



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.02.2019

Delivered on : 27.02.2019

CORAM

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

and

THE HONOURABLE Mr.JUSTICE **V.PARTHIBAN**

W.P(MD).No.21326 of 2018 and

W.M.P (MD).Nos.19195 and 19196 of 2018

N.Meenatchi

... Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home Department,
Fort St.George,
Chennai.

2.Tamil Nadu Public Service Commission,
Rep. by its Secretary,
Frazer Bridge Road,
Chennai.

3.The Director of Legal Studies,
Purasawalkam,
Chennai 600 010.

4.The Registrar General,
High Court of Madras,
Chennai -104.

R3 suo motu impleaded vide order dated
23.10.2018 in W.P(MD) No.21326 of 2018.

R4 suo motu impleaded vide order dated
01.02.2019 in W.P (MD) No.21326 of 2018.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the second respondent in his proceedings Nil in respect of rejection in Registration Number 100002082 dated 05.10.2018 and quash the same and direct the respondents to declare the result of the petitioner.

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.R.Govindasamy,
Special Government Pleader for R1 & R3
: Mrs.C.N.G.Niraimathi,
Standing Counsel for R2
: Mr.B.Vijay,
Standing Counsel for R4

**ORDER****V. PARTHIBAN, J.**

Heard Mr.V.Panneer Selvam, learned counsel for the petitioner and Mr.R.Govindasamy, learned Special Government Pleader appearing for R1 and R3, Mrs.C.N.G.Niraimathi, learned Standing Counsel appearing for R2 and Mr.B.Vijay, learned Standing Counsel appearing for R4.

2. The petitioner has approached this Court, seeking the following relief:-

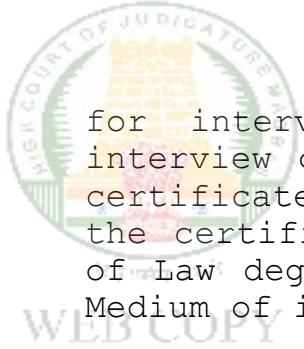
"To issue a writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the second respondent in his proceedings Nil in respect of rejection in Registration Number 100002082 dated 05.10.2018 and quash the same and direct the respondents to declare the result of the petitioner."

3. The case of the petitioner is as follows:-

(i) The petitioner herein has obtained her B.L. five years course graduating from Madurai Law College during the academic years 1997-02. According to the petitioner, she had studied in Tamil Medium of instructions in the Madurai Law College. Even prior to that, right from the first Standard till the school final, she had studied only in Tamil Medium of instructions. After completion of Law degree, specifically in Tamil language, the petitioner enrolled in the Bar Council of Tamil Nadu on 13.03.2003 and the enrollment Number was 495/2003. After the enrollment, she started her practice at Uthamapalayam in Theni District in both Civil and Criminal sides. According to the petitioner, she has been practicing actively since 2003.

(ii) The Tamil Nadu Public Service Commission / the second respondent herein had issued a notification No.8/2018 dated 09.04.2018, calling for application for filling of 320 posts of Civil Judge in Tamil Nadu State Judicial Service as per the provisions prescribed under Tamil Nadu State Judicial Services (Cadre and Recruitment) Rules 2007. In response to the notification, the petitioner had submitted an application on 07.05.2018. The petitioner belongs to MBC/DC category. Her application was accepted and her Application Number was 808004719 and her Registration Number was 100002082. Since she had studied in Tamil Medium from first Standard till the graduation in Law, she filled in the Application Form that she had studied in Tamil Medium of instructions in the relevant columns.

(iii) The petitioner appeared for the preliminary examination which was conducted on 09.06.2018 and on successful completion of the same, she was called for main examination which was scheduled on 11.08.2018 and 12.08.2018. The petitioner participated in the main examination and successfully completed the same and was also called



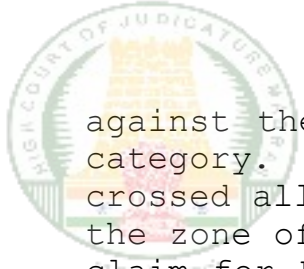
for interview on 01.10.2018. The petitioner appeared for the interview on 01.10.2018, there she was directed to produce all the certificates. Although the petitioner appears to have produced all the certificates, she could not produce the certificate in respect of Law degree, showing that she had completed the degree in Tamil Medium of instructions.

(iv) At this, the Officials of the Tamil Nadu Public Service Commission advised her to give a letter that she was not claiming any reservation earmarked for persons studied in Tamil Medium (PSTM). It is relevant to mention here that the reservation for PSTM candidates is provided in all the selection and appointment within the State of Tamil Nadu as per Tamil Language Act and 20% reservation is provided as a horizontal reservation. In view of the inability of the petitioner at that point to produce any certificate showing that she had studied Law degree in Tamil Medium of instructions, she was constrained to give a letter stating that she was not claiming any status as PSTM candidate. Finally, the result was also published on 05.10.2018, where, the petitioner found that her candidature was rejected stating that the petitioner has made a wrong claim.

(v) In the meanwhile, the petitioner appears to have submitted an application to the Madurai Law College on 19.07.2018 for furnishing of PSTM certificate, since the petitioner had admittedly undergone the Law course in Tamil Medium of instructions. However, initially the petitioner was informed that the issue of PSTM certificate was pending consideration before this Court and therefore, the College could not comply with the request. Thereafter, the petitioner came to know that one of the students who undergone the course in Tamil Medium of instructions like the petitioner herein, had approached this Court and a direction was issued for grant of PSTM certificate to her and in pursuance of the direction passed on 07.06.2018 in W.P(MD) No.21160 of 2017, PSTM certificate was issued to the said candidate on 01.08.2018. However, despite the same, as far as the petitioner is concerned, no certificate was issued confirming her PSTM status.

