



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.21215 of 2018

N.Meenatchi

... Petitioner

Vs.

1.The Directorate of Legal Studies,
Rep. by its Director,
198, Purasiwakkam High Road,
Pavapuri Colony,
Lumbini Square,
Purasiwakkam,
Chennai - 600 010.

2.The Principal,
Madurai Law College,
Madurai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the second respondent to issue the certificate of person Studied in Tamil Medium (PSTM) to the petitioner.

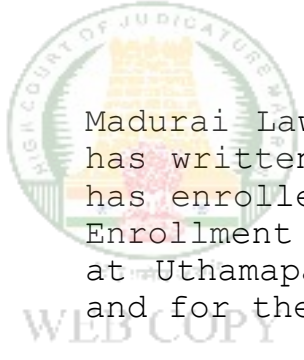
For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mrs.J.Padmaavathi Devi,
Special Government Pleader.

ORDER

The present writ petition has been filed by the petitioner seeking for a writ of Mandamus, to direct the second respondent to issue the certificate of Person Studied in Tamil Medium (PSTM) to the petitioner.

2. The case of the petitioner is that she has studied from 1st standard to 8th standard in Thiruvallavur Middle School, Gudalur, Theni District, which is a Government aided Tamil Medium School and thereafter, she studied 9th standard to 12th standard in NSK Ponnaiah Gowder Higher Secondary School, Gudalur, Theni District, which is also a Tamil Medium School. In the year 1997, she joined in the Madurai Law College, B.L five years course in Tamil Medium in the Academic Years 1997-2002. The petitioner further states that in

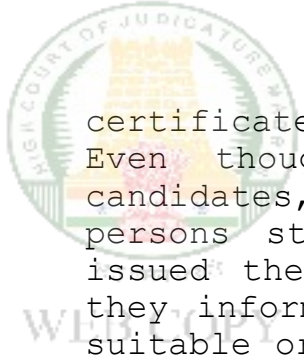


Madurai Law College, all the subjects were taught in Tamil and she has written all the examinations only in the language of Tamil. She has enrolled in the Bar Council of Tamil Nadu on 13.03.2003 and her Enrollment number is 495/2003. The petitioner had started practice at Uthamapalayam, Theni District in both civil and criminal cases and for the past 15 years continuing her practice.

3. The petitioner further states that the Tamil Nadu Public Service Commission issued Notification No.8/2018, dated 09.04.2018 to fill up 320 posts of civil Judge in the Tamil Nadu State Judicial Services (Cadre and Recruitment) Rules, 2007. The petitioner has also submitted her application and the same was accepted by the authorities. Since, the petitioner studied in Tamil Medium from 1st standard to Law Graduation, she filled in the column of medium of instruction as Tamil in the application. The preliminary examination was held on 09.06.2018 and she has participated in the said examination and came out successful. As per the notification, dated 09.04.2018, the candidates, who have completed the preliminary examination, were called for main examination, which was conducted on 11.08.2018 and 12.08.2018 in both sessions and she has also completed the same successful and called for interview on 01.10.2018 and on that day, the petitioner was asked to produce all the certificates and she has also produced the same before the authorities.

4. The petitioner further states that during such production of the certificates, she was not able to produce the certificate showing that she studied Law Graduation in 'Tamil Medium', since the second respondent has not issued certificate on the ground that the Madurai Law College has no 'Tamil Medium'. Immediately, the authorities of Tamil Nadu Public Service Commission insisted the petitioner to give an undertaking that she will not claim under the persons studied in 'Tamil Medium' quota, otherwise she will not be permitted to participate in the oral interview. Since there was no alternative remedy at that point of time and due to compulsion, the petitioner has given a letter, as per the officer's instructions. After giving an undertaking, she was permitted to participate in the oral interview. After the said interview, results were published on 05.10.2018 and in the said result, her name was rejected stating that the candidate has been rejected due to wrong claim and unless and until, the petitioner produced the certificate issued by the second respondent proving that she studied B.L course in 'Tamil Medium', she could not get the post under the persons studied in Tamil Medium reservation.

