

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.2659 of 2012

D.N.Saraswathi

... Appellant

...Vs...

1. V.Radhika

2. Member Secretary,
Teachers Recruitment Board,
4th Floor, E.V.K,Sampath Building,
D.P.I. Complex, College Road, Chennai - 6.

3. The Tahsildhar,
Taluk Office, Pallipattu,
Pallipattu Taluk, Thiruvallur District. ... Respondents

Prayer:- Writ Appeal filed under Clause 15 of Letter Patent Act,
to set aside the order dated 28.08.2012 passed in W.P.No.9328
of 2012.

W.P.9328/2012: This Writ Petition has been filed under Article
226 of the constitution of India for issuance of writ of
Certiorarified Mandamus Calling for the records of the 1st
respondent herein publishing the provisional list of candidates
selected for appointment for the post of graduate assistant
(Minority subject) 2007-2010 dated 01.03.2012 and quash the same
and consequently direct the 1st respondent to appoint the
petitioner herein as Telugu Pandit in the vacancy available in
the government schools or in the private aided school

For Appellant : Ms.N.Umapathi

For Respondents : Mr.K.Karthikeyan
Government Advocate (Edn) (for R2)
: Mr.V.Anandha Moorthy
Additional Government Pleader(for R3)

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The first respondent submitted application for appointment to the post of Graduate Assistant for the year 2007-2010. The examination was conducted by the Teachers Recruitment Board. The first respondent claimed that she belonged to M.B.C category. She was called for certificate verification on 08.01.2012. The first respondent was expected to produce the community certificate taking into account the community status of the parents. The Teachers Recruitment Board found that only the name of the husband was mentioned in the community certificate. The certificate was not accepted. The first respondent appears to have produced a fresh certificate later. Since, the cut-off date was over by then, the Teachers Recruitment Board finalized the selection. The appellant was selected as M.B.C candidate. The first respondent without challenging the selection of the appellant, challenged the provisional list dated 01.03.2012 in W.P.No.9328 of 2012. The learned single Judge allowed the Writ Petition on the ground that the Teachers Recruitment Board was not correct in rejecting the certificate on the ground that instead of the name of the father, the name of the husband was shown. The learned single Judge issued a Mandamus to the Teachers Recruitment Board to appoint the first respondent as Graduate Assistant against the vacancy which was notified. The learned single Judge further directed that the appellant herein shall be adjusted in any vacancy which would arise subsequently. The said order is under challenge at the instance of the appellant, who was arrayed as third respondent in the Writ Petition.

2. The learned counsel for the appellant contended that the first respondent was not eligible for appointment as she migrated from Andhra Pradesh. According to the learned counsel, it was only on account of said migration she got the certificate including the name of the husband without showing the name of the father. The learned counsel further contended that the learned single Judge was not right in upsetting the appointment of the appellant without there being any challenge to the order appointing her as Graduate Assistant.

3. We have also heard the learned Government Advocate on behalf of the second respondent and the learned Additional Government Pleader on behalf of the third respondent.

4. None appears on behalf of the first respondent.

5. The notification issued by the Teachers Recruitment Board for selection to the post of Graduate Assistant indicates

that the candidates must produce the entire certificates on the date of certificate verification. The certificate verification in the subject case was conducted on 08.01.2012. It is a matter of record that the first respondent was not having the community certificate, indicating her community status, taking into account the status of her parents. The documents produced by the appellant indicate that the first respondent migrated from Andhra Pradesh on account of her marriage. The learned counsel for the appellant is therefore correct in his contention that the community status of the first respondent should be taken in the light of the community status of her parents who hails from Andhra Pradesh.

