



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 03.10.2019
CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

Cont.P.(MD) No.1113 of 2019
in W.P. (MD) No.21326 of 2018

N.Meenatchi

... Petitioner/Petitioner

-vs-

Mr.Nanthagopal,
Tamil Nadu Public Service Commission,
Rep. by its Secretary,
Frazer Bridge Road,
Chennai.

... Contemnor/Respondent

PRAYER: Contempt Petition filed under Section 11 of the Contempt of Courts Act, praying to punish the respondent for wilful deliberate disobedience of the order passed by this Hon'ble Court in W.P.(MD) No.21326 of 2018 dated 27.02.2019.

Prayer in WP(MD). 21326/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in his proceedings NIL in respect of rejection in Registration Number 100002082 dated 05.10.2018 and quash the same and direct the respondents to declare the result of the petitioner

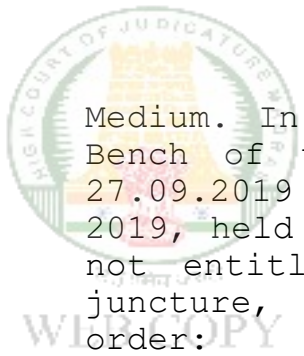
For Petitioner	: Mr.V.Panneer Selvam
For Respondent	: Mr.D.Sivaraman
	Standing Counsel

O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.V.Panneer Selvam, learned counsel appearing for the petitioner and Mr.D.Sivaraman, learned Standing Counsel appearing for the respondent.

2.This Contempt Petition has been filed alleging wilful disobedience of the order and direction issued in W.P.(MD) No.21326 of 2018. The question, which went before the Hon'ble Division Bench is whether the petitioner should be treated as a candidate who is entitled to the special reservation for persons studied in Tamil



Medium. In fact, this issue has been referred to the Hon'ble Full Bench of this Court and the Hon'ble Full Bench by order dated 27.09.2019 made in W.P. Nos.27127, 27156, 27225 of 2018 and 5397 of 2019, held that the similar candidates as that of the petitioner are not entitled to be considered for Special Reservation. At this juncture, it is worthwhile to quote the following from the said order:

"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

<https://hcservices.ecourts.gov.in/hcservices/> 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.



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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.

<https://hcservices.ecourts.gov.in/ms/1113> No.40, Personnel and Administrative Reforms



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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, 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



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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

<https://hcservices.ecourts.gov.in/hcservices/> (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."

3.In the light of the above legal position, we are unable to initiate Contempt Proceedings against the respondent. Therefore, the Contempt Petition is closed.

Sd/-

Assistant Registrar (AD-II)

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Sub Assistant Registrar(CS)

To

Mr.Nanthagopal,
Tamil Nadu Public Service Commission,
Rep. by its Secretary,
Frazer Bridge Road,
Chennai.

+1 CC to MR.V.PANNEER SELVAM, Advocate (SR-91286[F] dated 04/10/2019)

+1 CC to Mr.D.SIVARAMAN, Advocate (SR-91424[F] dated 04/10/2019)

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03.10.2019

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