

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09/04/2019

DATED : 16.04.2019

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.21454 of 2012

C.Porkodi

... Petitioner

Versus

1. The Director of School Education  
DPI Complex  
College Road  
Chennai - 06.

2. The Chairman  
Teacher Recruitment Board  
College Road,  
Chennai - 06.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, call for the entire records connected with the impugned proceedings of the second respondent in direct recruitment of Special Teachers 2010-11 and 2011-12 vacancies in state level employment seniority in which the petitioner's selection is rejected with the remark "degree in sculpture" and quash the same consequently direct the respondents to recruit the petitioner in the post of Special teacher for Drawing in the recruitment process.

For Petitioner :: Mr. K.Thilageswaran

For Respondents :: Mr. P.Raja  
Government Advocate

ORDER

The writ petitioner had qualified herself in a Degree of Bachelor of Fine Arts in Sculpture in the year 1999 from Government College of Fine Arts, Chennai, she passed in 1<sup>st</sup> class. She then did her Post Graduation Degree in Government

College of Arts and Crafts in Kumbakonam and also passed the same with 1<sup>st</sup> class in the year 2001. She then registered herself with the employment exchange at Chennai. The second respondent, Teacher Recruitment Board called for direct recruitment for the post of Special Teacher in Drawing through employment seniority for the years 2010-2011 and 2011-2012 for Government, Corporation and Panchayath Union - Middle School, High School & Higher Secondary Schools. The petitioner was asked to come for verification of certificates on 21.04.2012. She was informed that the selection list would be published. However, she was not selected. When she verified the website of the second respondent, she came to know that her selection was rejected with the remark of "Degree in Sculpture". The Writ Petition has been filed challenging the said ground for rejection.

2. The learned counsel for the writ petitioner urged that candidates who had passed only Diploma in Sculpture had been selected in the same recruitment for the said post. There was also no separate course for Drawing in any of the Fine Arts Colleges in Tamilnadu. Moreover the Bachelor of Fine Arts which the petitioner had qualified was a five year course and the subjects for the first two years completely related to skills in drawing. It was also stated that the minimum qualification for Special Teacher in Drawing is a Diploma in Fine Arts awarded by the Director of Technical Education or a Degree in Fine Arts awarded by the Madras University or the Bharathidasan University. It was urged that the petitioner had got Post Graduation Degree in Sculpture. She also belonged to Scheduled Caste Community and since she had married a Backward Caste person, she also came under the priority list in appointment. Under these grounds it was urged that the impugned order should be set aside.

3. The second respondent filed a counter affidavit admitting that the petitioner was one of the candidates, who applied for the post of Special Teacher in Drawing category through Employment Registration Seniority in the years 2010-2011 and 2011-2012. She had acquired Bachelor of Fine Arts Degree in Sculpture. Since she did not fulfill the requisite qualification for the post of Special Teacher in Drawing, she was not considered for the selection process. It was stated that the requisite qualification for the post of Special Teacher in Drawing was a Degree with Drawing and Painting under Part III of a University in the State or its equivalent or Diploma in Drawing of the Annamalai University or Government Technical Examination (Higher Grade) in Free Hand Out Line and Model Drawing or Government Diploma in Drawing or a Certificate issued by the Tamil Nadu Institute of Architecture and Sculpture Mamallapuram and also Technical Teachers Certificate. It was

stated that the petitioner had qualified as Bachelor of Fine Arts Degree in Sculpture and did not also have the Technical Teachers Certificate. It was stated therefore, she was not considered for the selection.

