

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 20.08.2019

Judgment Delivered on : 27.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBBIAH

THE HONOURABLE MR. JUSTICE C.V. KARTHIKEYAN

and

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Writ Petition Nos. 27127, 27156, 27225 of 2018

and

Writ Petition No. 5397 of 2019

WP No. 27127 of 2018

R. Boominathan

.. Petitioner

Versus

1. The Government of Tamil Nadu
represented by its Secretary
Home Department
Secretariat, Fort St. George
Chennai - 600 009
2. Tamil Nadu Public Service Commission
represented by its Secretary
Frazer Bridge Road, Park Town
V.O.C. Nagar, Chennai - 600 003
3. The Director of Legal Studies
Purasawalkam, Chennai - 600 010
(R3 was *suo motu* impleaded by order
dated 23.10.2018 in WP No. 27127 of 2018)
4. The Registrar General
High Court of Madras
Chennai - 600 104

01.02.2019 made in WP No. 27127 of 2018)

5. The Secretary
Government of Tamil Nadu
Law Department
Fort St. George
Chennai - 600 009

6. The Registrar
Tamil Nadu Dr. Ambedkar Law University
Chennai

(RR5 and 6 were impleaded as per order dated
26.06.2019 made in WP Nos. 27127, 27156
and 27225 of 2018)

.. Respondents

WP No. 27156 of 2018

Senthilkumar

.. Petitioner

Versus

1. The Secretary
Tamil Nadu Public Service Commission
TNPSC Road, V.O.C. Nagar
Park Town, Chennai - 600 003

2. The Director of Legal Studies
Purasawalkam, Chennai - 600 010
(R2 was *suo motu* impleaded by order
dated 23.10.2018 in WP No. 27156 of 2018)

3. The Registrar General
High Court of Madras
Chennai - 600 104

(R3 was *suo motu* impleaded by order dated
01.02.2019 made in WP No. 27156 of 2018)

4. The Secretary
Government of Tamil Nadu
Law Department
Fort St. George
Chennai - 600 009

5. The Registrar
Tamil Nadu Dr. Ambedkar Law University
Chennai

<http://www.judis.nic.in> (RR4 and 5 were impleaded as per order dated
26.06.2019 made in WP Nos. 27127, 27156

and 27225 of 2018)
WP No. 27225 of 2018

.. Respondents

R. Devaraj

.. Petitioner

Versus

1. The Government of Tamil Nadu
represented by its Secretary
Home Department
Secretariat, Fort St. George
Chennai - 600 009

2. Tamil Nadu Public Service Commission
represented by its Secretary
Frazer Bridge Road
Chennai - 600 001

3. The Director of Legal Studies
Purasawalkam, Chennai - 600 010
(R3 was *suo motu* impleaded by order
dated 23.10.2018 in WP No. 27225 of 2018)

4. The Registrar General
High Court of Madras
Chennai - 600 104

(R4 was *suo motu* impleaded by order dated
01.02.2019 made in WP No. 27225 of 2018)

5. The Secretary
Government of Tamil Nadu
Law Department
Fort St. George
Chennai - 600 009

6. The Registrar
Tamil Nadu Dr. Ambedkar Law University
Chennai
(RR5 and 6 were impleaded as per order dated
26.06.2019 made in WP Nos. 27127, 27156
and 27225 of 2018)

.. Respondents

WP No. 27225 of 2018

R. Gokul Murugan

.. Petitioner

Versus

<http://www.judis.nic.in> 1 The Director of Legal Studies
Purasawalkam High Road

Chennai - 600 010
2. The Principal
Government Law College
Coimbatore

.. Respondents

WP No. 27127 of 2018:- 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 impugned proceedings nil in respect of petitioner's Registration No. 020002091 dated 05.10.2018 passed by the second respondent herein and to quash the same and consequently direct the second respondent to declare the result of petitioner in respect of Petitioner's Registration No. 020002091.

WP No. 27156 of 2018:- Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondent to consider the petitioner under Non-PSTM candidature while deciding final selection list based on the over all marks secured by the petitioner in the Civil Judge examination 2018.

WP No. 27225 of 2018:- Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in proceedings nil in respect of the Registration No.170002242, dated 05.10.2018, on the file of the second respondent and quash the same as illegal, incompetent and without jurisdiction and further direct the second respondent to declare the result of the petitioner.

