

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No. 7024 of 2019  
and  
W.M.P.Nos.7738 & 7740 of 2019

M.Vinoth

.. Petitioner

Vs.

1. Teachers Recruitment Board  
Rep. by the Chairman  
4<sup>th</sup> Floor, EVK Sampath Maligai  
DPI Compound, College Road,  
Chennai - 600 006.
2. The Director of School Education  
O/o. The Directorate of School Education  
College Road, Nungambakkam,  
Chennai - 600 006.
3. The Regional Director  
National Council of Teacher Education (NCTE),  
Jnanabharathi Campus Main Road  
Nagarbhavi  
Bangaluru - 560 072.

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of Tentative Provisional Selection List published on 12.10.2018 for appointments to the posts of Special Teacher ( Physical Education ) on the file of the 1<sup>st</sup> respondent, and quash the same as illegal to the extent of non-inclusion of the petitioner and therefore direct the 1<sup>st</sup> respondent to select and appoint the petitioner to the post of Special Teacher ( Physical Education ) by calling the petitioner for counseling within the time period stipulated by this Court.

For Petitioner : M/s.D.Geetha

For Respondents : Mr.C.Munusamy

Special Government Pleader for R1

Mr.A.Rajaperumal  
Additional Government Pleader  
for R2

O R D E R

The legal principles governed in respect of the issues raised in the present writ petition are that the terms and conditions, educational qualifications, age limit and other criteria fixed in the recruitment notification, pursuant to the rules, are binding on the candidates who are all participating in the process of selection and also the unselected candidates cannot challenge the very process of selection in view of the fact that they are not qualified and possessing the requisite qualifications as per the recruitment notification.

2. The facts in nut shell to be considered in the present writ petition are that the writ petitioner is unsuccessful candidate for recruitment to the post of Physical Education Teachers in the School Education Department. Admittedly, the petitioner had participated in the process of selection. As per the learned counsel for the writ petitioner, the petitioner is possessing Bachelor of Physical Degree Education Degree. Learned counsel for the writ petitioner submitted that Bachelor of Physical Education Degree awarded by the Annamalai University is equivalent to the B.P.E Degree qualification prescribed in the notification namely, Bachelor Degree in Physical Education. The learned counsel for the writ petitioner also brought to the notice of this Court, the Government G.O.Ms.No.273, Employees and Administrative Reforms Department dated 18.11.1997, wherein the Government has clarified that the degree issued for B.P.E.D course conducted by Lakshmibhai National Physical Education Colleges-degrees issued for B.P.E.Degree Education-recognition as equivalent to B.P.E.D., issued by Madras University/Physical Education study. Therefore, the learned counsel for the writ petitioner would contend that the authorities are not correct in rejecting the candidature of the petitioner for appointment for the post of Physical Education Teacher.

3. It is further contended that during earlier occasions, the competent authorities appointed candidates possessing Bachelor of Physical Education Degree. This being the factum, the earlier procedure must be continued in respect of the present selection also. The grievance of the writ petitioner is that though the practice of appointing the candidates possessing Bachelor of Physical Education , earlier adopted, if continued in respect of the present recruitment, then he is entitled to be considered along with all other candidates for selection to the post of Physical Education Teacher.

4. Learned Special Government Pleader appearing on behalf of the respondents, disputed the contentions stating that in W.A.No.65 to 70 of 2019 etc., the Honourable Division Bench of the Madurai Bench of this Court passed a judgment on 12.02.2019. However, those writ appeals are filed by the selected candidates. Even in that case, while disposing of the writ appeals, the Division Bench has issued the following directions in paragraph 5 of the judgment.

"Hence, these Writ Appeals are allowed and disposed of with the following directions.

- i. The appellants in these appeals ie., the selected candidates are entitled to get appointment as per recruitment notification.
- ii. The official respondents shall proceed further with the process of appointment in the manner known to law as their appointments will not be subject to the outcome of connected writ appeals pending before this Court.
- iii. This exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.
- iv. The writ appeals filed by the writ petitioners (who have not been selected) and the State will be dealt with separately."

5. Learned Special Government Pleader further contended that the present writ petitioner is unqualified person. Thus, he has no locus standi to file the writ petition in respect of the procedure followed by the competent authorities in accordance with the recruitment notification.

6. Let us now look into the recruitment notification, which is enclosed in Page 9 of the typed set of papers filed in support of the writ petition. The notification states that the applications are invited only through on line mode from eligible candidates upto 11.59 PM on 18.09.2017 for direct recruitment to the post of Special Teachers (Physical Education, Drawing, Music, Sewing) in School Education Department for the years 2012-2016. The prescribed qualification as per the notification are extracted hereunder.

7. Thus, it is made clear that the equivalence of the qualifications are to be done in the manner prescribed. The Government has to issue orders in this regard, granting equivalence in respect of various degrees and diplomas granted

by various Universities across the country. By comparing the change of name of the course or by verification of the subjects and academic pattern, the High Court cannot grant equivalence by exercising the powers of judicial review. The scope of judicial review under Article 226 of the Constitution of India does not permit the High Court to exercise the power of expertise in the field of education or as a matter of fact any other field. The High Court is not an expert in respect of the field of education or other technology. The opinion of the expert body in this regard is of paramount importance in respect of grant of equivalence. The pattern of academic studies, subjects prescribed, pattern of examination conducted, duration of the course etc., are to be considered by the authorities competent viz., the committee for the purpose of passing an order by the Government. Only in the event of passing such an order by the Government, degrees can be equated and not otherwise. By a plain reading of the course viz., Certificate course or Diploma course, the High Court cannot grant the relief stating that this particular course also can be considered as an eligible qualification for the purpose of selection for appointment to the post of Physical Education Teachers. Such an exercise, if done by the Courts, is undoubtedly beyond the jurisdictional purview of judicial review. Thus, this Court would not be in a position to hold that the qualification now possessed by the writ petitioners are equivalent to the qualifications prescribed in the notification.

