



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 14.03.2019

Delivered on : 11.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WEB COPY

W.P.[MD]No.7149 of 2017

and

W.M.P. (MD)No.5647 of 2017

R.Sankari

: Petitioner

Vs.

1.The Director of School Education,
DPI Complex, College Road,
Nungambakkam, Chennai.

2.The Chief Educational Officer,
Thoothukudi District, Thoothukudi. : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the second respondent to appoint the petitioner to the post of Lab Assistant by treating her candidature as Scheduled Caste Community based on her written examination marks scored along with weightage marks given to her by the respondents.

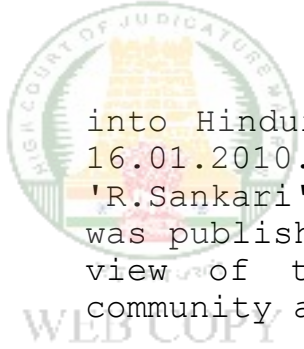
For Petitioner : Mr.G.Thalaimutharasu,
For Mr.D.Selvanayagam

For Respondents : Mrs.S.Srimathy,
Special Government Pleader

ORDER

The prayer in the present Writ Petition is to direct the second respondent to appoint the petitioner to the post of Lab Assistant by treating her candidature as Scheduled Caste Community, based on her written examination marks scored along with weightage marks given to her by the respondents.

2. The case of the petitioner is that she has acquired a degree of B.Sc., (Chemistry) in the year 2007 and she registered her name before the District Employment Exchange, Thoothukudi, in the year 2003 itself. Originally, she belonged to Christian Pallar Community, which comes under the category of backward class. Subsequently, she got married to one Ramesh on 28.11.2007, who belongs to Hindu Pallar Community, which comes under the Scheduled Caste category. Thus, after the marriage, she herself converted



into Hinduism and to that effect, she got a certificate issued on 16.01.2010. After that, she applied for changing her name as 'R.Sankari' instead of 'Christy Jeba Kiruba, K.' and her conversion was published on 27.01.2010 in the Tamil Nadu Government Gazette. In view of that, the petitioner comes under the Scheduled Caste community and also under the PSTM quota.

3. While so, the first respondent issued a notification calling for applications to fill up the post of Lab Assistant to the Higher Secondary Schools. Pursuant to the same, she applied under the Scheduled Caste quota and accepting the same, the second respondent issued a hall ticket for written examination, which was held on 31.05.2015. After publishing the results, the second respondent issued a call letter dated 31.03.2017 to the petitioner for certificate verification to be held on 09.04.2017.

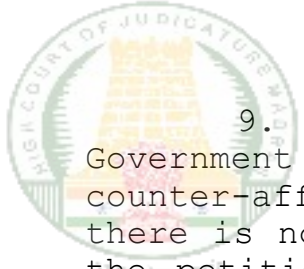
4. Based on the call letter, the petitioner appeared for certificate verification. However, due to her shock and surprise, the second respondent, without even publishing the results of the selection list in the internet, affixed the selection list only in the notice board attached with his office on 16.04.2017. Therefore, seeking appropriate directions, the petitioner has filed the present Writ Petition.

5. With the above background, the learned counsel for the petitioner submits that the petitioner got 114 marks out of 150 marks in the written examination and without even calculating the weightage mark at the time of certification, the second respondent simply published the selection list. Moreover, the selection list was published without mentioning the candidates quota as well as their turn and weightage marks, which is not permissible in law.

6. The learned counsel also submits that the candidates selection list published by the second respondent dated 16.04.2017 contained Serial No.29, certificate verification No.158, in which, a candidate, who got lesser mark than the petitioner, was selected under the Scheduled Caste Quota. The marks scored by the petitioner is 129, whereas her marks is 128. That being the position, non-selection of the petitioner's candidature is highly doubtful.

7. In support of the contention, the learned counsel also relied upon G.O.Ms.No.1, Adi Dravidar Welfare Department, dated 02.01.2009, wherein it was so clear that the conversion from Christianity to Hinduism is fully entitled for getting the benefits of Scheduled Caste community people including the benefits of reservation.

8. It is also contended that out of 68 posts, the second respondent published only 66 selected candidates in the notice board and hence, two vacancies are available as on date. Therefore, the petitioner prays for consideration of her candidature.



9. Controverting the above submissions, the learned Special Government Pleader appearing for the respondents through the counter-affidavit filed by the second respondent contended that there is no dispute with regard to the educational qualification of the petitioner. However, the petitioner has to prove her original caste, her subsequent conversion to Hinduism and name change. As per the application, wherein the petitioner's name was found in the Scheduled Caste Category, she was allowed to write the examination, in which, she had scored 114 marks. It is also not in dispute that the petitioner attended the certificate verification on 09.04.2017, wherein, the petitioner was awarded with 5 marks for her educational qualification and 10 marks for her employment seniority and totally, she has secured 129 marks. The entire selection was conducted as per the instructions given by the authorities following communal roster, quota, reservations and internal reservations, etc., and as such, there is no illegality in the non-selection of the petitioner under SC category.