WP No. 5397 of 2019:- Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondents to issue "Person Studied in Tamil Medium (PSTM) Certificate" to the petitioner within a fixed time frame by considering the petitioner's representation dated 14.01.2019.

WP No. 27127 of 2018

For Petitioner : Mr. A. Tamilarasan
For Respondents : Mr. S.R. Rajagopal
Additional Advocate General VI
assisted by Mr. V. Shanmuga Sundar
Special Government Pleader for RR1 and 5
Mr. V.T. Gopalan, Senior Advocate
for Ms. C.N.G. Niraimathi for R2
Mr. V. Kadhivelu
Special Government Pleader for R3
Mr. B. Vijay for R4
Mr. V. Vasantha Kumar for R6

WP No. 27156 of 2018

<http://www.judis.nic.in>

For Petitioner : Mr. P. Vijendran

For Respondents : Mr. V.T. Gopalan, Senior Advocate
for Ms. C.N.G. Niraimathi for R1

Mr. V. Kadhirvelu
Special Government Pleader for R2

Mr. B. Vijay for R3

Mr. S.R. Rajagopal
Additional Advocate General VI
assisted by Mr. V. Shanmuga Sundar
Special Government Pleader for R4

Mr. V. Vasantha Kumar for R5

WP No. 27225 of 2018

For Petitioner : Mr. V. Raghavachari

For Respondents : Mr. S.R. Rajagopal
Additional Advocate General VI
assisted by Mr. V. Shanmuga Sundar
Special Government Pleader for RR1 and 5

Mr. V.T. Gopalan, Senior Advocate
for Ms. C.N.G. Niraimathi for R2

Mr. V. Kadhirvelu
Special Government Pleader for R3

Mr. B. Vijay for R4

Mr. V. Vasantha Kumar for R6

WP No. 5397 of 2019

For Petitioner : Mr. D.R. Arun Kumar

For Respondents : Mr. V. Kathirvelu
Special Government Pleader

COMMON ORDER

R. SUBBIAH, J

Pursuant to the order dated 27.02.2019 passed by the Division Bench of this Court, allowing the aforesaid Writ Petitions, *inter alia* referring certain questions for consideration for an authoritative pronouncement, the Honourable Chief Justice

has constituted this Full Bench for considering the below mentioned issues referred to therein:-

"(i) Whether studied the Course in Tamil and having written University examinations in Tamil language will qualify the candidate for claiming reservation against Persons Studied in Tamil Medium (PSTM)?

(II) In the absence of Tamil Medium of Instructions in the Colleges, whether the candidates studied the Courses in Tamil, or having written examinations in Tamil can be placed on par with PSTM Candidates for the purpose of claiming reservation earmarked for PSTM?

(iii) Whether the Tamil Medium of Instruction is in vogue and is available in law colleges run by the State Universities and if available, from what period the courses have been commenced in Tamil Medium and whether the same has been continuing uninterruptedly upto which period? If Tamil Medium of Instruction is available, factually which are the Law Colleges run by the State Universities conducting the Law Course in Tamil as Medium of Instruction?"

2. For the purpose of answering this reference, the factual background, based on which the writ petitions have been filed, has to be examined.

3. The Petitioner in WP No. 27127 of 2018 had completed his schooling during March 1996 and acquired a degree in B.Sc., Chemistry. Thereafter, he passed Degree of Bachelor of Law during May 2007 and enrolled his name as Advocate in the Bar Council of Tamil Nadu and Puducherry on 07.12.2007. While so, by notification No. 8 of 2018 dated 09.04.2018, the Tamil Nadu Public Service Commission (in short Commission) invited applications to fill up 320 vacancies to the post of Civil Judge. Pursuant to such notification, the petitioner submitted his application on 03.05.2018. The petitioner had come out successfully in both the Preliminary and main examination and he was called for an interview on 03.10.2018. At the time of interview, after verifying the testimonials submitted by

him, the petitioner was called upon to give an undertaking to the effect that he is not claiming any benefit under "Persons Studied in Tamil Medium" (in short PSTM) and the petitioner has also given such an undertaking. It is the specific assertion of the petitioner that he is not claiming any benefit as PSTM candidate. However, since the petitioner had written his degree examinations in Tamil and also filled up the applications for selection to the post of Civil Judge in Tamil, the second respondent had misunderstood as if the petitioner is laying a claim for selection to the post of Civil Judge under PSTM category, but the fact remains that the petitioner is seeking his selection only on the basis of the communal category to which he belongs to namely Schedule Caste.

