



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2019

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD) No.3346 of 2014

S.Jeya Arokia Mary

... Petitioner

Vs.

1.The University Grants Commission,
Rep. by it's Chairman,
Bahadur Shah Zafar Marg,
New Delhi-110 002.

2.The Secretary,
SET-2012,
Bharathiar University,
Coimbatore-641 046.

3.The Government of Tamil Nadu,
Through its Secretary,
Higher Education Department,
Fort St. George,
Chennai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Declaration to declare the fixation of eligibility condition that candidates should come within the UGC's qualifying criteria of 7% of the Candidates in the respective subject with cut off marks as illegal and null and void and consequently to direct the Respondents to consider the petitioner bearing Roll Number 03100069 Subject: History, for clearance of State Eligibility Test 2012 within the time stipulated by this Hon'ble Court.

For Petitioner : Mr.A.Kannan

For R1 : Mr.V.Maharajan

For R2 : No appearance

For R3 : Mr.M.Jeyakumar
Additional Government Pleader

**ORDER**

The present writ petition is to declare the fixation of eligibility condition that candidates should come within the UGC's qualifying criteria of 7% of the candidates in the respective subject with cut off marks as illegal and null and void and further direction to the respondents to consider the petitioner for clearance of State Eligibility Test 2012 within the time stipulated.

2. The writ petitioner, who was aged about 49 years even at the time of filing of the writ petition, set out a claim by stating that the fixation of eligibility condition that the candidates should come within the UGC's qualifying criteria of 7% of the candidates in the respective subject, is null and void.

3. Fixing of eligibility criteria, fixing of minimum educational qualification and other terms and conditions of recruitment are the prerogative power of the employers. Fixing of the criteria is to be done with reference to the subjects and as per the recruitment rules in force. In the present case, the writ petitioner is challenging the very fixation of criteria and the said claim cannot be considered by this Court in the view of the fact that the prescription of educational qualification or criteria can be challenged only in the event of establishing unconstitutionality or illegality and not otherwise. However, the present case on hand, the writ petitioner states that her case is to be considered for clearance of State Eligibility Test without adhering to the criteria, qualifying criteria of 7% fixed by the UGC's. Such a claim cannot be entertained as a fixation of eligibility criteria is the policy decision taken by the respondents and the writ petitioner being a candidates, who participated in the process of selection, cannot claim that the criteria should be dispensed with for the purpose of her selection and appointment. Even, the writ petitioner was aged about 49 years at the time of filing of the writ petition and now, she would be around 54 years. This being the factum, no further consideration is required as the relief sought for is absolutely misconceived.

4. Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //



To

The Secretary,
Government of Tamil Nadu,
Higher Education Department,
Fort St. George,
Chennai.

+1 CC to M/s.A.KANNAN, Advocate (SR-82142[F] dated 19/08/2019)

+1 CC to M/s.SPL GP (SR-82876[F] dated 21/08/2019)

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