

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-03-2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.30802 of 2018
And
W.M.P.No.35943 of 2018

R.Gurumoorthy

..Petitioner

Vs.

1.The Chairman,
Teacher Recruitment Board,
College Road,
Chennai-600 006.

2.The Director of School Education,
College Road,
Chennai-600 006.

..Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to appoint the petitioner as Drawing Teacher (Special Teacher) based on the marks secured by him and as per Rule 10 of the Notification No.5/2017 dated 26.7.2017 by considering the representation dated 15.10.2018.

For Petitioner : Mr.P.Ganesan

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

For Respondent-2 : Mrs.P.Kavitha,
Government Advocate.

O R D E R

The relief sought for in the present writ petition is for a direction to direct the first respondent to appoint the petitioner as Drawing Teacher (Special Teacher) based on the marks secured by him and as per Rule 10 of the Notification

No.5/2017 dated 26.7.2017 by considering the representation dated 15.10.2018.

2. The writ petitioner has admittedly passed his SSLC Course and the Higher Secondary Course (+ 2 Course). The petitioner has passed the Technical Examination Higher Grade in Free Land Outline Model Drawing. Accordingly, the writ petitioner is eligible and qualified for appointment to the post of Special Teacher for Drawing.

3. The grievance in short addressed by the writ petitioner before this Court is that he had submitted his online application, pursuant to the Recruitment Notification issued by the Teachers Recruitment Board on 26.07.2017. The online application provides separate column in respect of the qualifications acquired by the respective candidates. As far as the medium of instruction is concerned, the same is provided against the column meant for SSLC and HSC / Equivalent. However, there is no separate column provided in respect of the qualifications of Technical Education. In other words, there is no column indicating the medium of instruction is provided in respect of the qualifications prescribed for recruitment to the post of Special Teacher for Drawing.

4. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner had undergone the course in Drawing, by writing examinations in Tamil Medium. This apart, the writ petitioner had indicated in the online application that he had studied in Tamil Medium and therefore, entitled to avail the quota prescribed for the persons studied in Tamil Medium (20% quota). However, the writ petitioner had not produced the certificates in respect of the Higher Grade Technical Examination showing that he had undergone the Course in Tamil Medium.

5. The learned counsel for the writ petitioner solicited the attention of this Court that no such certificate was issued to the writ petitioner at the time of passing of Technical Examination nor the medium of instructions are indicated in the certificate issued by the Director of Government Examinations. Under these circumstances, the petitioner had submitted his application before the Director of Government Examinations to issue certificate in respect of the medium of instructions for the courses of Drawing. The Director of Government Examinations issued a reply letter by stating that this Department is conducting Technical Examinations to private candidates only, for Government Technical Examination, no training is conducted by this Department. Hence, required certificate is unable to be issued to the candidate?.

6. The position is confirmed by the learned Special Government Pleader by stating that no such certificate was issued by the Director of Government Examinations, as the same are unable to be issued, for want of records.

7. The peculiar circumstances now arises that though the writ petitioner had undergone the Higher Grade Examinations in Drawing through Tamil Medium, he is not in a position to get certificate from the Director of Government Examinations. Thus, he had stated in his online application that he had opted Tamil Medium for undergoing the Higher Grade Examinations. This apart, during the certificate verification process also, the writ petitioner has stated that he has studied in Tamil Medium and he is entitled to avail the quota allotted for persons studied in Tamil Medium.

8. The next question arises is, whether the writ petitioner can produce the certificate, if any granted by the private institutes, which all are conducting Drawing courses or Sewing and Needle Courses. The writ petitioner has studied or underwent training in Private Institution long back. Thus, the Private Institution may not be in a position to issue such certificates or would have been closed by this time. This apart, such Private certificates, if at all issued by unrecognised private institutes, the same cannot be trusted upon, as the same will create doubts as far as the genuinity is concerned. The Private Institute, if issued any certificate and such certificates are taken for the purpose of providing public employment, the said procedure cannot be accepted, in view of the fact that there is a possibility of tampering of issuance and production of false certificates. This apart, if the Higher Grade Examinations are undertaken by the private candidates even without undergoing any training in any of the institutes, there is a possibility of issuance of certificates, such circumstances are also possible. The course being technical one and the certificate course. Any person who has the knowledge of Drawing or Sewing and Needle works can participate in the lower or higher grade examinations. Under these circumstances, the private candidates may not be in a position to get such certificates from the Private Institutes. If such candidates are produced such certificates necessarily, they have to obtain certificates from the private institutes by paying some amount or by getting false certificates. Therefore, such a scheme, if approved, will create lot of anomalies and will lead to corrupt practices and therefore, it cannot be approved. In the event of producing such certificates to be issued by the Private Institutes for the purpose of considering the candidates under the quota allotted for the persons studied in Tamil Medium, it will lead to corrupt practices. Thus, the said procedure now

contended by the respondent cannot be the best one or full proof.

9. Under these circumstances, a pragmatic approach is to be adopted for the purpose of balancing the issues as well as in the matter of extending the quota for the persons who studied in Tamil Medium.

10. Admittedly, the writ petitioner has submitted the online applications stating that he is eligible to avail the quota allotted for the persons studied in Tamil Medium. Even during the certificate verification, he has stated that he has studied in Tamil Medium. As far as the application form is concerned, the medium of instruction is provided only against the column provided for SSLC and HSC/Equivalent. As far as the Technical Education column is concerned, no medium of instruction is provided. Thus, the respondent cannot now direct the candidates to secure the certificate from the Director of Government Examinations, who in turn refused to give such certificates, on account of the fact that those options are not available with the office of the Director of Examinations.

11. Under these circumstances, this Court is of an opinion that as per the online application, the Authorities Competent are bound to verify the medium of instructions in respect of SSLC and HSC / Equivalent. As far as the Technical qualification of Higher Grade Examinations are concerned, the candidates can be considered based on their declaration and based on the certificate verification done by the Competent Authorities at the time of the selection process. However, such undertaking and the statement given by the candidates during the certificate verification process can be verified and scrutinized by the Competent Authorities with the Director of Government Examinations or with any other authorities, if necessary.

12. It is made clear that in the certificate verification form, if any candidate has not opted the medium of instructions, such candidates are not eligible to avail the quota allotted for the persons studied in Tamil Medium. If any of the candidate have not stated that he has studied in Tamil Medium, then such candidates are not eligible for the quota as the persons studied in Tamil Medium. In respect of all other candidates who have opted the Tamil quota both in the online application as well as in the certificate verification process in the prescribed format, those candidates can be considered in the PSTM quota and accordingly, the respondent is directed to consider the case of the writ petitioner by verifying the online application as well as in certificate verification in the prescribed format and thereafter, redraw the selection list by providing the quota allotted to the persons studied in Tamil

Medium and thereafter, finalize the selection list and appoint the candidates, by following the procedures.

13. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Svn

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Chairman,
Teacher Recruitment Board,
College Road,
Chennai-600 006.
- 2.The Director of School Education,
College Road,
Chennai-600 006.

+1cc to Mr.P.Ganesan, Advocate, SR.No.30780
+1cc to the Govt.Pleader, Vide Sr.No.31079

W.P.No.30802 of 2018

Kak(15/05/2019)

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