4. The case of the petitioner in WP No. 27156 of 2018, as could be inferred from the affidavit filed in support of the writ petition is that, after completing Higher Secondary (+2), he pursued Five year law degree during the academic year 2000-2001 to 2004-2005 from Government Law College, Tirunelveli. Subsequently, he was transferred from Government Law College, Tirunelveli to Dr.Ambedkar Government Law College, Chennai and studied in Tamil Medium for the academic years 2001-02, 2002-03 and 2003-04 i.e., for the second to fourth year, however, due to specialisation on the subject in the fifth year (Criminology), he switched over to English medium at Dr. Ambedkar Government Law College, Chennai. After successfully passing the Law Degree, he enrolled as an Advocate on 29.03.2006 and was practising as an advocate. While so, in response to the notification issued by the Commission, he had submitted his application for selection and appointment to the post of Civil Judge. The petitioner also successfully passed the Preliminary as well as Main examination conducted by the

commission and on 04.10.2018, he was called for an oral interview. At that time, the educational testimonials furnished by the petitioner were scrutinised and it was found that he did not study the Law Degree in Tamil Medium in full and therefore, he was directed to produce PSTM certificate to consider him for selection and appointment to the post. Even though the petitioner submitted such certificate to the effect that he studied the course in Tamil during 2nd to 4th year, it was not accepted by the respondents. It is the contention of the petitioner that he had pursued his schooling in Tamil and part of his college education in Tamil and therefore, he would be eligible for consideration of his selection under PSTM category. According to the petitioner, even if he is not considered for being appointed under the PSTM category, the respondents could have considered him under Non-PSTM category especially when the petitioner had passed the preliminary as well as main examination.

5. As per the averments in the affidavit filed in support of WP No. 27225 of 2018, the petitioner enrolled himself as an Advocate on 07.08.2011 and in response to the notification issued by the Commission, he submitted his application and participated in the selection process consisting of preliminary and main examination. The petitioner was declared as successful in both the examinations and he was called for an interview on 05.10.2018. At the time of oral interview, the petitioner was asked to give an undertaking to the effect that he will not claim any benefit as a candidate under PSTM category. Even in the affidavit filed in support of the writ petition, the petitioner had asserted that he claims consideration of his selection only on the basis of the communal category to which he belonged to namely Backward caste. However, the petitioner was not selected to the post on

the erroneous ground that he had applied under PSTM category, hence, the petitioner has come forward with this writ petition challenging the order declining to select the petitioner to the post of Civil Judge.

6. As regards the claim of the petitioner in WP No. 5397 of 2019, he had completed his five year Law Degree in the second respondent college in Tamil Medium between 1998 and 2003 and written all the examinations in Tamil except language paper. The petitioner had successfully completed the Judicial Service Examination and was selected and appointed to the post of Civil Judge and is presently discharging his judicial functions as Principal District Munsif, Trichy. According to the petitioner, he is desirous of participating in the upcoming recruitment to the post of District Judge. For this purpose, the petitioner had submitted a representation dated 14.01.2019 to the respondents to issue a PSTM certificate to him inasmuch as he had taken all the examination in Tamil and underwent the courses with Medium of instruction in Tamil. However, the representation dated 14.01.2019 has not been considered which prompted the petitioner to file the writ petition for a Mandamus.

7. Originally, when WP Nos. 27127, 27136 and 27225 of 2018 were listed before the Division Bench of this Court, the writ petitions were allowed on 27.02.2019 with a direction to the Commission to consider the claim of the writ petitioners in the respective communal quota sans PSTM and if they are otherwise fit for selection and appointment, their claims may be considered for issuance of appointment orders along with already selected 209 candidates. However, after allowing the writ petitions, the Division Bench concluded that since there are

ambiguities with regard to the issue relating to the availability of Tamil Medium courses in the State Law Colleges and there is an uncertainty with regard to the eligibility of the persons claiming PSTM, formulated the aforementioned three questions and referred the same for consideration before this larger Bench.

8. Subsequently, when WP No. 5397 of 2019 was listed before a learned single Judge of this Court, by order dated 17.06.2019, WP No. 5397 of 2019 was directed to be posted before this larger Bench for consideration along with other three writ petitions. This is how WP No. 5397 of 2019 came to be listed before this Full Bench.

