

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.11.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.32272 of 2019

&

W.M.P.Nos.32569 & 32571 of 2019

I.Lourdhusamy

.. Petitioner

Vs.

1.The Chairman
Teachers Recruitment Board
4th Floor, EVK Sampath Maaligai
College Road, Chennai - 6.

2.The Director of School Educational
Chennai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 1st respondent to cancel the mark allotted to questions ID No.15 and ID No.107 for all the Botany subject candidates invariably pertaining to the computer based examination held on 27.09.2019 for the Direct Recruitment to the post of Post Graduate Assistants in the Service of Tamil Nadu Higher Secondary Educational Service for the year 2018-2019 as notified through the 1st respondent's notification No.10/2019 dated 12.06.2019.

For Petitioner : Mr.A.Suresh Sakthi Murugan

For Respondent 1 : Mr.C.Munusamy
Special Government Pleader

For Respondent 2 : Mr.P.Raja
Government Advocate

O R D E R

The Writ petition has been filed seeking a direction to the respondents to award additional marks in the on-line

examination conducted by the first respondent on 27.09.2019 and further direct the respondents to consider the petitioner's candidature for appointment to the post of P.G. Assistant in Botany.

2. The petitioner has participated in the selection process conducted by the Teachers Recruitment Board for appointment to the post of P.G. Assistant in Botany. The selection was conducted through on-line examination by objective type questions for 150 marks. The minimum marks for being considered for appointment for Scheduled Caste and Scheduled Tribes is 68 marks and for others is 75 marks. The Teachers Recruitment Board published the key answer on 03.10.2019. The petitioner has written the correct answer as per the standard books in the relevant subject, however, he was not awarded any marks for such questions. The petitioner is entitled to marks for the said questions and if such marks are awarded to him, he will be eligible for being considered for appointment to the post of P.G. Assistant. The Teachers Recruitment Board has not selected the candidates for entire vacancies published by them and still there are some vacancies. Under such circumstances, the petitioner has come up with this Writ Petition for the relief stated above.

3. The learned Special Government Pleader appearing for the respondents/TRB would contend that the notification was issued on 12.06.2019, fixing the last date for submitting the applications on 15.07.2019, and written examination was conducted on 27.09.2019. The Teachers Recruitment Board published the tentative key answer on 03.09.2019 inter alia inviting objections on or before 07.10.2019. The Teachers Recruitment Board received 11,000 objections from the candidates. The Teachers Recruitment Board constituted an Expert Committee to consider the objections received from the various candidates. The Expert Committee scrutinized all the objections received on 21.10.2019 by following the procedure, without any discrimination. Some of the candidates have also given objections within the time stipulated by the Teachers Recruitment Board. The Special Government Pleader further contended that the key answer to the questions were prepared in consultation with the experts in the subject. The objections received from the candidates will be examined and appropriate orders will be passed by the expert. While so, this Court need not interfere with the claim of the petitioners for awarding additional marks purportedly on the basis that there is a mistake in the key answer given by the expert. In support of his contention, he relied on the following Judgments:-

"i. In Ram Vijay Singh and others Vs. State of Uttar Pradesh and others reported in (2018) 2 SCC 357;

ii. In Kanpur University and others Vs. Samir Gupta and others reported in AIR 1983 SC 1230 : (1989) 2 SCALE 89 : (1983) 4 SCC 309 : (1984) 1 SCR 73;

iii. In Uttar Pradesh Public Service Commission through its Chairman and another Vs. Rahul Singh and another reported in (2018) 7 SCC 254;

iv. In A.Arthi Vs. The Tamil Nadu Public Service Commission in W.P.Nos.19276 and 19281 of 2018"

4. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader and the learned Government Advocate appearing for the respondents.