10. Regarding selection of a person in Serial No.29, it is submitted that the certificate produced by her was in order and as prescribed under the relevant rules, because, as per the instructions given, community certificate issued in the name of the candidate followed by son of or daughter of so and so, should be produced. Whereas, the petitioner's community certificate was not in the form as required and hence, she was not selected. Furthermore, when the petitioner challenges her selection, she has to implead her as a party to the Writ Petition, but, the petitioner did not do so.

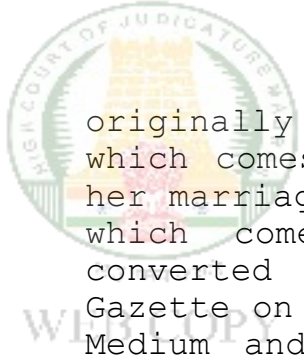
11. The Government Order relied upon by the petitioner is also no way connected with the case of the petitioner, because the said Government Order does not state about the cancellation of the community certificate issued before conversion.

12. In respect of vacancies, it is contended that as per the selection list, 66 persons were given appointment against 68 vacancies and two vacancies were not filled, which belongs to communal roster under BC (Muslim) DW or BC(M) WM and the other belongs to GTP WD. Hence, these two vacancies cannot be filled up by other categories, as held by the Hon'ble Apex Court. Contending so, the learned Special Government Pleader justified the selection process and prayed for dismissal of the Writ Petition.

13. I have considered the rival contentions made on either side and perused the materials available on record.

14. Admittedly, the first respondent issued a notification calling for applications to fill up the post of Lab Assistant to the Higher Secondary Schools, notifying 68 vacancies.

15. There is no dispute with regard to the educational qualification of the petitioner. It is evident from the perusal of the typed-set of papers enclosed in the Writ Petition that



originally the petitioner belonged to Christian Pallar Community, which comes under the category of backward class. Subsequently, on her marriage with one Ramesh, who belongs to Hindu Pallar community, which comes under the Scheduled Caste category, she herself converted into Hinduism and the same was also published in the Gazette on 27.01.2010. Furthermore, she studied SSLC and +2 in Tamil Medium and, therefore, she comes under the PSTM quota. Having eligibility, pursuant to the above said notification, the petitioner applied for the post of Lab Assistant under the Scheduled Caste Quota.

16. Accepting the qualification, the second respondent issued a call letter, based on which, she appeared for certificate verification. However, the selection list was published, in which, the name of the petitioner was not found place.

17. The reason for rejection as stated by the second respondent is that during certificate verification, the petitioner has produced the community certificate, in which, it is stated as follows:

"Thoothukudi District, Ottapidaram Taluk,
Kollamparumbu Village, Sankari wife of Ramesh."

As per the instructions, the candidate, during certificate verification, should produce the community certificate issued in the name of the candidate followed by 'son of' or 'daughter of'. Whereas, the community certificate produced by the petitioner was not in the form of 'daughter of'. Thus, her candidature was not considered under the Scheduled Caste Category. Furthermore, the petitioner has also not produced the cancellation of her earlier community certificate showing Indian Christian Pallar, which comes under the Backward Class category. In the absence of such certificates, the second respondent was not in a position to consider her claim.

18. It is mandatory, when the candidates apply for such posts under such categories, the entire burden lies upon them to satisfy all the eligibility criteria prescribed therein. Here, in this case, the petitioner applied for the post of Lab Assistant under the Scheduled Caste Category. In such an event, she has to prove her eligibility by producing certificates that are required, before the second respondent.

19. The second respondent also admitted the marks obtained by the petitioner as 129 and the selection of one candidate under the Scheduled Caste category, who secured 128 marks, because the community certificate produced by the latter was in order as well as in the form, as prescribed under the relevant rules.

20. In such view of the matter, this Court is of the view that interest of justice would be sub-served, if one more opportunity is given to the petitioner, so as to enable her to prove her eligibility before the respondents.



21. Under such circumstances, this Court, without going into the merits of the case, directs the petitioner to produce all the documents, such as, her original community certificate, subsequent conversion, name change, cancellation of original community and Gazette publication in that regard, etc., that are necessary to prove her case, before the respondents, within a period of two weeks from the date of receipt of a copy of this order and on production of such certificates, the respondents are directed to re-look into the issue and if they deem fit, consider the candidature of the petitioner in the existing vacancy, if available either under the open category or reserved category, within a period of four weeks thereafter.

22. The Writ Petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.side)

/ True Copy /

Sub Assistant Registrar(CS)

To

1.The Director of School Education,
DPI Complex, College Road,
Nungambakkam, Chennai.

2.The Chief Educational Officer,
Thoothukudi District, Thoothukudi.

+1 CC to M/s.D.SELVANAYAGAM, Advocate(SR-60416[F] dated 11/04/2019)
+1 CC to M/s.SPL GP (SR-60750[F] dated 12/04/2019)

W.P. [MD]No.7149 of 2017
11.04.2019

ES/SP/29.04.2019/5P/5C