9. We have heard the counsel for the parties and perused the materials placed on record.

10. Mr. V.T. Gopalan, learned Senior counsel appearing for the Commission would contend that in the notification issued by the commission, rules of reservation based on the roster to be applied, both special and horizontal reservations, reservation for women and PSTM, Differently Abled Persons were clearly mentioned and the selection of the candidate is based on the performance in the preliminary and main examination coupled with the reservation to which the candidate is entitled to. The learned Senior counsel for the Commission invited our attention to the reservations earmarked for various candidates, which is morefully set out in the notification issued by the commission. The learned Senior counsel also invited our attention to Section 2 (d) of Tamil Nadu Appointment on Preferential basis in the services under the State of Persons studied in Tamil

Medium Act, 2010 (Act 40 of 2010) wherein it is stipulated that "persons studied in Tamil Medium" means persons who have obtained the educational qualification or qualifications prescribed for direct recruitment in the Rules or Regulations or orders applicable to any appointment in the services under the State through Tamil Medium of Instruction. He has also invited our attention to Section 2 (e) which contemplate 'preferential vacancies' to mean that vacancies available for persons studied in Tamil Medium under Sub-section (1) of Section 3. Reference was also made to Section 3 (1) of the Act which provides for preference in appointment in the services under the State which are to be filled through direct recruitment with Persons Studied in Tamil Medium.

11. The learned Senior counsel for the Commission further invited our attention to G.O. Ms. No.145, Personnel and Administrative Reforms (S) Department dated 30.09.2010 and G.O. Ms. No.40, Personnel and Administrative Reforms (S) Department dated 30.04.2014 wherein the Government ordered that 20% of the direct recruitment shall be filled on preferential basis with those candidates under PSTM category. It is also specifically ordered that applicants claiming this reservation must have studied the prescribed qualifications for the post in Tamil Medium and should have obtained a certificate to that effect. Such certificate shall be obtained from the Head of the Institution in the prescribed format/proforma available in the website of the Commission, to get the preferential benefits under PSTM category. Moreover, it was also stated in the said Government Order that candidates who have written the University examination or competitive examination in Tamil language alone will not qualify them for claiming reservation under PSTM category. In such a circumstance, if candidates with

PSTM certificate is not available, then non-PSTM candidates belonging to the respective communal category shall be preferred in the matter of selection.

12. The learned Senior counsel also placed reliance on clause 15 (e) of the notification by which the candidates aspiring to apply were asked to declare the medium of instruction in which they studied. If a candidate mentions Tamil as the medium of instruction, it is presumed that he or she is claiming PSTM reservation and any incorrect particulars furnished by the candidate will only render his or her application rejected as per Clause 15 (N) of the notification. In the absence of such a certificate, the Commission cannot be expected to select and appoint a candidate to the post under the preferential quota under PSTM category as it will be contrary to the conditions mentioned in the notification.

13. The learned Senior counsel appearing for the Commission also would contend as per the notification issued by the Commission, if candidates under PSTM category are not available, then the Commission can resort to select non-PSTM category as per Clause 6 of the Act. Therefore, the learned Senior counsel for the Commission would contend that for availing the reservation under PSTM category, a candidate must produce a certificate for consideration of his or her claim by the Commission for selection and appointment and in the absence of such certificate, a candidate cannot be extended the benefits conferred under the Act. The learned Senior counsel appearing for the Commission, therefore, prayed this Court to answer the reference in the negative.

14. Mr. S.R. Rajagopal, learned Additional Advocate General appearing for the Government would contend that among the Government Law Colleges in

the State,, a separate section for Tamil Medium students of Three Year Law Course was conducted in Dr. Ambedkar Government Law College, Chennai from 1973-1974 to 2001-2002. Further, a separate section for Tamil Medium students of Five Year Law Course was conducted in Dr. Ambedkar Government Law College from 1997-1998 to 2001-2002. However, consequent to the introduction of Five Year B.A., B.L. (Honors) Course in Dr. Ambedkar Government Law College, Chennai from the academic year 2002-2003, admission to first year of Regular Three Year Law Course and Five Year Law Course was discontinued. However, admission to regular Three Year Law Course and Five Year Law Course was once again commenced from the academic year 2006-2007 as per G.O. (Ms) No.280, Law (LS) Department dated 14.11.2006 and a separate section for imparting Tamil medium for three years course again started at Law College, Chennai.

