



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.9396 of 2017

A.Aathiyan

... Petitioner

vs.

1.The Chief Secretary,
Government of Tamil Nadu
Secretariat, St.George Fort, (deleted)
Chennai-600 009.

2.The Secretary,
Department of Law Ministry
Government of Tamil Nadu
Secretariat, St.George Fort,
Chennai-600 009

3.The Secretary,
Department of Higher Education,
Government of Tamil Nadu,
Secretariat, St.George Fort,
Chennai-600 009

4.The Director of Legal Studies
Purasawakkam High Road,
Opp.to Naidu Hall, Kilpauk, Chennai-600 010

5.The Registrar,
The Tamil Nadu Dr.Ambedkar Law University,
Poompozhil,
No.5, Dr.D.G.S.Dinakaran Salai
Chennai-600 028

6.The Principal,
Government Law College,
Madurai-20. ... Respondents
[R1 is deleted vide order dated
15.06.2017]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to 6 to consider the petitioner's representation, dated 13.03.2017 and to provide him (PSTM) Person Studied in Tamil Medium Certificate during the time of issuing his court completion



certificate.

For Petitioner : Mr.A.K.Hemaraj
For Respondents : Mr.J.Gunaseelan Muthiah
Addl. Govt. Pleader for R2, R3, R4 &

R6

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Mr.V.Meenakshisundaram for R5

O R D E R

The petitioner had joined B.A. B.L. Integrated Course (Five Years), in the academic year 2012-2013, in the Government Law College, Madurai. It is the case of the petitioner that he had studied in Tamil Medium of instruction throughout the five years and as such, he is eligible for "Person Studied in Tamil Medium Certificate (PSTM)".

2. Mr.A.K.Hemaraj, learned counsel for the petitioner submitted that the requirement for joining Tamil Medium of instruction in the Government Law College is that an application in the form of requisition has to be made to the College and on receipt of the same, the College would admit the concerned student in Tamil Medium of instruction. In the case of the petitioner, he had opted for joining in Tamil Medium of instruction and he had also subsequently written the examinations in Tamil for all the five years and passed successfully. The petitioner had also participated in a State Level Essay Competition on Consumer Awareness in Tamil, conducted by the Tamil Nadu Dr.Ambedkar Law University, for which the requisite qualification is that the participant should be from the Tamil Medium of instruction. Incidentally, the petitioner herein has won the first prize in the said Competition.

3. The learned counsel for the petitioner also relied upon a decision of the Honourable Division Bench of this Court in T.Sergia Bindu vs. Secretary to the Government, reported in (2013) 4 MLJ 433 and a decision of a learned Single Judge of this Court in Felix @ Sankar and another vs. A.Josphine and another, reported in (2013) 4 MLJ 439 and submitted that Tamil Medium of instruction was introduced in the Government Law College, Madurai, in the academic year 1978-1979, which is still in vogue. By relying upon an information received under the Right to Information Act, the learned counsel for the petitioner submitted that there was no discontinuance of Tamil Medium of instruction in Madurai Law College at all. By relying upon the application made by the petitioner seeking for studying Law Course in Tamil Medium and also relying upon a statement of the petitioner that he has written all his examinations in Tamil, the learned counsel for the petitioner submitted that the petitioner is entitled to "Person Studied in Tamil Medium Certificate".

<https://hccs.ceramics.gov.in/Tamil/>

4. Further, the learned counsel for the petitioner submitted

that the petitioner now intends to write the entrance examination for the direct recruitment to the post of Civil Judge in Tamil Nadu State Judicial Service, in which 20% of the vacancies has been reserved for the persons, who have studied in Tamil Medium.

