



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A.[MD].No.1357 of 2018

WEB COPY

A.Cecily Josephin Jeya

: Appellant/Writ Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George,
Chennai - 09.

2.The Teachers Recruitment Board,
Rep. by its Chairman,
4th Floor, EVK Sampath Malikai,
College Road, Chennai - 06.

: Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order dated 02.02.2018 in Writ Petition [MD]No.4297 of 2014 on the file of this Court.

Prayer in WP(MD)No. 4297/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring the key answer to the question No. 22 in Paper I under D Series is wrong in so far as the petitioner is concerned and award one mark to the petitioner for the question NO. 22 in Paper I under D series, and pass such further or other orders.

For Appellant : Mr.S.Xavier Rajini

For Respondents: Mr.A.K.Baskarapandian

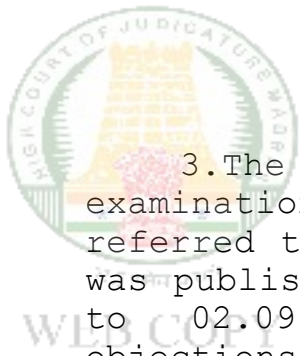
Special Government Pleader

JUDGMENT

[Judgment of the Court was delivered by **M.M.SUNDRESH, J.**]

This Writ Appeal is directed against the order of the learned Single Judge, by which, the writ petition filed by the petitioner was dismissed on the ground of delay, latches and acquisition.

2.Heard the learned Counsel appearing for the appellant and the learned Special Government Pleader appearing for the respondents.



3.The appellant herein was one of the candidates who wrote the examination of Tamil Nadu Teachers Eligibility Test [hereinafter referred to as 'TET'] in the year 2013. The tentative key answer was published on 27.08.2013 and the candidates were given time up to 02.09.2013 to submit their representations regarding objections, if any. Thereafter, the final key answer was published on 05.11.2013.

4.The Government Order was passed in **G.O.Ms.No.25, School Education (TRB) Department, dated 06.02.2014**, relaxing 5% marks from the present mark of 60% for the reserved categories and persons with disability. Thus, the candidates who secured 55%, i.e., 82 marks became eligible for 'Pass' in TET. The appellant has secured 81 marks. Therefore, she made a request on 13.02.2014, seeking revision of key answer. According to the appellant, if this key answer is answered in her favour, then, she would become eligible for 'Pass' in TET. As the said request was not acceded to, the appellant filed writ petition seeking a declaration declaring the key answer of Question No.22 in Paper I under 'D' Series as wrong.

5.The learned Single Judge was pleased to dismiss the writ petition, *inter alia* holding that the appellant did not utilise the opportunity given, by filing the objection on or before 02.09.2013. The passing of the subsequent Government Order in G.O.Ms.No.25 dated 06.02.2014, will not give cause of action to question the tentative key answer. Challenging the same, the present Writ Appeal has been filed.

6.The learned Counsel appearing for the appellant would submit that delay and laches is one of practice and prudence. If the key answer is wrong, then the appellant is entitled for the relief. He further submitted that it is not as if others would be affected by allowing the writ appeal.

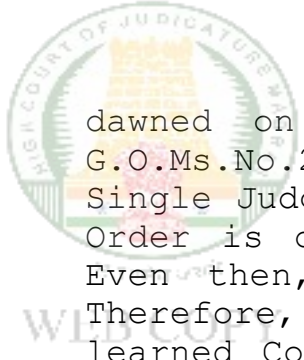
7.The learned Counsel appearing for the appellant placed reliance on the following judgments in support of his contentions:

i) A.Eswaramoorthy Vs. The Secretary to Government, in W.P.No.4509 of 2008 & etc., batch dated 04.11.2009.

ii) Richal Vs. Rajasthan Public Service Commission reported in (2018) 5 MLJ 337 (SC)

iii) C.Tulsi Priya Vs. A.P. State Council of Higher Education reported in AIR 1999 SC 199.

8.This Court is not inclined to entertain this Writ Appeal. When a time limit is granted, the candidate will have to comply with the same. We are dealing with a case in which the appellant consciously did not choose to challenge the key answers. Wisdom



dawned on her after the passing of the Government Order in G.O.Ms.No.25 dated 06.02.2014, as rightly held by the learned Single Judge, will not give cause of action. Passing of Government Order is different and questioning the key answer is different. Even then, the appellant did not make a request immediately. Therefore, we are of the view that the decision relied upon by the learned Counsel appearing for the appellant cannot be applied to the case on hand. The relief sought for also cannot be considered, as it is not for this Court to declare the key answer as wrong when the appellant did not raise an objection which could be referred to the expert body. It is not as if the answer as sought to be projected by the appellant is a right answer. On the contrary, the appellant wants this Court to declare the answer given by her as right one. This Court is not an expert body to undertake such correction nor there is any need to constitute it at this stage. Therefore, this Court finds no merit in this Writ Appeal.

9.The Writ Appeal stands dismissed, accordingly. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS-I)

To

- 1.The Secretary, State of Tamil Nadu,
Department of School Education, Fort St. George, Chennai - 09.
 - 2.The Chairman, Teachers Recruitment Board,
4th Floor, EVK Sampath Malikai, College Road, Chennai - 06
- + 1 CC TO SPECIAL GOVERNMENT PLEADER, IN SR NO. 90794

MR

BU/SKN/SAR-1 : 15.11.2018 : 3P/4C

JUDGMENT MADE IN
W.A.[MD].No.1357 of 2018
12.10.2018