15. With respect to Government Law College, Madurai, vide G.O. (Ms) No.1492, Education Department dated 10.08.1978, Tamil Medium course was introduced from 1978-1979 till 1993-1994. However, from 1994-1995, Tamil medium of instruction was discontinued due to lack of interest among the students in opting Tamil as medium of instructions. But, from 2013-2014, a separate section for Tamil Medium was once again started in Government Law College, Madurai and it is continuing as on date.

16. In so far as Government Law Colleges at Tiruchirapalli, Coimbatore, Tirunelveli and Chengalpattu, the learned Additional Advocate General would submit that till the academic year 2016-2017, there was no separate section for Tamil Medium. Thereafter, by virtue of G.O. Ms. No.33, Law (LS) Department

dated 31.01.2017 sanction was accorded by the Government for introduction of Tamil as Medium of instructions from the academic year 2017-2018.

17. In the Colleges functioning at Vellore, Villupuram, Dharmapuri and Ramanathapuram, admittedly, there is no separate section in existence.

18. The learned Additional Advocate General also brought to the notice of this Court that a student, at the time of his or her admission, have to exercise an option to join the Medium of course in which the curriculum will be imparted. In order to encourage such students, a stipend of Rs.400/- per year is being paid by the Government. That apart, on completion of course, they will be issued with a certificate to the effect that he or she had pursued the Course with Tamil as Medium of Instruction so as to enable them to get preference under PSTM category. At the same time, all the student, irrespective of the medium in which they were imparted the course, are permitted to write their examinations in Tamil, but they will not fall within the realm of PSTM category to get preference in the matter of public employment. Therefore, the learned Additional Advocate general would submit that the persons who were issued with PSTM certificate alone can get preference as contemplated under the Act and not others. The learned Additional Advocate General also placed reliance on the decision of the Honourable Supreme court in the case of **English Medium Students Parents Association vs. State of Karnataka and others** reported in (1994) 1 Supreme Court Cases 550 wherein it was held that if the State, by means of executive instructions intends to bring about academic discipline as a regulatory measure, it is a matter of policy over which interference of the Court will be limited. The state knows how best to implement

the language policy and it is not for the court to interfere therewith.

19. Mr. B. Vijay, learned counsel appearing for the Registrar General of this Court would submit that as per clause 15 (L) of the notification, the candidates have to enclose necessary documents substantiating their claim. If a candidate intends to avail the preferential quota earmarked under PSTM category, he or she has to necessarily enclose a certificate evidencing that they have been imparted with Tamil as medium of instruction in the School as well as higher studies. The recruitment Rules and the clauses in the notification issued by the Commission clearly indicates that those who intend to avail the benefit under PSTM category have to enclose necessary certificate to that effect. Those candidates who did not enclose such certificate will have to be excluded from the selection process.

20. During the course of hearing of these writ petitions, we have called for a report from the Director of Legal Studies, Purasawalkam High Road, Chennai, who is arrayed as respondent in WP No. 5397 of 2019. Pursuant to such direction, a report in Rc.No.578/A3/2019 dated 01.03.2019 has been filed wherein it is stated as follows:-

"I am to state that R. Gokul Murugan, the petitioner in WP No. 5397 of 2019 has stated in his affidavit that he had pursued his 5 year Law Course in the Government Law College, Coimbatore, from 1998 to 2003 and has prayed for a direction to the respondents to issue "Persons Studied in Tamil Medium (PSTM) Certificate to him.

In this regard, it is informed that in the Government Law College, Coimbatore, there was no separate section for Tamil Medium students till the academic year 2016-2017. In G.O. (Ms) No.33, Law (LS) Department dated 31.01.2017, orders were issued by the Government to start a separate section for Tamil Medium students in the Government Law College, Coimbatore, only from the academic year 2017-2018. A copy of the said

Government Order is enclosed herewith.

Under the above circumstances, the prayer made by the petitioner in the above mentioned writ petition is not feasible of compliance since the petitioner has not pursued his 5 year Law course in the Government Law College, Coimbatore in Tamil Medium...."

21. In the light of the above submissions made by the counsel appearing for both sides, we proceed to examine the issues referred to us.

22. At the outset, we make it clear that we are not dealing with the merits or eligibility of the writ petitioners to get appointed to the post notified by the Commission pursuant to Commission publishing their result in the Preliminary as well as Main examination. We are also not going into the correctness or otherwise of the claim of the writ petitioners as to whether they have opted for selection under the PSTM category or not. The Division Bench of this court had already allowed WP Nos. 27127, 27156 and 27225 of 2018 on 27.02.2019 and only referred the legal questions involved therein for consideration of this larger bench. Therefore, we confine our adjudication with respect to the issues referred for our consideration.