4. An additional affidavit was then filed by the petitioner, in which it was stated that by G.O.Ms.No. 82 dated 26.03.2012 issued by the School Education (M1) Department, the qualification for recruitment of "Arts Masters in Secondary and Training School" had been amended and "Degree in Fine Arts" awarded by the Madras University or the Bharathidasan University had also been included as qualification. It was also stated that by G.O.Ms.No. 1326 dated 20.09.1989, Diploma in Fine Arts awarded by the Director of Technical Education shall also be an alternative qualification for appointment. It is further stated that the Principal of Government College of Fine Arts, Chennai, by letter dated 16.08.2016, had stated that "Drawing is fundamental unit of the syllabus" for the subject BFA (Sculpture). It was also stated that a certificate issued by the Tamil Nadu Institute of Architecture and Sculpture, Mamallapuram, is also one of the qualification for recruitment of Drawing Master. With respect to Technical Training Course, it had been stated that the respondents have not given the details of the said course and whether all the selected candidates had qualified in the said course. It was reiterated that the Writ Petition should be allowed.

5. In response to this, an additional affidavit was filed by the second respondent. It was reiterated that the petitioner had chosen as subjects, portrait in clay modelling and allied subjects. It was stated that the petitioner did not study in Drawing in Degree course. It was also stated that the petitioner had not furnished Technical Teacher Course Certificate as required. It was stated since the petitioner did not have the requisite qualification, she was not eligible for appointment.

6. Heard arguments advanced by Mr.K.Thilageswaran, learned counsel for the petitioner and Mr.P.Raja, learned Government Advocate appearing for the respondents.

7. The writ petitioner was called for verification of certificates for the post of Special Teacher in Drawing through employment exchange for the years 2010-2011 and 2011-2012 for Government, Corporation and Panchayat Union - Middle School, High School and Higher Secondary School by the second respondent, namely, the Teacher Recruitment Board. The petitioner was qualified with a degree of Bachelor of Fine Arts

in Sculpture in Government College of Fine Arts, Chennai and Post Graduation Degree in Government College of Fine Arts and Crafts in Kumbakonam. She had enrolled herself with the employment exchange. She was not selected for the post for the reason "Degree in Sculpture". The petitioner had undergone a 5 year course while qualifying for Degree in Bachelor of Fine Arts. She claimed that the first 2 years exclusively related to skills in Drawing. The specialisation course in Sculpture started only from the third year. It was further stated that the minimum qualification for recruitment of Special Teacher in Drawing is a Diploma in Fine Arts awarded by the Director of Technical Education or a Degree in Fine Arts awarded by the Madras University or the Bharathidasan University. Admittedly, the petitioner had a Degree in Fine Arts. Her specialisation was Sculpture. But that cannot take away the fundamental fact that she had a Degree in Fine Arts.

8. It is trite to point out that before any Sculpture is carved the outline Drawing must be done of the artefact to be Sculpted and thereafter alone is the actual Sculpture crafted. Consequently, every Sculpturor has to be well qualified in Drawing. The reverse may not be true. A person, who is skilled in Drawing alone, may not be a good Sculpturor. The petitioner herein, who had qualified with a Degree in Fine Arts with Sculpture as a specialisation necessarily had to be skilled in Drawing. This is the foundation for any Sculpturor. The petitioner had also qualified herself in Post Graduation Degree from the Government College of Arts and Crafts in Kumbakonam. I hold that the respondents have taken a very narrow view to the prejudice of the petitioner.

9. It is pertinent to point out that the method of selection was only by verification of certificates. The candidates who were selected were not given any practical test to determine whether they were actually skilled in Drawing. The petitioner had been rejected on the ground that she had qualified with a Degree in Sculpture. The petitioner had filed as a typed set the marks obtained by her and it is seen that she had scored consistently very good marks throughout her Degree course.

10. It is the case of the respondent that the qualification prescribed for the post of Drawing as stipulated in G.O.Ms.No. 753, Education Department dated 15.07.1985 is as follows:-

|                                              |                                                                   |                                                                                                                                                                                                     |
|----------------------------------------------|-------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Art Masters in Secondary and Training School | Direct Recruitment promotion transfer and recruitment by transfer | i. a. Degree with Drawing and painting under part III of a University in the State or its equivalent;                                                                                               |
|                                              |                                                                   | Diploma in painting or Diploma in Drawing of the Annamalai University                                                                                                                               |
|                                              |                                                                   | b. Minimum general educational qualification as defined in schedule I to the General rules for the Tamil Nadu State and Subordinate Service; and                                                    |
|                                              |                                                                   | ii. A Diploma in paintings or commercial Arts or modeling of the Government College of Arts and Crafts; or Government Technical Examinations (Higher Grade) in free hand outline and model Drawing; |
|                                              |                                                                   | Government Diploma in Drawing or Certificate issued by the Tamilnadu Institute of Architecture and Sculpture Mamallapuram;                                                                          |
|                                              |                                                                   | iii. Technical Teachers Certificate.                                                                                                                                                                |

