification and the community certificate on the date of his application, the same entails rejection of his candidature.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

The Chairman (DGP),
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Campus,
Pantheon Road,
Egmore, Chennai 600 008.

+1cc to Mr. V.M.Venkatramana, Advocate sr.no.60032

W.P. No.22102 of 2018

nr 31/08/2018