



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:16.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.(MD)Nos.194 to 199 & 209 to 212 of 2018
and

C.M.P.(MD)Nos.1068 to 1074 and 1107 to 1114 of 2018

1 THE STATE OF TAMIL NADU
REP. BY ITS SECRETARY,
SCHOOL EDUCATION DEPARTMENT,
SECRETARIAT, CHENNAI.

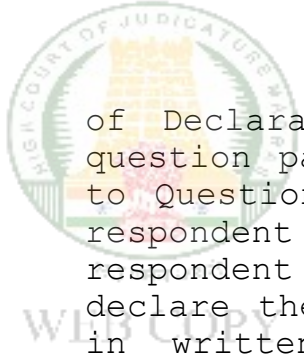
2 THE CHAIRMAN,
TEACHERS RECRUITMENT BOARD,
4TH FLOOR, EVK SAMPATH MALIGAI,
DPI CAMPUS, COLLEGE ROAD,
CHENNAI -6. ... Appellants in WA(MD).194 to 199 & 209 to 212/2018

-Vs-

S.PONNUTHAI	... Respondent in WA(MD). 194/ 2018
B.RAJA	... Respondent in WA(MD). 195/ 2018
S.CHANDRA MARY	... Respondent in WA(MD). 196/ 2018
T.MARIAMMAL	... Respondent in WA(MD). 197/ 2018
V.KANNAN	... Respondent in WA(MD). 198/ 2018
C.VIJAYALAKSHMI	... Respondent in WA(MD). 199/ 2018
G.SANTHI	... Respondent in WA(MD). 209/ 2018
S.SELVA RANI	... Respondent in WA(MD). 210/ 2018
P.VINITTA VINCY	... Respondent in WA(MD). 211/ 2018
M.SAROJA	... Respondent in WA(MD). 212/ 2018

Prayer in WA(MD).Nos.194 to 199 & 209 to 212/2018:

Writ Appeals filed under Clause 15 of Letter Patent against Orders dated 20.09.2017 made in WP.(MD).Nos.16165, 16166, 16170, 16171, 16172, 16173, 16167, 16168, 16169 and 17066 of 2017 passed by this Honble Court.



of Declaration declaring the final key answer provided for the question paper in Chemistry CDE-2017, Booklet series A, pertaining to Question Nos.14, 22, 43, 44, 63, 72 & 103 provided by the 2nd respondent as incorrect and consequently to direct the 2nd respondent to award marks for the above said questions and to declare the petitioner bearing Roll No.17PG07050203 to have passed in written examination and allow him to participate in the certificate verification within the period that may be Stipulated by this Hon'ble Court.

Writ Petition.(MD).No.16166 of 2017 is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Declaration declaring the final key answer provided for the question paper in Chemistry CDE-2017, Booklet series B, pertaining to Question Nos.8, 32, 35, 39, 67, 85, 94 & 110 provided by the 2nd respondent as incorrect and consequently to direct the 2nd respondent to award marks for the above said questions and to declare the petitioner bearing Roll No.17PG08050554 to have passed in written examination and allow him to participate in the certificate verification within the period that may be stipulated by this Honble Court.

Writ Petition.(MD).No.16170 of 2017 is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Declaration declaring the final key answer provided for the question paper in Chemistry CDE-2017, Booklet series C, pertaining to Question Nos.3, 37, 40, 54, 74 & 94 provided by the 2nd respondent as incorrect and consequently to direct the 2nd respondent to award marks for the above said questions and to declare the petitioner bearing Roll No.17PG09050355 to have passed in written examination and allow her to participate in the certificate verification within the period that may be stipulated by this Honble Court.

Writ Petition.(MD).No.16171 of 2017 is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Declaration declaring the final key answer provided for the question paper in Chemistry CDE-2017, Booklet series C, pertaining to Question Nos.70,3,37,40,94 & 54 provided by the 2nd respondent as incorrect and consequently to direct the 2nd respondent to award marks for the above said questions and to declare the petitioner bearing Roll No.17PG07050051 to have passed in written examination and allow her to participate in the certificate verification within the period that may be stipulated by this Honble Court.

Writ Petition.(MD).No.16172 of 2017 is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Declaration declaring the final key answer provided for the question paper in Chemistry CDE-2017, Booklet series D, pertaining to Question Nos.13, 34, 52, 55, 85 & 87 provided by the 2nd respondent as incorrect and consequently to direct the 2nd respondent to award marks for the above said questions and to



declare the petitioner bearing Roll No.17PG08050337 to have passed in written examination and allow him to participate in the certificate verification within the period that may be stipulated by this Hon'ble Court.

