

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.31822 of 2018

and

WMP.No.37062 of 2018

P.Vijaya

...Petitioner

Vs

1. The Government of Tamil Nadu,
Rep by its Secretary,
School Education Department,
Fort St.George, Chennai - 600 009.
2. The Teachers Recruitment Board,
Rep by its Chairman,
EVK Sampath Maligai, DPI Compound,
College Road, Chennai - 600 006.
3. The Chief Educational Officer,
Ariyalur District,
Ariyalur.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ or order or orders or direction particularly in the nature of Writ of Mandamus, directing the respondents to consider and appoint the petitioner to the post of Sewing Teacher in anyone of the Government High School pursuant to the advertisement dated 26.07.2017 issued by the 2nd respondent Board.

For Petitioner

:Mr.M.R.Jothimanian

for Mr.K.Balu

For Respondents

: Mr.C.Munsamy,

Spl.Govt.Pleader for R2

Mr.A.Rajaperumal,

Addl.Govt.Pleader for R1 & R3

O R D E R

The relief sought for in the present writ petition is to direct the respondents to select the writ petitioner as Sewing Teacher in the quota reserved for candidates, who studied in Tamil Medium, based on the marks secured by the respective writ petitioner in the process of selection and as per the Rule of Reservation and quotas allotted.

2. The writ petitioner had admittedly passed their respective SSLC Course and the Higher Secondary Course (+ 2 Course). The petitioner have passed the Technical Examination Higher Grade in Needle work and Dress Making. Accordingly, the writ petitioner is eligible and qualified for appointment to the post of Sewing Teacher.

3. The grievances in short addressed by the writ petitioner before this Court is that she had submitted her respective 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 candidate. 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 Sewing Teacher.

4. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner had undergone courses in Needle work and Dress Making, by writing examinations in Tamil Medium. This apart, the writ petitioner had indicated in the online application that they 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 Examinations showing that they 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 her application before the Director of Government Examinations to issue certificate in respect of the medium of instructions for the course of Needle work and Dress Making. The Director of Government Examinations issued a reply letter by stating that the "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 issued to the candidate".

6. The position is confirmed by the learned Additional Advocate General 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 Needle work and Dress Making through Tamil Medium, she is not in a position to get certificate from the Director of Government Examinations. Thus, the writ petitioner had stated in her online application that she had opted Tamil Medium for undergoing the Higher Grade Examinations. This apart, during the certificate verification process also, the writ petitioner has stated that she had studied in Tamil Medium and 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 Needle work and Dress Making. Most of the writ petitioners have studied or underwent training in Private Institutions long back. Thus, the Private Institutions 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 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 respondents 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 had submitted the online application stating that she is eligible to avail the quota allotted for the persons studied in Tamil Medium. Even during the certificate verification, she had stated that she 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 candidate 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 candidate can be considered based on her 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 candidate 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 respondents are directed to consider all the cases 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.

Accordingly, the present writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSIII)

//True Copy//

Sub Assistant Registrar

Pkn

To

- 1.The Chairman,
The Government of Tamil Nadu,
School Education Department,
Fort St.George, Chennai - 600 009.
2. The Chairman,
Teachers Recruitment Board,
EVK Sampath Maligai, DPI Compound,
College Road, Chennai - 600 006.
3. The Chief Educational Officer,
Ariyalur District,
Ariyalur.

+1cc to Mr..K.Balu , Advocate SR.No. 29005

+1 cc to Government Pleader SR.NO. 29738

A.SK(27/04/2019)

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