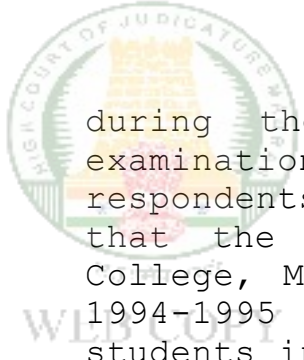
5. Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader for the respondents 2, 3, 4 and 6, on the other hand, submitted that it is true that the Government had introduced Tamil Medium of instruction in the Government Law College, Madurai, from the academic year 1978-1979 by starting one separate section for Tamil Medium students. However, in view of the lack of interest shown by the students in opting for Tamil Medium, the separate section for Tamil Medium students came to be discontinued from the academic year 1994-1995. Since the petitioner had joined the Law College in the academic year 2012-2013 at which point of time, the Tamil Medium of instruction was already discontinued, he cannot claim to be a person having studied in Tamil Medium of instruction and hence, he is not entitled for P.S.T.M. Certificate.

6. The learned Additional Government Pleader further submitted that there was no syllabus prescribed for the Tamil Medium of instruction and no teacher has been appointed exclusively for teaching Tamil Medium students. Hence, it can only be concluded that the petitioner did not take up the Tamil Medium of instruction and hence, he is not entitled for P.S.T.M.Certificate.

7. Mr.V.Meenakshisundaram, learned counsel for the fifth respondent - University also reiterated the submissions made by the learned Additional Government Pleader and submitted that during 2012, Tamil Medium of instruction was not in existence in Madurai Law College and since the petitioner had joined in the academic year 2012-2013, he is not entitled for P.S.T.M.Certificate.

8. I have given careful consideration to the submissions made by the respective learned counsels.

9. It is not in dispute that the Tamil Medium of instruction was introduced in the Government Law College, Madurai, from the academic year 1978-1979. The Government Order in G.O.Ms.No.1492, Education Department, dated 10.08.1978, had facilitated the Government Law College, Madurai, to start one separate section for the Tamil Medium students. The procedure for opting Tamil Medium of instruction is by way of requisition / application by the concerned student to the College and on receipt of such requisition / application, the College would admit the student in Tamil Medium of instruction. This aspect is also not in dispute. The petitioner had joined B.A. B.L. Integrated Course (Five Years) in the year 2012 and completed the course in the year 2017 and



during the course of five years, he had written all his examinations in Tamil. This has not been controverted by the respondents. The main objection of the respondents seems to be that the Tamil Medium of instruction in the Government Law College, Madurai, came to be discontinued from the academic year 1994-1995 onwards in view of the lack of interest amongst the students in opting for Tamil Medium of instruction. Incidentally, the counter affidavit filed by the Principal, Government Law College, Madurai, states that the alleged discontinuance of Tamil Medium of instruction came to be re-commenced from the academic year 2013-2014 and a separate section for Tamil Medium students of three years and five years Law Courses was again started.

10. Insofar as the allegation that the Tamil Medium of instruction came to be discontinued from the academic year 1994-1995 is concerned, the petitioner herein had made a requisition, under the Right to Information Act, to the Director of Legal Studies, to which query, it was replied that there was no Government Order discontinuing the Tamil Medium of instruction. When this aspect came up for consideration before a Division Bench of this Court in *Sergia Bindu's* case (cited supra), the Honourable Division Bench, while taking note of the fact that the Tamil Medium of instruction was introduced in the Government Law College, Madurai, from the academic year 1978-1979, had given a finding that the College facilitated the students to undergo the course in Tamil Medium. The relevant portion of the said decision reads as follows:

"12. The next important question arising for our consideration in this matter is that whether there is any Tamil medium course during the relevant point of time at the Government Law College, Madurai. It is pertinent to note that certain Government orders were brought to our notice, namely,

(i) G.O.Ms.No.1492, Education Department dated 10.8.1978;

(ii) G.O.Ms.No.280, Law (LS) Department dated 14.11.2006; and

(iii) G.O.Ms.No.145, Personnel and Administrative Reforms(S) Department, dated 30.9.2010.

13. The first Government Order viz., G.O.Ms.No.1492, Education Department dated 10.8.1978 reads hereunder:

"ORDER:

Sanction is recorded to the introduction of Tamil Medium in the Law College Madurai from the academic year 1978-79. To begin with, the Director of Legal Studies in the Law College, Madurai, is requested to start one Section in Tamil medium in the I.B.G.L. Class in the Law



College, Madurai.