6. The certificate obtained from Andhra Pradesh indicates that she belongs to B.C. Community. The first respondent without producing the said certificate, obtained the community certificate from the Revenue Authorities indicating that she belongs to M.B.C category. The name of the husband was shown in the said certificate. We fail to understand as to how community certificate indicating that the first respondent belonged to M.B.C was issued by the revenue authorities notwithstanding the certificate issued by the authorities at Andhra Pradesh indicating that the appellant belongs to B.C. Community. In any case, there is nothing on record to show that the first respondent produced a valid community certificate before the authorities on 08.01.2012. The Teachers Recruitment Board was justified in proceeding with the selection and giving appointment to the appellant. Even otherwise, the learned single Judge was not correct in entertaining the Writ Petition filed by the first respondent challenging the provisional list. The Teachers Recruitment Board issued the appointment order to the appellant. The Appointment Order ought to have been challenged by the first respondent, in which case, the appellant would also be in a position to demonstrate that the first respondent is not entitled for appointment in the M.B.C category. We are therefore, of the view that the learned single Judge was not justified in upsetting the selection of the appellant.

7. In the result, the order dated 28.08.2012 is set aside. The Writ Petition in W.P.No.9328 of 2012 is dismissed.

8. In the upshot we allow the intra Court appeal. No costs.

Sd/-

Assistant Registrar (CS-VII)

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Sub Assistant Registrar

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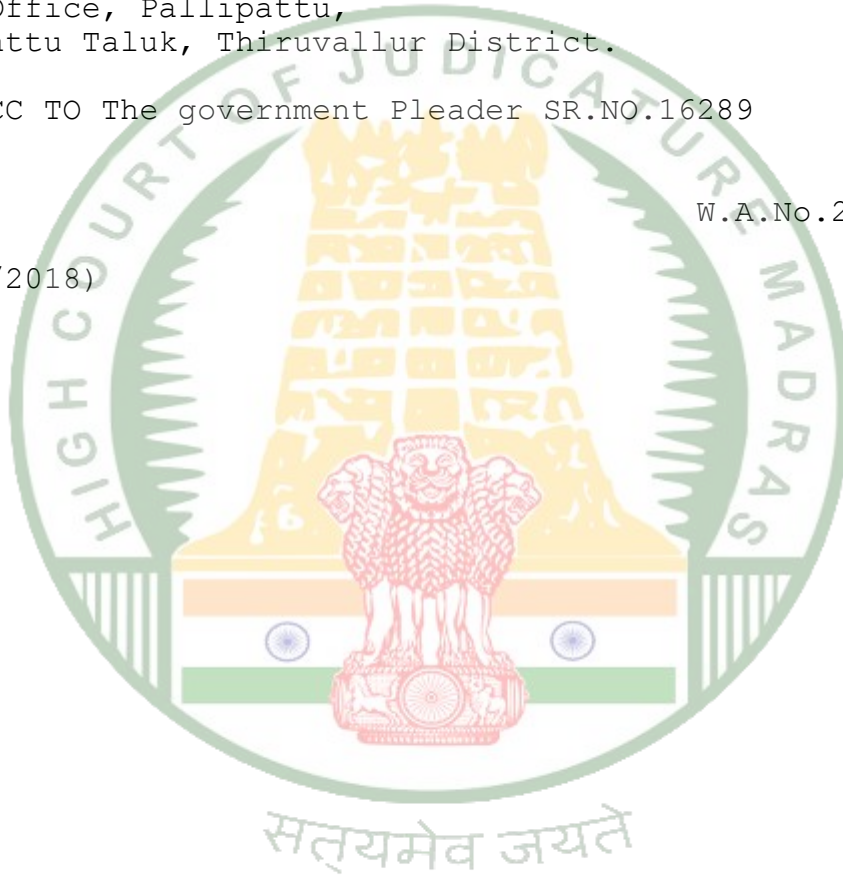
To

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2. The Tahsildhar,
Taluk Office, Pallipattu,
Pallipattu Taluk, Thiruvallur District.

+1 CC TO The government Pleader SR.NO.16289

W.A.No.2659 of 2012

NRK (CO)
RMP (28/03/2018)



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