5. From the materials on record and rival submissions of the parties, it is clear that there were disputes with the regard to correctness of the key answer given by the Teachers Recruitment Board. According to the petitioner, the key answer to the questions mentioned are wrong as per standard books published in the relevant subjects. The said contentions are disputed by the learned Special Government Pleader and the learned Government Advocate. It is no doubt true that for ascertaining the correctness or otherwise of the marks awarded to certain questions, the respondents, constituted an Expert committee. The expert committee has also received objections are those objections will be considered. While so, this Court, in exercise of the power conferred under Article 226 of The Constitution of India, cannot decide the disputed question of facts in the Writ proceedings, especially, the key answers were prepared by the expert in the relevant subjects. However, in order to render substantial justice, this Court is of the view that the petitioner must be given an opportunity to substantiate his case, so that, in the event of his succeeding in getting awarded additional marks, he will become eligible for appointment.

6. For the above reason, the Teachers Recruitment Board is directed to constitute an Expert Committee in the subject, which is under challenge in the present Writ petition on or before 25.11.2019, consisting of the members, who are not in the earlier committee. The petitioner is directed to submit his objections on or before 27.11.2019 along with materials, which he relied on in respect of his claims that the key answers not correct. On receiving such objections, the Expert Committee is directed to consider the objections and take a decision on or before 28.11.2019.

7. With the above directions, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

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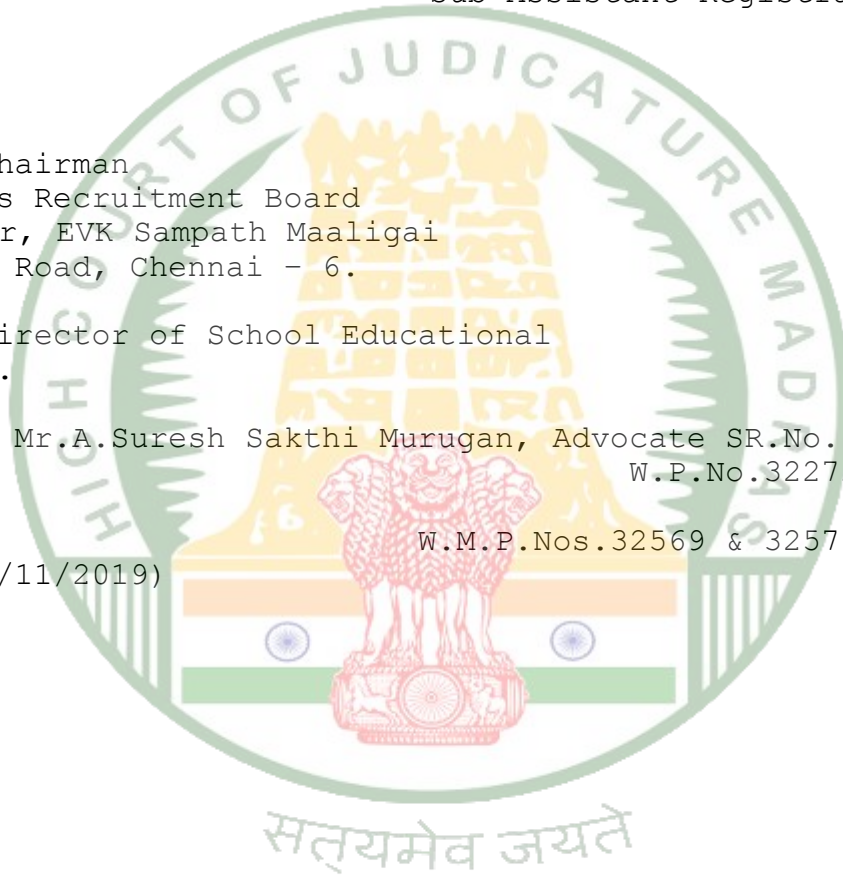
Sub Assistant Registrar

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To

1.The Chairman
Teachers Recruitment Board
4th Floor, EVK Sampath Maaligai
College Road, Chennai - 6.

2.The Director of School Educational
Chennai.

+1cc to Mr.A.Suresh Sakthi Murugan, Advocate SR.No. 98291
W.P.No.32272 of 2019
&
W.M.P.Nos.32569 & 32571 of 2019
A.SK(26/11/2019)



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