5. The petitioner further states that she applied for conduct certificate and medium of instruction certificate ie., PSTM certificate from the second respondent on 19.07.2018 and the second respondent has issued conduct certificate, but they have not issued the certificate of medium of instructions. When the petitioner insisted the second respondent to issue the same, the second respondent stated that the matter relating to the issuance of



certificate of medium of instruction is pending before this Court. Even though this Court issued directions in favour of the candidates, who approached the Court, to issue certificate to the persons studied in Tamil Medium, the second respondent has not issued the same. When the petitioner approached the authorities, they informed the petitioner orally that unless and until she got suitable order from this Court, they will not issue the same. Since the petitioner has no other alternative remedy, the petitioner has approached this Court by way of filing this Writ Petition.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

7. The learned counsel appearing for the petitioner has relied on the Judgment of this Court in W.P(MD)No.21160 of 2017 (M.Venmani Vs. The Directorate of Legal studies), wherein this Court in paragraph No.5 has held as follows:-

"On identical set of facts, the entitlement of student who had written his/her examinations in Tamil, for the benefit of PSTM Certificate came up for consideration before this Court in a judgment dated 06.06.2018 passed in W.P. (MD).No.10697 of 2018 and this Court had held as follows:

"9.In an identical situation, when a writ petition was filed before this Court in W.P(MD).No.9396 of 2017, this Court had entertained the writ petition and directed the concerned authority to issue a PSTM certificate to the petitioner therein. While considering the issue in that writ petition, this Court had taken note of the statements made by the Principal of the Government Law College, Madurai, in his counter affidavit (the present counter affidavit also filed by the same Principal) and observed that the Tamil medium of instruction was introduced in the Government Law College, Madurai, from the academic year 1978-1979 through G.O.Ms.No.1492, Education Department, dated 10.08.1978. Subsequently, there was no Government Order withdrawing or cancelling the earlier Government Order. This aspect was substantiated through a query raised by the petitioner therein under the Right to Information Act, wherein, the Principal of the Government Law College, Madurai, had acknowledged that the medium of instruction in Tamil was not cancelled through any Government Order. In such background this Court had observed in its Order dated 24.04.2017, passed in W.P. (MD). No.9396 of 2017 as follows:

"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 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 there 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." The above observation 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."



10.The above order is self explanatory. Even in the instant case, the question to determine whether a person has under gone Tamil medium of instruction or not, it is the medium in which the student had written her final examinations. At this juncture, the learned counsel for the petitioner submitted that the petitioner herein had written all her exams in Tamil language and that in her representation dated 07.05.2017 to the fourth respondent herein, she had specifically stated that she had written all her examinations for three years in Tamil language. In paragraph No.3 of the affidavit, the petitioner has specifically made a statement that she had written all the examinations in Tamil language and that the classes were also conducted in Tamil medium.

11.The learned Additional Advocate General further submitted that much credence should not be given to the statement of the petitioner, since the answer sheets pertaining to the examinations written by the petitioner are not available for scrutiny. According to him, the answer sheets have been destroyed by the concerned Authority after one year from the date of the examinations in accordance with their norms. Apart from the statement of the learned Additional Advocate General, there is no material before this Court to show that the petitioner had not written her examinations in Tamil language.

12.It is the specific case of the petitioner before this Court as well as in the representation that she had written her examinations in Tamil language. The non-availability of the answer sheets cannot be put against the petitioner herein, particularly, when her entire case is based on the fact that she had written her examinations in Tamil language.

13.When the Government Law College, Madurai, had introduced Tamil medium of instruction in the year 1978-1979 and the same was not cancelled in the subsequent years through a separate Government Order, it can only be assumed that the Tamil medium of instruction was always available in the Government Law College, Madurai. The petitioner having written her examinations in Tamil ought to have prepared and studied her course through the materials in Tamil language alone. The very object of recognizing a candidate as a person who studied in Tamil medium is to encourage such persons, who gave importance to the language by studying the course in Tamil and ultimately writing the examinations also in Tamil language. Even otherwise, without admitting that there was no Tamil medium of instruction during the year 2012-2015, in view of the fact that classes were not been conducted in



Tamil, it cannot be said that the petitioner herein should be deprived of PSTM Certificate, which is because the classes were not conducted in Tamil.

14. This Court could only appreciate such candidates, who were not taught in Tamil, but opted to write in Tamil by studying materials in Tamil language and such students ought to be duly recognized by issuing PSTM Certificate. The very object of extending reservation for PSTM Certificate is also to the same effect.

15.....

16. The noble object of the Government is to encourage the persons who studied in Tamil medium. In the light of the above observations, the persons, who had studied their course materials in Tamil and written their exams in Tamil, could only be deemed to have undergone the course in Tamil medium and as such this petitioner herein would also be deemed to have studied her B.L. Degree in Tamil medium."

