

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2019

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.A.No.3278 of 2019
and
CMP No.20849 of 2019

N.Ramaswamy ... Appellant
Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Education Department,
Fort St. George, Chennai - 600 009.

2. The Director of School Education,
(Higher Secondary) DPI Compound,
College Road, Nungambakkam,
Chennai - 600 006.

3. The Teachers Recruitment Board,
Represented by its Chairman,
4th Floor, EVK Sampath Maligai,
DPI Campus, College Road,
Nungambakkam, Chennai - 600 006.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent
against the Order dated 19.09.2019 made in WP.No.21668 of 2019.

Writ Petition filed to issue a Writ of Mandamus or any other
Writ or order direction, for bearing the third respondent from
in any manner conducting, Computer Based examination (On line)
with respect to the Recruitment Notification No.10/2019, dated
12.06.2019, for the Direct Recruitment for the post of Post
graduate Assistant / Physical Education Director, Grade-I for
the year 2018-2019 and consequently direct the 3rd Respondent to
conduct written Examination as conducted by the 3rd Respondent in
the past and pass such further or other orders as this
Honourable Court may be deem fit and proper in the circumstances
of the case and thus render justice.

For Appellant : Mrs.Nalini Chidambaram,
Sr. Counsel for Mrs.C.Uma

For Respondents: Mr.K.Karthikeyan, (for R1 to R3)
Government Advocate

J U D G E M E N T

(Order of the Court was delivered by S.MANIKUMAR, J)

Instant writ appeal is directed against an order made in WP No.21668 of 2019 dated 19.09.2019 by which writ court, declined to issue a writ of certiorarified mandamus and disposed of the writ petition as hereunder

"6. This Court had already decided a similar writ petition in WP No.27136 of 2019 and granted relief as follows:

"6. Considering the facts and circumstances of the case and considering the submission made on behalf of the respondents Department that the request made by the petitioner will be considered, the 3rd respondent is directed to consider the representation of the petitioner dated 22.08.2019 on or before 24.09.2019 and pass appropriate orders. The decision taken by the 3rd respondent, shall be furnished to the petitioner, on or before 24.09.2019."

7. The same relief is extended to these petitioners also. Accordingly, the third respondent is directed to consider the representations of the petitioners dated 25.06.2019 and 10.07.2019 on or before 24.09.2019 and pass appropriate orders. The decision taken by the third respondent, shall be furnished to the petitioner, on or before 24.09.2019."

2. Being aggrieved, instant writ appeal is filed on the following grounds.

(i) writ Court failed to appreciate that it is the case of the appellant that the Notification dated 12.06.2019 having No.10/2019 prescribing only computer based examination for 3 hours is arbitrary. The said decision was taken without considering the ground reality without training the candidates to write computer based examination, and the same will be gravely prejudicial to candidates, who are not trained in computers, especially rural students.

(ii) writ Court has failed to appreciate that UPSC and TNPSC do not conduct computer based examination. Decision of the

Teachers Recruitment Board to conduct computer based examination was uncalled for and the decision was taken without application of mind.

(iii) writ Court ought to have cancelled the computer based examination for direct recruitment for the post of Post Graduate Assistants / Physical Education Directors Grade-I for the year 2018-19 and directed the 3rd respondent to conduct examination as per the usual practice by answering the questions physically in the paper.

(iv) writ Court has failed to appreciate that the justification in the counter affidavit for conducting computer based examination in other areas cannot be applied to all situations. It transpires that in several computer based examination, disputes have arisen leading to cancellation of examination.

(v) writ Court has failed to appreciate that the basic qualification for the Post of Graduate Teacher is M.A. / M.Sc., and B.Ed. Computer Science subject is not included in their degree courses so the appellant will not be able to face computer based TRB examination.

(vi) writ Court has failed to appreciate that in the computer based examination the candidates will not be able to verify the answers marked during the examination since nobody can keep 150 questions in his memory and its marked answers. But, in the existing OMR examination system the candidates are taking back question paper and also the carbon copy of his marked answer OMR and that there is a transparency in the examination. Therefore, OMR system is the best method of examination.

(vii) writ Court has failed to appreciate that after the examination, Teacher Recruitment Board publishes the temporary key answer and calls for opinions from the candidates on the temporary key answer. Candidates may apply to Teacher Recruitment Board if any mistakes are found in the temporary key answer with proof using his roll number. Thereafter, Teacher Recruitment Board publishes the final key answer. The candidates are able to verify their marks based on the final key answer. But in the computer based examination there is no such possibility and transparency of examination is questioned.

(viii) writ Court has failed to appreciate that the competitive exam conducted using OMR sheets have not exposed any drawback in every aspect including the unnecessary panic, lack of panic, lack of reliability. In the Computer Based Examination there is unnecessary panic, lack of reliability.

3. Though, Ms.Nalini Chidambaram, learned Senior Counsel submitted that the appellant is not familiar with the procedure for making an online application and knowledge to participate in the examination to the post of Post Graduate Assistants / Physical Education Directors Grade-I for the year 2018-19, and that writ Court ought to have addressed the same in proper perspective on the above grounds, we are not inclined to accept the said contention.

4. However, inviting the attention of this Court to paragraph No.7 of the order impugned in this appeal, Ms.Nalini Chidambaram, learned Senior Counsel submitted that the appellant may be permitted to take up the examination on paper, which is scheduled tomorrow. We are not inclined to accept the said contention also as online examination is the mode prescribed for examination. Offline examination for the appellant alone cannot be permitted by this Court, but it is for the Teachers Recruitment Board represented by its Chairman, Chennai, 3rd respondent, to take a decision, which the writ Court has ordered. Writ Court has further directed that the decision taken by the Teachers Recruitment Board represented by its Chairman, Chennai, 3rd respondent, shall be furnished to the appellant on or before 24.09.2019.

5. Though, the learned Senior Counsel, is not in a position to state as to whether decision directed to be taken by the Teachers Recruitment Board represented by its Chairman, Chennai, 3rd respondent, has been taken and communicated before 24.09.2019 or not, we are of the view that if not taken and communicated the same be done. Writ court has properly adverted to the writ petition. Appellant has not made out a case for interference. Writ appeal is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
Education Department,
Fort St. George, Chennai - 600 009.

2. The Director of School Education,
(Higher Secondary) DPI Compound,
College Road, Nungambakkam,
Chennai - 600 006.

3. The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Campus, College Road,
Nungambakkam, Chennai - 600 006.

+1cc to Mr.C.Uma, Advocate, S.R.No. 82758
+1cc to the Government Pleader, S.R.No.83643

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SS(CO)
GN(06/11/2019)



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