11. The User Department had informed that the minimum qualification prescribed for Drawing Master is as follows:-

|                         |       |                                                                                                                                                                                                                                                                                          |
|-------------------------|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 02<br>Drawing<br>Master | 1.    | General Educational qualification<br>S.S.L.C.                                                                                                                                                                                                                                            |
|                         | 2.    | Technical Qualification                                                                                                                                                                                                                                                                  |
|                         | 1.(a) | Degree with Drawing and Painting under Part III of a University in the same or its equivalent<br><br>Diploma in painting or Diploma in Drawing of the Annamalai University                                                                                                               |
|                         | (b)   | Government Technical Examination (Higher Grade) in free hand out line and model drawing<br><br>Or<br>Government Diploma in Drawing or a Certificate issued by the Tamil Nadu Institute of Architecture and Sculpture Mamallapuram and<br><br>Must Possess Technical Teachers Certificate |

12. It is pertinent to point out that G.O.Ms.No. 753, Education Department, dated 15.07.1985 had been amended with respect to the qualification by G.O.Ms.No. 81, School Education (M) Department dated 26.03.2012. The amendment is as follows:-

" AMENDMENT

In the said Special Rules, in Annexure II, in column (3), against the category " Art Masters in Secondary in Training School" in column (1), thereof, for item (IV), the following item shall be substituted, namely:-

"(iv) A Diploma in Fine Arts awarded by the Director of Technical Education or a Degree in Fine Arts awarded by the Madras University or the Bharathidasan University".

13. In the additional rejoinder affidavit filed by the second respondent in the year 2017, it had been stated as

follows:-

"14. It is submitted that the Board verified the certificates of the candidate M.Chidambaram. Since the candidate does not have "Technical Teachers Certificate" Qualification the Board is taking steps to recall his provisional selection orders by issuing 'show cause notice'."

14. It is thus seen that atleast one other candidate was chosen, who did not possess Technical Teacher Course Certificate. I hold that the petitioner had been certainly discriminated against by not selecting her only for the reason that she had possessed Degree in Sculpture. As a matter of fact, it had not been mentioned in the impugned order that she had not been selected since she did not have a Technical Teacher Course Certificate.

15. Though not directly germane to the issue, it must be also pointed out that the petitioner belongs to the Scheduled Caste category and having married a Backward Clause person, she also came under the 'priority' list in appointment. Refusal to accommodate her goes against the very tenants of providing opportunity for the upliftment of an unprivileged section of people, who deserve such appointment. Even as early as 09.03.1993, the Registrar, University of Madras had issued a letter to the Deputy Secretary of Government Education (TES-II) Department, which letter is extracted below for better appreciation:-

"I am to inform you that the Syndicate considered the recognition of Diploma in Fine Arts (5 years) awarded by the Government College of Arts and Crafts, Madras and has decided that the Diploma in Fine Arts awarded by the Government College of Arts and Crafts, Madras be considered as equivalent to the Bachelor of Fine Arts (B.F.A.) Degree of this University for purposes of appointment."

16. Actually, the letter had recognised a Diploma course as equivalent to the Degree course. In the present case, the petitioner had also possessed Post Graduation Degree. Further, the Principal of Government College of Fine Arts had given a letter on 16.08.2016 and it is as follows:-

"TO WHOMSOEVER IT MAY CONCERN  
This is to certify that any candidate

who has qualified and completed B.F.A (Bachelor in Fine Arts) degree in any following disciplines, drawing is fundamental unit of the syllabus.