2.The Government also sanction one post of Junior Professor in the scale of pay of Rs.1100-50-1600 with Dearness Allowance and other allowances at the rate admissible from time-to-time and one post of Part time Lecturer in the scale of pay of Rs.500-20-700-25-900 without allowances for a period of one year from the date of employment.

3.The expenditure is debitable to "277.Education-E.University and other Higher Education - ac. Government Colleges I.Non-Plan-AE. Law College-1.Salaries (D.P.G.277E, AGAEG104).

4.This order issues with the concurrence of the Finance Department vide its J.O.No.87388/E1/78-1 dt.8.8.1978.

(By order of the Governor)

Sd/-.

Commissioner & Secretary to Government."

A reading of the above said Government Order makes it crystal clear that the Government introduces Tamil medium in the Law College, Madurai for the academic year 1978-79 and the Director of Legal Studies was requested to start one Section in Tamil medium in the first year B.G.L class in the Law College, Madurai.

14. The second Government Order viz., G.O.Ms.No.280, Law (LS) Department dated 14.11.2006 reads that the incentive amount given to the students studying in Tamil medium was increased from Rs.180/- to Rs.400/- from the academic year 1999-2000. It is also stated in the same Government Order that there was increase in teh students studying law course in Tamil for 3 years as well as for 5 years B.L.Degree course. It is also seen that in the said Government Order, a separate Section was started for the Tamil medium course.

15.A reading of the above said two Government Orders clearly shows that thre was Tamil medium in 5 years B.L.Degree Course in Madurai Law College. The said Government Orders are very much in operation as on date, but the fact remains that the petitioner has not challenged the said Government orders.

16. The fourth respondent, namely, the Tamil Nadu Dr.Ambedkar Law University



categorically stated in Para 5 of its counter as hereunder:

"5.The contents in G.O.Ms.No.280, Law (LS) Department, dated 14.11.2006 reveal instructions of Law through Tamil Medium up to 2001-2002 and revival of the same from the year 2006-2007 at Dr.Ambedkar Government Law College, Chennai. The Government of Tamil Nadu vide Government Order Ms.No.1492, Education Department, dated 30.8.1978 (submitted in annexure) extended the scheme to facilitate the students get instruction in Tamil Medium at Government Law College, Madurai also. The G.O.Ms.No.280, Law (LS) Department, dated 14.11.2006 (submitted in annexure) has been providing incentive to the students joining the course. The Scheme devised by the Government has been implemented through the Director of Legal Studies. The University is not in receipt of any records pertaining to us."

In the counter affidavit, it is also stated by the fourth respondent that the University does not issue any certificate indicating the medium of instruction to any candidate and the said submission substantiates the contention of the third respondent to the effect that she is not possessing any certificate to show that she had underwent B.L.Degree course in Tamil Language in Madurai Law College.

17. The learned counsel for the petitioner placed reliance on the information furnished to the queries made by the petitioner under the Right to Information Act and as per the reply given by the Public Information Officer and the Director of Legal Studies dated 25.3.2013, there is no Tamil medium in 5 years B.L.Degree course in Madurai Law College. As we have already pointed out that there is a Government Order even as early as in the year 1978 and thereafter in the year 2006 showing that there was Tamil Medium class in 5 years B.L.Degree course in Madurai Law College. The Public Information Officer and the Director of Legal Studies may not aware about the said Government Orders and the said Government Orders are very much in operation till date. It is also relevant to note that the perusal of the information furnished by

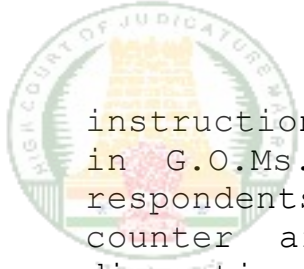


the Public Information Officer and the Director of Legal studies dated 25.3.2013 reveals that as per question/information No.2, it is stated that in 5 years B.L.Degree course from 1986-87 to 1994-95, separate classes were conducted for Tamil medium and for question/information No.4, it is stated that in the University examinations, the students can write either in Tamil or English Language. Therefore, we have no hesitation to hold that the information furnished by The Public Information Officer and Director of Legal Studies cannot be stated to be a correct information and as such, it is futile to contend that there is no tamil medium in 5 years B.L.Degree Course in Madurai Law College.