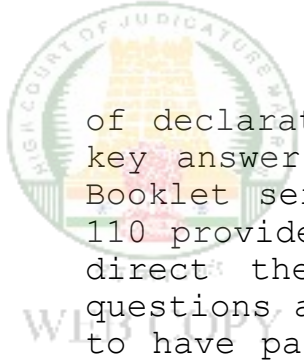
Writ Petition.(MD).No.16173 of 2017 is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Declaration declaring the final key answer provided for the question paper in Chemistry CDE-2017, Booklet series D, pertaining to Question Nos.34, 52, 55, 65, 85 & 64 provided by the 2nd respondent as incorrect and consequently to direct the 2nd respondent to award marks for the above said questions and to declare the petitioner bearing Roll No.17PG06050158 to have passed in written examination and allow him to participate in the certificate verification within the period that may be stipulated by this Hon'ble Court.

Writ Petition.(MD).No.16167 of 2017 is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Declaration declaring the final key answer provided for the question paper in Chemistry CDE-2017, Booklet series B, pertaining to Question Nos.8,32,110,38 & 94 provided by the 2nd respondent as incorrect and consequently to direct the 2nd respondent to award marks for the above said questions and to declare the petitioner bearing Roll No.17PG08050323 to have passed in written examination and allow her to participate in the certificate verification within the period that may be stipulated by this Honble Court.

Writ Petition.(MD).No.16168 of 2017 is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Declaration declaring the final key answer provided for the question paper in Chemistry CDE-2017, Booklet series B, pertaining to Question Nos.84, 32, 35, 39, 88 & 110 provided by the 2nd respondent as incorrect and consequently to direct the 2nd respondent to award marks for the above said questions and to declare the petitioner bearing Roll No.17PG22050533 to have passed in written examination and allow her to participate in the certificate verification within the period that may be stipulated by this Honble Court.

Writ Petition.(MD).No.16169 of 2017 is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Declaration declaring the final key answer provided for the question paper in Chemistry CDE-2017, Booklet series B, pertaining to Question Nos.8, 38, 85 & 94 provided by the 2nd respondent as incorrect and consequently to direct the 2nd respondent to award marks for the above said questions and to declare the petitioner bearing Roll No.17PG08050467 to have passed in written examination and allow her to participate in the certificate verification within the period that may be stipulated by this Honble Court.

Writ Petition.(MD).No.17066 of 2017 is filed under Article 226 of the Constitution of India, praying this Court To issue a writ



of declaration direction in the nature of writ declaring the final key answer provided for the question paper in Chemistry CDE-2017, Booklet series B pertaining to Question Nos.8, 32,35,39,67,85,94 & 110 provided by the 2nd respondent as incorrect and consequently to direct the 2nd respondent to award marks for the above said questions and to declare the petitioner bearing Roll No.17PG02050262 to have passed in written examination and allow her to participate in the certificate verification within the period that may be stipulated by this Honble Court.

For Appellants : Mr.V.R.Shanmuganathan
in all Writ Appeals Special Government Pleader

For Respondent : Mr.Ajmal Khan,
in WA.(MD).Nos.196, 197, Senior Counsel
209 & 210/2018 for M/s.Ajmal Associates

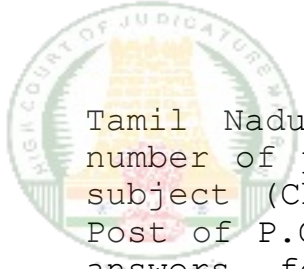
C O M M O N J U D G M E N T

(Judgment of the Court was delivered by T.S.SIVAGNANAM,J.)

Heard Mr.V.R.Shanmuganathan, learned Special Government Pleader for the appellants and Mr.Ajmal Khan, learned Senior counsel for the respondents/writ petitioners.

2. These appeals are directed against the common order in W.P.(MD)Nos.16165 to 16169 and 17066 of 2017, dated 20.09.2017, passed in the writ petitions filed by the respondents/writ petitioners. The prayer sought for in the writ petitions is to declare the final key answer provided for the question paper in Chemistry CDE-2017, Booklet Series A, pertaining to Question Nos.14, 22, 43, 44, 63, 72 and 103 as incorrect and consequently, direct the second respondent to award marks for the above said questions and declare the petitioners as having passed and allow them to participate in the certificate verification within the stipulated time.