23. In the State of Tamil Nadu, Tamil being the Regional language, the Government had thought it fit to give it a thrust. In this context, the Government had taken a policy decision to declare that those who pursue education with Tamil, being the regional language, as Medium of Instruction, will be given preference in public employment. It is in this direction that the Government issued G.O. (Ms) No.145, Personnel and Administrative Reforms Department dated 30.09.2010,

followed by G.O. (Ms) No.40, Personnel and Administrative Reforms Department dated 30.04.2014, ordering to fill 20% of all vacancies in direct recruitment on preferential basis with persons who studied the prescribed qualification in Tamil Medium. As per the order of the Government, persons who claim preference under PSTM category, must have studied the prescribed qualification for the post in Tamil Medium and should have obtained a certificate evidencing the same. Such orders of the Government were in tune with the statutory enactment namely Tamil Nadu Appointment on Preferential Basis In The Services Under The State of Persons Studied in Tamil Medium Act, 2010 (T.N. Act 40 of 2010). Section 2 (d) of the said Act defines "persons studied in Tamil Medium" to mean that those persons who have obtained their educational qualification or qualification prescribed for direct recruitment in the Rules or Regulations or orders applicable to any appointment in the services under the State through Tamil Medium of instruction. Section 3 of the said Act deals with preferential appointment. As per Section 3, twenty percent of all vacancies in appointment in the services under the State which are to be filled through direct recruitment shall be set apart on preferential basis to persons studied in Tamil Medium.

24. Even though the State had earmarked 20% of the vacancies in the services under the State, by direct recruitment, to be filled by appointing persons under PSTM category, as per the records made available to us, there are no Colleges in the State that imparts Tamil as Medium of Instruction, throughout. As per the counter affidavit filed by the Director of Legal Studies, Kilpauk, Chennai - 600 010, 11 Government Law Colleges are functioning in the State of Tamil Nadu where three and five year Law Courses are being imparted. That apart, two Private

Law Colleges are functioning in the State namely Central Law College, Salem and Saraswathi Law College, Tindivanam and they are also offering Law Courses. However, these colleges are not imparting the curriculum in Tamil.

25. Intermittently, Dr.Ambedkar Government Law College, Chennai imparted Law Course in Tamil between 1973-1974 and 2001-2002 and thereafter, Law Course is not imparted in Tamil. Thereafter, Dr. Ambedkar Law College, Chennai re-commenced imparting law degree in Tamil Medium from 2006-2007. However, it did not continue to impart law degree in Tamil due to various reasons, including lack of interest among the students to pursue law degree in Tamil.

26. From the counter of the Director of Legal Studies, Chennai, it is further revealed that the Government Law College, Madurai, which had imparted education in Tamil, has discontinued it from the year 1994-1995 and once again it started imparting law degree course in Tamil from 2013-2014 and it is imparting Law Degree in Tamil Medium till date.

27. Similarly, Government Law Colleges at Tiruchirapalli, Coimbatore, Tirunelveli and Chengalpattu imparts education in Tamil Medium to the students pursuing law degree.

28. However, there is no separate section for Tamil Medium at all available in Government Law Colleges at Vellore, Villupuram, Dharmapuri and Ramanathapuram.

29. Therefore, it is evident that Law degree is not imparted, rather pursued by the students in Tamil in the State continuously, but intermittently, whenever offered in some selected colleges depending upon the number of takers. However, the State Government has earmarked 20% of all vacancies in appointment in the services under the State, which are to be filled through direct recruitment, as preferential appointment, but only very few Colleges in the State are imparting education with Tamil as the medium of instruction. We are also not aware as to how many candidates have so far availed this concession in the State.