1. BFA (Painting)
2. BFA (Sculpture)
3. BFA (Visual Communication Design)
4. BFA (Ceramic)
5. BFA (Textile)
6. BFA (Print Making) "

17. It is thus seen that the petitioner was qualified in Drawing and had also undergone a Degree course which ultimately also qualified her to be a Sculpture. With respect to the qualification regarding Teacher Technical course, the respondents have not given any details of the same. As a matter of fact, as pointed out above, atleast one other candidate who did not have the said qualification was selected and was functioning as Drawing Teacher atleast from the year of selection till atleast 2017 and even during the course of arguments, the learned Government Advocate did not give any direct answer as to whether any action had been taken against the said candidate. It is clearly seen that even on this ground, the petitioner had suffered discrimination in the hands of the respondents.

18. In view of the above reasons, I have no hesitation in holding that the relief sought in the Writ Petition has to be granted. Accordingly, the Writ Petition is allowed and the impugned proceedings of the second respondent is quashed and the respondents are directed to recruit the petitioner in the post of Special Teacher in Drawing in the recruitment process. The respondents are directed to comply with the direction within a period of three months from this date. No costs.

सत्यमेव जयते  
Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

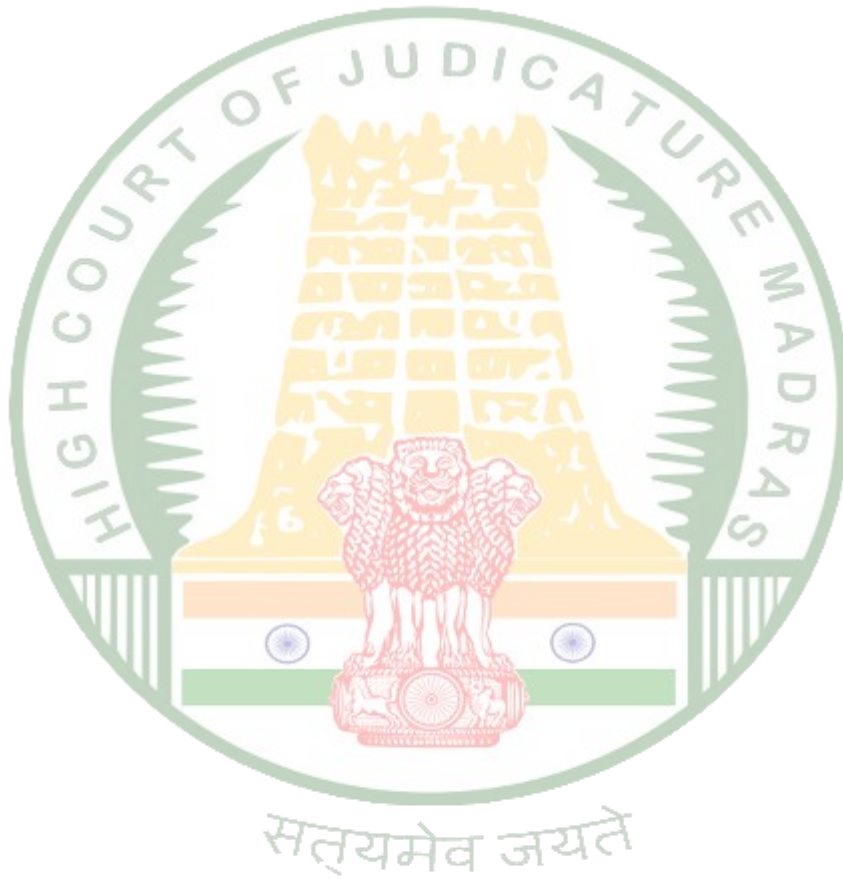
To

1. The Director of School Education  
DPI Complex  
College Road  
Chennai - 06.

2. The Chairman  
Teacher Recruitment Board  
College Road,  
Chennai - 06.

Order made in  
W.P.No.21454 of 2012

VGII (CO)  
CSL/22.04.2019



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