(vi) In the above circumstances, the petitioner herself has approached the Madurai Bench of this Court in W.P (MD)No.21215 of 2018, seeking for issuance of Writ of Mandamus, directing the Principal of Madurai Law College to issue certificate of Persons Studied in Tamil Medium to the petitioner. While so, the petitioner had also approached this Court by way of the present writ petition seeking to challenge the rejection of her candidature *vide* the result published by the Tamil Nadu Public Service Commission on 05.10.2018.

4. When the matter was taken up for hearing, the learned counsel for the petitioner initially submitted that although originally the petitioner claimed PSTM status, in view of the non-availability of the certificate, her candidature could be considered



against the communal quota reserved in respect of the petitioner's category. According to the learned counsel, the petitioner has crossed all the stages of selection successfully and has come within the zone of consideration on the general communal roster *de hors* the claim for PSTM status. According to the learned counsel, out of 320 vacancies notified by the Tamil Nadu Public Service Commission, only 209 candidates were ultimately selected from an appointment and remaining 111 vacancies are available in various categories including the category in which the petitioner belongs to. Therefore, there would not be any legal impediment for considering her candidature ignoring the PSTM status claimed by the petitioner as that would not have any impact either in respect of the selection candidates or in respect of the unsuccessful candidates.

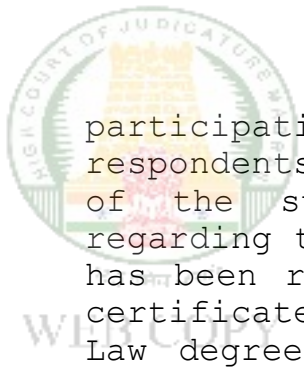
5. While matter stood thus, during the pendency of the writ petition, it appears that the learned Judge of this Court has disposed of the writ petition filed by the petitioner herein viz., W.P(MD) No.21215 of 2018 on 30.11.2018, by allowing the writ petition as under in paragraph Nos.13 and 14:-

"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 a copy of this order."

6. When the matter is taken up for hearing today (07.02.2019) , the learned counsel for the petitioner informed this Court that in pursuance of the direction passed by this Court in the writ petition filed by the petitioner, PSTM certificate has been issued to her. Therefore, he would submit that the rejection by the Tamil Nadu Public Service Commission on the ground that she had made a wrong claim, is not more valid in the eye of law. Therefore, the same is liable to be interfered with.

<https://hcservices.ecourts.gov.in/hcservices/> initially there were strong objections from the Tamil Nadu Public Service Commission as well as on behalf of this Court in regard to the conversion of category of reservation after



participation in the selection, such objections on behalf of the respondents need not be addressed any further by this Court, in view of the subsequent development as aforementioned. The dispute regarding the status of the petitioner and her claim for PSTM status has been resolved in favour of the petitioner by issuance of PSTM certificate by the Institution where the petitioner had obtained her Law degree viz., Madurai Law College. In view of the same, this Court does not find any impediment or obstacle in considering the claim of the petitioner herein against the vacancies earmarked for PSTM candidates.

8. It is also an admitted fact that out of 320 vacancies notified, only 209 candidates have been selected and they are awaiting appointment. It is also an admitted fact that remaining 111 vacancies are available as on date in respect of various categories of reservation including PSTM vacancies. In which case, the consideration of the petitioner against PSTM quota does not pose any hurdle at present, in view of the large number of unfilled vacancies. Moreover, once the status of the petitioner is found established by the above development, the petitioner cannot be denied her due consideration for eventual appointment as a Civil Judge in pursuance of her selection vide notification of the Tamil Nadu Public Service Commission dated 09.04.2018. It was not the fault of the petitioner that PSTM certificate could not be produced on time during the period of verification by the Public Service Commission when the petitioner was interviewed on 01.10.2018. There appears to be certain uncertainty in settling the issue of grant of PSTM status to the candidates undergone their Law course in Madurai Law College, Madurai. However, this Court has in number of decisions in respect of the Madurai Law College, has directed for issuance of PSTM Certificate to the candidates concerned. In any event, once this Court has given a direction in respect of the writ petition filed by the petitioner herein in W.P (MD) No.21215 of 2018 dated 30.11.2018 and in pursuance of which, PSTM certificate has also been issued, the Tamil Nadu Public Service Commission has no other option except to consider the candidature of the petitioner herein and if she is otherwise fit, select her for appointment to the post of Civil Judge along with other 209 selected candidates.

9. In view of the above conclusion, **the writ petition is allowed** and the second respondent is directed to consider the claim of the petitioner herein against the quota reserved for the Persons Studied in Tamil Medium (PSTM) on the basis of the performance in the selection process and in case, the petitioner fulfills all the requirements, the Public Service Commission is directed to select the petitioner and the Public Service Commission is further directed to communicate the result as such to the petitioner forthwith. The second respondent Public Service Commission is also directed to pass orders as directed by this court above, within a period of two weeks from the date of receipt of a copy of this order.

<https://hcservices.ecourts.gov.in/hcservices/>

10. With the above direction, **the writ petition stands allowed.**



No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar (CS)

To

- 1.The Secretary to Government of Tamil Nadu,
Home Department,
Fort St.George,
Chennai.
- 2.The Secretary,
Tamil Nadu Public Service Commission,
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- 3.The Director of Legal Studies,
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- 4.The Registrar General,
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**W.P (MD) .No.21326 of 2018 and
W.M.P (MD) .Nos.19195 and 19196 of 2018
27.02.2019**

GSK

KK/SAR-/20.03.2019/6P-5C