3. The appellants resisted the prayer sought for in the writ petitions on the ground that the Teachers Recruitment Board has followed a proper procedure in the recruitment and the Notification dated 09.05.2017 and Revised Notification dated 30.06.2017 calling for applications for 387 posts of Post Graduate Assistants (Chemistry), clearly state that the key answers will be uploaded and objections from the candidates will be received and considered and accordingly, upon the key answers being uploaded, some of the candidates had filed their objections to the key answers as being incorrect and these objections are stated to have been dealt with by the Teachers Recruitment Board and they were rejected and it is only thereafter, the results were published. It is noteworthy to mention that the Notification dated 09.05.2017, was issued by the Teachers Recruitment Board to fill up 1663 vacancies in the post of Post Graduate Assistants / Physical Education Directors Grade-I in the



Tamil Nadu Higher Secondary Educational Service. After the said number of posts, 387 posts were notified for P.G. Assistant in the subject (Chemistry). All the writ petitioners had applied for the Post of P.G. Assistant in Chemistry and they contended that the key answers for the above referred questions are incorrect and therefore, they should be awarded full marks for those questions. The appellants resisted the prayer sought for in the writ petitions contending that the Court has no jurisdiction to direct revaluation or adopt the process of referring the answer script to third party evaluators and ascertain the answers and then grant a relief and this exercise is wholly outside the jurisdiction of the Court. The said contention has been raised in the counter affidavit filed by the appellants in the writ petitions stating that even a cursory glance at the opinions given by the Subject Experts and the authoritative proof on which such opinions were formed which are filed in the typed set would evidently show that the petitioner has not demonstrably proved the key answers of the second respondent Board to be wrong and also placing reliance on the decision of the Hon'ble Supreme Court in Kanpur University vs. Samir Gupta reported in A.I.R. 1983 SC 1230 and the decision of the Division Bench in Writ Appeal Nos.1097 and 1099 of 2014 dated 08.09.2014 and Writ Appeal No.1074 of 2014 dated 12.08.2014.

4. The learned Special Government Pleader appearing for the appellants would contend that the jurisdiction of the Court to undertake an exercise to invite subject experts to reevaluate to furnish key answers was specifically canvassed by him before the writ Court. However, we find in the impugned order passed in the writ petition, the said legal issue has not been dealt with. Be that as it may, it has to be seen as to whether this Court should undertake an exercise to test the correctness of the order in the writ petitions. We are of the considered view that the said exercise is not required on account of the peculiar facts and circumstances which has arisen after the writ petitions were disposed of. Be it noted that though the writ petitioners contended that the key answers for several questions were incorrect, the Court granted relief by directing the appellants to award one mark each to the question Nos.14, 43, 63 and 72 respectively for only six petitioners and in respect of the other questions, the claim made by the writ petitioners were negatived. Therefore, after the decisions rendered in the writ petitions, though there were 16 writ petitioners, it appears that only six of them would come within the zone of consideration namely J.Muthu Pandi, G.Santhi, S.Selvarani, S.Chandramary, T.Mariammal and A.Mari Selvam. Therefore, we hold that the order passed in the writ petitions need not be disturbed as the relief accrued only to six of the writ petitioners. That apart, we note that though several number of vacancies were notified, only 92 candidates have been found to be eligible and have joined. Therefore, the relief granted in the writ petitions can be extended to the aforementioned six writ petitioners alone.



5. The learned Special Government Pleader expressed an apprehension that the order passed in the writ petition would be a precedent for subsequent cases as well. There need not be any apprehension in this regard as this Court will make proper observation and direction in this order. That apart, as noted above, the writ Court has not decided the jurisdictional issue which has been specifically pleaded in the counter affidavit filed in the writ petitions and stated to have been argued by the learned Special Government Pleader before the writ Court. Thus, necessarily the legal issue has to be left open and the order passed in the writ petition cannot be treated as a precedent nor could be extended to other persons, who participated in the same selection process and should be confined only to six of the writ petitioners, who are stated to come within the zone of consideration. Thus, for the above reasons, while confirming the order passed in the writ petition, we clarify that the directions/ methodology adopted by the writ Court cannot be treated as a precedent and the effect of the order impugned cannot be extended to any other candidates, except those six candidates whose name has been mentioned and the selection process have already been completed, no other new candidate, who has been unsuccessful can come before this Court pleading similar relief. Accordingly, these writ appeals stand disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

6. Since the learned Senior counsel for the petitioner has stated that six of the writ petitioners as mentioned above have come within the zone of consideration and have also participated in the certificate verification, the orders of appointment shall be issued to the six writ petitioners namely J.Muthu Pandi, G.Santhi, S.Selvarani, S.Chandramary, T.Mariamammal and A.Mari Selvam within a period of six weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1 THE SECRETARY,
STATE OF TAMIL NADU,
SCHOOL EDUCATION DEPARTMENT,
SECRETARIAT, CHENNAI.

2 THE CHAIRMAN,
TEACHERS RECRUITMENT BOARD,
4TH FLOOR, EVK SAMPATH MALIGAI,
DPI CAMPUS, COLLEGE ROAD, CHENNAI -6.

+6ccs to M/S.Ajmal Associates, Advocate SR.No. 49507

W.A.(MD)Nos.194 to 199 & 209 to 212 of 2018

16.02.2018