30. For the purpose of recognising a candidate, within the realm of selection to employment in government services, under PSTM category, a candidate should have studied in Tamil as medium of instruction. Therefore, in order to avail the benefit of reservation earmarked under PSTM category, a candidate has to furnish a certificate to the effect that he or she studied in Tamil as medium of instruction. Such certificate will be issued by the Head of the Institution/Registrar or Principal of the College, as has been contemplated under G.O. (Ms) No.145, Personnel and Administrative Reforms Department dated 30.09.2010, in the prescribed format, certifying that he or she studied the course in Tamil by indicating the duration (academic year) during which the candidate pursued the course. It is this certificate which will form the basis for recognising a candidate for having studied in Tamil medium of instruction so as to enable him or her to get the benefit of reservation under PSTM category. It is needless to mention that merely because a candidate writes the academic examination or competitive examination in Tamil, it will not recognise such candidate to get the reservation under PSTM category. The requirement is that a Certificate issued by

the Head of the Institution/Registrar or Principal of the college, in the prescribed format, certifying that he was imparted with the course in Tamil as medium of instruction, has to be furnished, so as to enable a person to get the benefits of reservation under PSTM category. In the absence of such a certificate, a candidate cannot be regarded or recognised as a preferential candidate, who can avail the benefit of reservation under PSTM category. In other words, if such a certificate is not produced, he or she cannot be recognised as a candidate, who can be extended the benefit of reservation under PSTM category. Therefore, we hold that compliance of the requirements contemplated under G.O. (Ms) No.145 dated 30.09.2010 to furnish a certificate issued by the Head of the institution/Principal or Registrar of the College, in the prescribed format, is a mandatory requirement to get the benefit of concession and/or reservation earmarked by the State under PSTM category. We therefore answer the reference made to us as follows:-

(i) A person who studied the Course in Tamil or had written the University or Competitive examination in Tamil will not *ipso facto* recognise or qualify him or her to claim reservation under Persons Studied in Tamil Medium (PSTM) category

(ii) Even though a person opted for Tamil as Medium of Instructions in the Colleges or studied the Courses in Tamil or written examinations in Tamil, in the absence of a certificate issued by the Registrar/Principal or Head of the Institution in the prescribed format stating that he or she pursued the education in Tamil as Medium of Instruction throughout, he or she cannot be placed on par with PSTM Candidates for the purpose of claiming reservation under the preference quota

(iii) Tamil, as Medium of Instruction, is not in vogue in certain colleges, or rather to say, Law Degrees are not imparted in Tamil as a Medium of Instructions.

Only in few colleges, Law Degrees are imparted in Tamil as Medium of Instructions and in some other colleges, it is being imparted intermittently. Only if a student pursued the entire Course in Tamil and obtained a Certificate to that effect from the head of the institution/Registrar or Principal of the College, will he or she be declared as the one who is eligible to claim preference in public employment under PSTM category. As on date, Law Colleges at Chennai, Madurai, Coimbatore, Tiruchirapalli, Tirunelveli and Chengalpattu are imparting the courses in Tamil as medium of instruction, as could be evident from G.O. Ms. No.33, Law (LS) Department dated 31.01.2017 as well as the counter affidavit filed by Director of Legal Studies, Chennai.

31. We answer the reference accordingly. Let Writ Petition No.5397 of 2019 be listed before the concerned Court for disposal on merits.

(R.P.S.J.) (C.V.K.J.) (C.S.N.J.)