18. We have already held that the third respondent had studied 5 Years B.L.Degree course in Madurai Law College in Tamil medium and she had also written the examinations in Tamil and she is eligible and entitled to get the benefit of right as preferential per Act 40 of 2010, namely, The Tamil Nadu appointment on Preferential Basis in the services under the State of persons studied in Tamil Medium Act, 2010. The said Act provides preference in appointment in the services under the State to persons who have obtained the educational qualification prescribed for direct recruitment through Tamil medium instruction. In the above said Act, it is also made clear that it shall be deemed to have come into force on 7.9.2010. As per Section 5 of the Act, preferential basis appointments to persons studied in Tamil medium under Section 3 shall be made following the reservation as per the law in force. In view of the provisions of the Act 40 of 2010, the third respondent has been rightly selected and appointed on the basis of her eligibility and on the basis of reservation and preferential appointment, as she had studied 5 years B.L.Degree course in Tamil medium in Madurai Law College. We are unable to see any infirmity or illegality in respect of the selection and appointment of the third respondent."

<https://hccases.courtservice.in/hccases/> The above reservation of the Honourable Division Bench of this Court is self-explanatory.

11. When the facility of introducing Tamil Medium of



instruction for the students was done through a Government Order in G.O.Ms.No.1492, Education Department, dated 10.08.1978, the respondents may not be justified in making a statement in the counter affidavit that the Tamil Medium of instruction was discontinued without obtaining a separate Government Order discontinuing the facility that was extended through a Government Order. In the absence of any Government Order annulling or discontinuing the benefit extended therein, it cannot be said that the Tamil Medium of instruction as such was discontinued. What follows is that the Tamil Medium of instruction is deemed to have continued from the academic year 1978-1979 onwards without any discontinuance.

12. Since it is seen that the Government had not passed any order discontinuing the Tamil Medium of instruction in the Government Law College, Madurai, the yardstick that could be adopted to determine whether a person had undergone Tamil Medium of instruction or not is the Medium in which that student had written his / her final examinations. It is needless to point out that if a student had undergone his / her classes in English Medium of instruction, it would be a great difficulty for him / her to write the examinations in Tamil. If a student had written his / her final examinations in Tamil, it can only be presumed that he / she had studied the course materials in Tamil and that there would also be a presumption that such a student had underwent Tamil Medium of instruction.

13. When the petitioner's claim that he had written the examinations in Tamil is not disputed and also taking note of the fact that the petitioner was a participant of State Level Essay Competition on Consumer Awareness in Tamil to which the eligibility criteria is that the participant should be from the Tamil Medium of instruction, it can only be safely held that the petitioner is a person, who had pursued his Law Degree in Tamil Medium and as such, he would be entitled to grant of P.S.T.M.Certificate.

14. In the result, the writ petition is allowed and the Principal, Government Law College, Madurai / sixth respondent is directed to issue "Person Studied in Tamil Medium Certificate" to the petitioner, within two days from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To:

<https://hccourtsecretoarys.gov.in/> The Secretary to Government of Tamil Nadu,
Department of Law Ministry, Government of Tamil Nadu,
Secretariat, St.George Fort, Chennai-600 009.



2.The Secretary to Government of Tamil Nadu,
Department of Higher Education, Government of Tamil Nadu,
Secretariat, St.George Fort, Chennai-600 009.

3.The Director of Legal Studies, Purasawakkam High Road,
Opp.to Naidu Hall, Kilpauk, Chennai-600 010.

4.The Registrar, The Tamil Nadu Dr.Ambedkar Law University
Poompozhi, No.5, Dr.D.G.S.Dinakaran Salai, Chennai-600 028

5.The Principal, Government Law College, Madurai-20.

+2CC to Mr.R.Narayanan, Advocate, SR.No. 63246, 63204

+1CC to Mr.V.Meenakshi Sundaram, Advocate, SR.No. 63240

+1CC to Mr.J.Gunaseelan Muthiah, Advocate, SR.No. 63117

W.P.(MD) No.9396 of 2017

24.04.2018

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