8. This apart, there may be number of courses which are all equivalent and the degrees are also may be equivalent. In the absence of any such declaration by the competent authorities, the benefit of equivalence cannot be granted even if certain qualifications or degrees granted by various other Universities are akin to each other. The grant of equivalence must be specific and by way of a Government Order by the appropriate Government and only in such an event, the candidates, who are participating in the selection process is eligible to seek consideration based on all such equivalence.

9. The petitioner has also cited the attention of this Court to the Government order in G.O.Ms.No.273 dated 18.11.1997. Though it is in respect of the degree awarded by the Gwalior and Thiruvananthapuram Lakshmi Bai National Physical Education Colleges, wherein the Government in clear terms stated that the degree of B.P.E.D issued by those universities is considered equal to the B.P.E.D issued by Madras University, the authority should take in to account the said Government order also while coming to the conclusion with regard to the degree possessed by the writ petitioner.

10. The respondents have not filed counter affidavit assailing the stand taken by the petitioner in the affidavit filed in support of the writ petitioner. The petitioner has taken a specific stand in paragraph No. 7 that the degree Bachelor of Physical Education was abolished in the year 2005 itself. In Tamil Nadu, Government has named the said degree as B.P.E.D. The authorities have also verified the certificate produced by the petitioner. As far as the writ petitioner is concerned, admittedly the petitioner has completed 10<sup>th</sup> standard in the 1999 and 12<sup>th</sup> standard in the year 2001 and enrolled himself in Annamalai University and completed the Bachelor Degree in Physical Education. Even as per the notification, one of the prescribed Education qualification as set in S.No.3 is Bachelor Degree in Physical Education. Therefore, the 1<sup>st</sup> respondent is directed to consider the case of the writ petitioner and pass order within a period of eight weeks from the date of receipt of a copy of this order.

11. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Kmm

To

1.

The Chairman,  
Teachers Recruitment Board  
4<sup>th</sup> Floor, EVK Sampath Maligai  
DPI Compound, College Road,  
Chennai - 600 006.

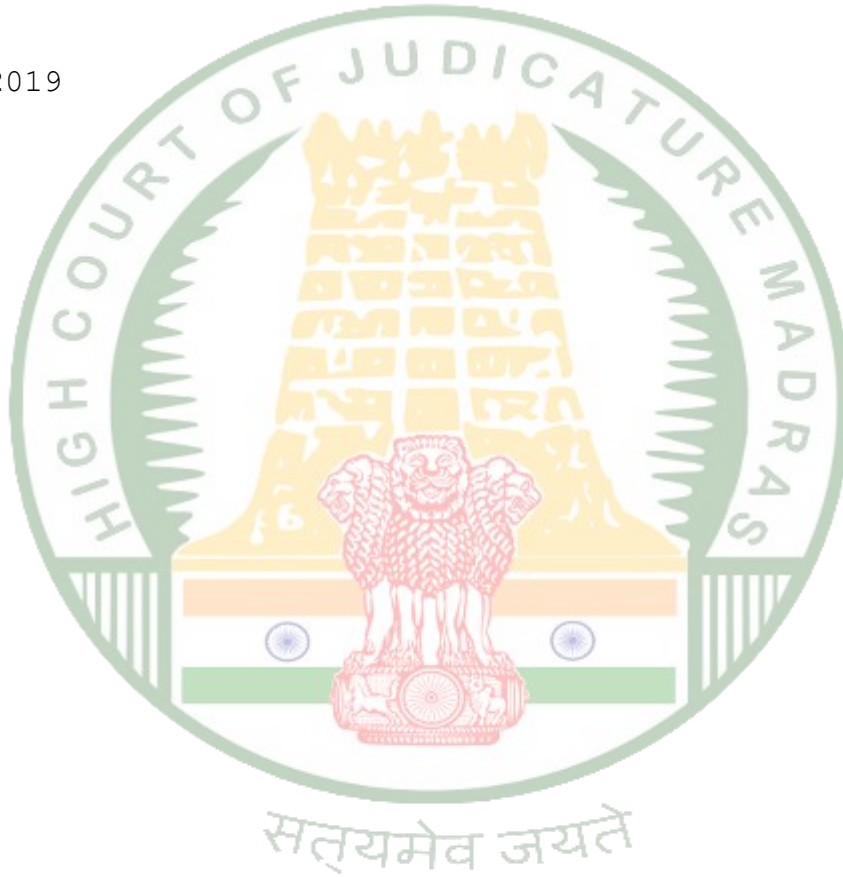
2. The Director of School Education  
O/o. The Directorate of School Education  
College Road, Nungambakkam,  
Chennai - 600 006.

3. The Regional Director  
National Council of Teacher Education (NCTE),  
Jnanabharathi Campus Main Road  
Nagarbhavi  
Bangaluru - 560 072.

+1cc to M/s.D.Geetha, Advocate sr.22868  
+1cc to Government Pleader sr.24693

W.P.No.7024 of 2019

vsn-ii  
nr 12/06/2019



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