



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2018

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.20396 of 2018

B.Sooriya

... Petitioner

-vs-

Member Secretary,
Tamil Nadu Medical Service Recruitment Board,
7th Floor, DMS Campus,
359, Anna Salai,
Thenampettai,
Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondent to call the petitioner for certificate verification for appointment to the post of Staff Nurse and appoint the petitioner as Staff Nurse under the reservation quota allotted for inter-caste marriage, in pursuant to the MRB exam conducted in 2015 and thereby call the petitioner for certificate verification.

For Petitioner : Mr.H.Arumugam

For Respondent : Mr.T.S.Mohamed Mohideen

O R D E R

This petition has been filed, seeking to direct the respondent to call the petitioner for certificate verification for appointment to the post of Staff Nurse and appoint her as Staff Nurse under the reservation quota allotted for inter-caste marriage, in pursuance of the MRB exam conducted in 2015.

Brief Facts:

2. The case of the petitioner is that she, who belongs to Nadar Community, has completed her Diploma in Nursing in the year 2011 and in the examination conducted by the respondent to the post of Staff Nurse, she had secured 47 marks. She married one Rajesh Kumar, belonging to S.C.(Arunthathiyar) on 14.03.2013, which is an inter-caste marriage;

2.1. When she was waiting for employment to the said post with the fond hope that her candidature would be considered under reservation quota, namely, inter-caste marriage, to her shock and surprise, her name was not found place in the list of candidates called for certificate verification. Though the candidates, who scored less marks were called for the certificate verification and the vacancy against SC (Arunthathiyar) was not filled up, she was not called for the verification;



2.2. In this regard, she sent a representation dated 16.09.2018 to the respondent, seeking inclusion of her name in the list under the reservation quota and since her representation did not evoke any response so far, she is before this Court with the relief stated supra.

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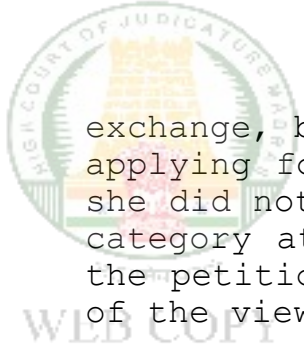
3. Learned counsel for the petitioner has strenuously contended that though the petitioner has secured 47 marks and the cut off marks for SC(A) was fixed at 42, her case has not been considered under priority quota in terms of G.O.Ms.No.188, Personnel and Administrative Reforms (Per.P) Department dated 28.12.1976. Hence, it is prayed that suitable direction may be issued to the respondent for inclusion of her name in the list against the vacancy reserved for inter-caste marriage.

4. Per contra, learned Standing Counsel appearing for the respondent would submit that the petitioner, having applied under B.C. Category and having failed to seek reservation under priority category at any point of time, has simply invoked the jurisdiction of this Court with the afore-stated relief. Learned counsel for the respondent drew the attention of this Court to the application made by the petitioner, wherein the community of the petitioner was duly filled-in as Backward Community caste and though the petitioner has mentioned in the employment exchange card with regard to her inter-caste marriage, the selection is not on the basis of the seniority in the employment exchange, as the selection is by way of direct recruitment. Therefore, it is prayed that this petition is liable to be dismissed.

5. Heard the learned counsel on either side and also perused the material documents available on record.

6. It is not in dispute that the petitioner, belonging to B.C. Community, married a person, who belongs to Schedule Caste (Arunthathiyar) and therefore, it is the claim of the petitioner that her marriage is an inter-caste marriage and she should be selected under the priority quota meant for inter-caste marriage candidates. It is also not in dispute that the petitioner has secured 47 marks and the cut off marks to be acquired by the candidates falling under priority category is only 42 marks. However, it is sad to note that the petitioner has applied for the post only under the B.C.category and not under the priority category.

7. The decision of this Court relied upon by the petitioner in the case of *P.K.Senthil Kumar vs. The Teacher Recruitment Board, Chennai and others* [W.P.No.23204 of 2009] decided on 09.03.2010 is not applicable to the present case, as in that case, the selection was done based upon the registration in the employment exchange, wherein it was duly stated by the candidate that he belonged Most Backward Class inter-caste marriage priority category. In the present case on hand, the selection was not through employment



exchange, but by way of direct recruitment and the petitioner, while applying for the post, stated that she belongs to B.C.community and she did not seek any reservation under inter-caste marriage priority category at any point of time. Therefore, the relief sought for by the petitioner in this petition cannot be granted and this Court is of the view that this petition is liable to be dismissed.

8. In the result, this Writ Petition is dismissed as devoid of merits. No costs.

Sd/
Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar(CS-I)

To:

The Member Secretary,
Tamil Nadu Medical Service Recruitment Board,
7th Floor, DMS Campus,
359, Anna Salai,
Thenampettai,
Chennai.

+1cc to Mr.H.Arumugam, Advocate, SR.No.87083

W.P.(MD) No.20396 of 2018
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