8. The Division Bench of this Court while dealing with such an issue has passed an order in W.A(MD)Nos.347 of 2016 and 741 of 2018, dated 31.07.2018, wherein the appeals were filed against the order passed by the learned single Judge, wherein it has been found that pursuant to G.O.Ms.No.1492, dated 10.08.1978, the Madurai Law College has commenced a stream with the Tamil medium of instruction. The Law College appears to have taken a unilateral policy decision to discontinue classes in the Tamil medium of instruction between 1994-95 and 2012-13 re-introducing the same from 2013-14 onwards and it is continuing till date. When the authorities have decided to withdraw or reserve the original policy, such withdrawal or reversal ought to have been official by way of passing Government Order, which has clearly brought to the notice of the public. The arbitrary withdrawal and re-introduction of the Tamil medium cannot be at the whim of Law College and ought to have been reflected at least in the college prospectus/instructions to candidates in the respective years, when such changes were made and this has not been done so.

9. The Division Bench of this Court has come to the conclusion that (i) the prospectus/instructions to students contains no mention of separate medium of instructions; (ii) the Application Form to be submitted by a student does not contain a field calling for medium of instruction opted for by the applicant indicating the medium of instruction; (iii) Admit card issued for the selected candidate does not contain a field indicating the medium of instruction; (iv) The Law Colleges follow the procedure of re-admission of the candidate for every year of the course. The application form for the second, third, fourth and fifth years contains a column at point 12 enquiring thus 'state whether the applicant wishes to join the Tamil medium class'. This form is used from the second to the fifth year of the five year course. It is only at this stage that the first reference is made to medium of instruction; (v) the application for issuance of Transfer



Certificate and refund of Library Caution Deposit does not contain a column setting out the medium of instruction. However, the Transfer Certificate cum Conduct Certificate dated 01.06.2017, refers to, in column 7 to medium of instruction, which is filled in as 'English' by the Law College. The Division Bench of this Court has also proceeded to apply the conclusion to the facts of the individual case whether they have opted for 'English Medium' or 'Tamil medium' for the fourth year has to be taken into account and allowed W.A(MD) No.347 of 2016 and dismissed W.A(MD)No.741 of 2018.

10. From the materials available on record, it could be seen that for the third year, column has been filled as 'Tamil medium', for the fourth year, column has not been filled and for the fifth year, column has been filled as 'Tamil medium'.

11. In the course of hearing, reference has been made to the said filling up of the column and the petitioner has not mentioned anything for the fourth year. But for the third and fifth year, she has stated that she wish to continue her studies in 'Tamil medium'. Hence, as per column 12, it could be seen that the petitioner has stated as 'Tamil medium' for the third and fifth year and for the fourth year, she has not made any endorsement, which has not been verified by the authorities concerned, admitting the candidate for such course for five years, through which she underwent the said course. The 'Tamil medium' of instruction is available from 1978 till date.

12. As per the documents received, the candidate has indicated that she studied in 'Tamil medium' for the second, third and fifth years and fourth year, she has not written anything, but the column left blank, but according to her, she studied in 'Tamil medium'. The candidate also from 1st standard to till the Degree studied in 'Tamil medium'. Since there was a 5 years B.L course in 'Tamil medium' and she has also written the examinations in Tamil and she is eligible, she is entitled to get the benefit as per Act 40 of 2010.

13. The petitioner is eligible for getting a certificate of students studied in 'Tamil medium'. Since the petitioner has studied all the subjects in Tamil from day one of School Education and she has studied 'Tamil medium' in the Law College and written her examination in Tamil, she can only deemed to be a person pursued her studies in 'Tamil medium', she is entitled for issuing a certificate to the effect.

14. Considering the above stated facts and circumstances, this Court is of the view that the petitioner has to be issued with necessary certificate by the College authorities. Accordingly, the second respondent is directed to issue the certificate of Persons Studied in Tamil Medium (PSTM) to the petitioner within a period of two weeks from the date of receipt of copy of this order.



15. With the above direction, this Writ Petition is disposed of. No costs.

Sd/
Assistant Registrar (Records)

/True copy/

WEB COPY

Sub Assistant Registrar (CS-IV)

To

1. The Director,
The Directorate of Legal Studies,
198, Purasiwakkam High Road,
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Chennai - 600 010.

2. The Principal,
Madurai Law College,
Madurai.

+1cc to Mr.V.PANNEER SELVAM, Advocate, SR.No. 97950

W.P (MD) No. 21215 of 2018
30.11.2018

PS
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