27-09-2019

rsh

Index : Yes / No

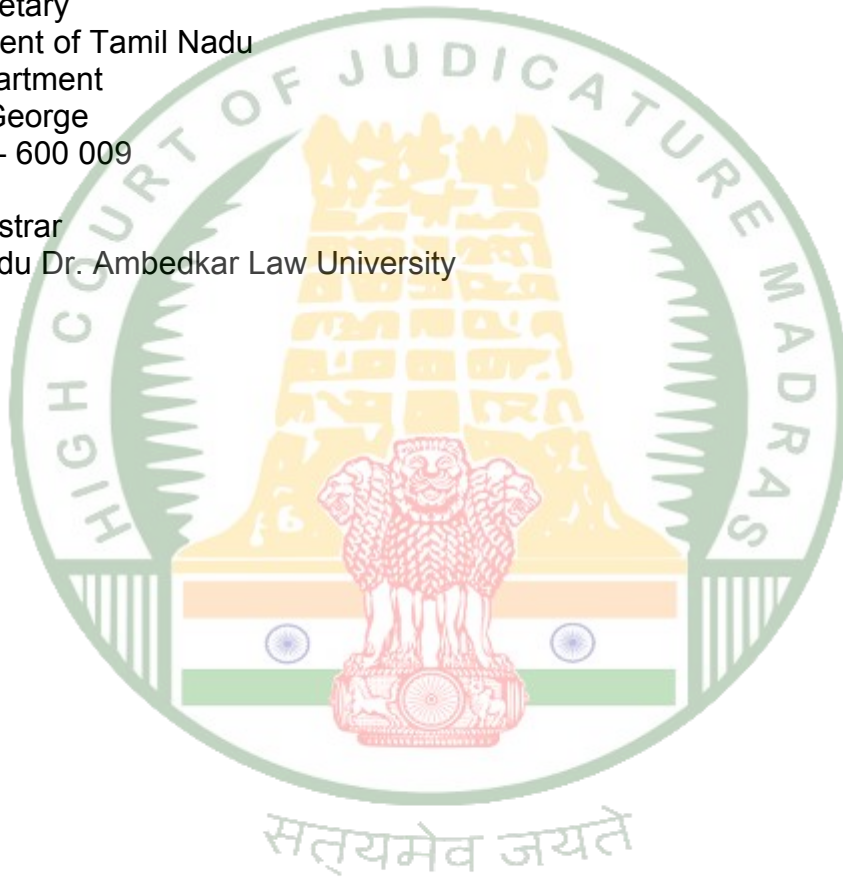
Speaking Order : Yes / No

To

1. The Government of Tamil Nadu
represented by its Secretary
Home Department
Secretariat, Fort St. George
Chennai - 600 009

2. Tamil Nadu Public Service Commission
represented by its Secretary
Frazer Bridge Road, Park Town
V.O.C. Nagar, Chennai - 600 003

3. The Director of Legal Studies
Purasawalkam, Chennai - 600 010
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Chennai - 600 009
6. The Registrar
Tamil Nadu Dr. Ambedkar Law University
Chennai

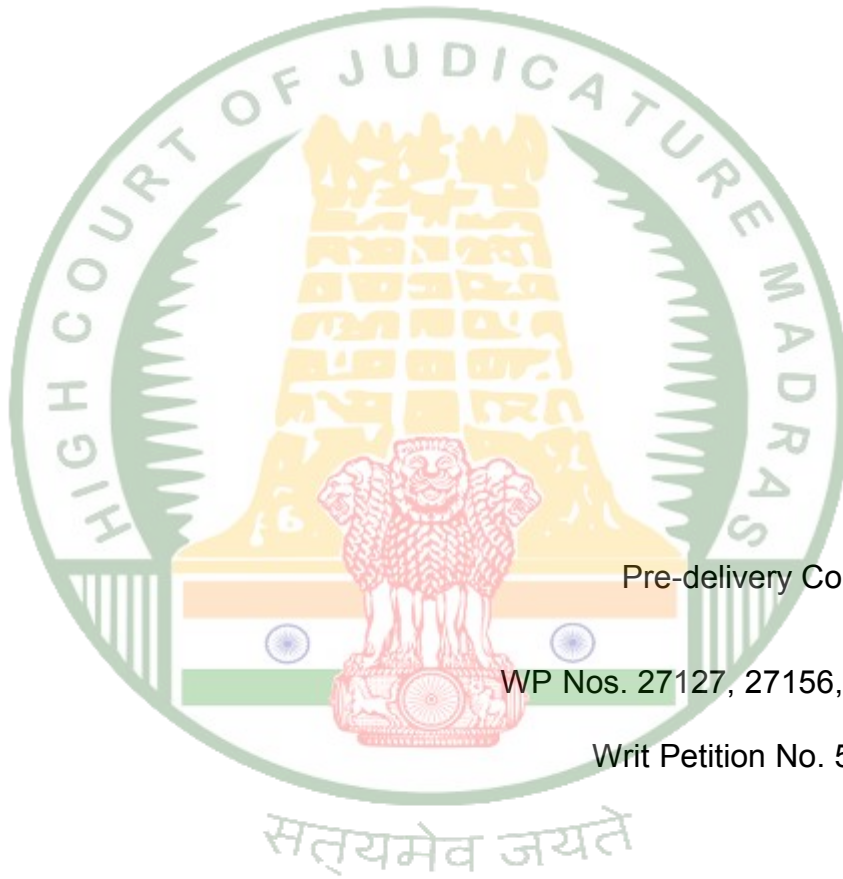


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wp 27127 of 2018

R. SUBBIAH, J
C.V. KARTHIKEYAN, J
and
C. SARAVANAN, J

rsh



Pre-delivery Common Order
in

WP Nos. 27127, 27156, 27225/2019
and
Writ Petition No. 5397 of 2019

27-09-2019

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