



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.10.2019**

CORAM:

THE HONOURABLE **MR. JUSTICE M. SUNDAR**

W.P. (MD) No. 21336 of 2019

and

W.M.P. (MD) Nos. 17982 and 17983 of 2019

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K.Kavitha

... Petitioner

/Vs./

1.The State of Tamil Nadu,
Represented by its Secretary for
Higher Education,
Fort St.George, Chennai-9.

2.The Director,
Directorate of Public Health and Preventive Medicine,
Chennai.

3.Project Director cum Director,
Integrated Child Development Scheme,
(ICDS), Tharamani, Chennai.

4.Project Officer,
ICDS, Collectorate Building,
Virudhunagar.

... Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 3rd respondent to forward the petitioner's application to the 1st respondent through the 2nd respondent to be considered for the selection to "ANM training for the academic year 2018 to 2019 in accordance with G.O.Ms.No.242 (Higher Education (B1)) Department dated 18.12.2012".

For Petitioner	: Mr.K.P.S.Palanivel Rajan
For Respondents	: Mr.Aayiram K.Selvakumar Additional Government Pleader

ORDER

When this writ petition was listed before this Court in the Admission Board on 04.10.2019, proceedings/orders were made in main writ petition as well as W.M.P.(MD)No.17983 of 2019. Proceedings/orders made in W.M.P.(MD)No.17983 of 2019 encapsulated the proceedings in the main writ petition also and the same reads as follows:

'Read this in conjunction with and in continuation of proceedings made in main writ petition today, which reads as follows:



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'Mr.K.P.S.Palanivel Rajan, learned counsel on record for writ petitioner is before this Court.

2. Subject matter of instant writ petition is training of candidates for what is described as 'ANM Training' in eleven (11) training Schools. This Court is informed that ANM stands for 'Auxiliary Nursing Midwife'.

3. It is submitted that writ petitioner had joined as Anganwadi Worker and while working, writ petitioner enrolled for undergraduate degree in Manonmaniam Sundaranar University in 2015 under Open University Scheme and completed the same in 2018. Prior to this, it is submitted that writ petitioner had completed her Diploma in Electronics and Communication Engineering on 01.04.2001, having got Secondary School Leaving Certificate (SSLC) on 01.04.1998.

4. As ANM Training Programme was initiated, writ petitioner applied and aspires to participate in the training programme. A communication dated 30.08.2019 bearing Reference R.No.71139/Trg/S3/2019 from the Director of Public Health and Preventive Medicine to the Project Director of Integrated Child Development Scheme (from second respondent to third respondent) talks about the training programme and prescribes eligibility. While there is no disputation about age qua writ petitioner, the issue in instant writ petition centers around educational qualification. This communication from the second respondent to third respondent says that the educational qualification is plus-two (+2) pass in all subjects and the candidate should have completed two (2) years of service in ICDS Department. This Court is informed that ICDS stands for Integrated Child Development Scheme. There is no disputation about two (2) years service of writ petitioner also. Disputation is regarding plus-two (+2) pass.

5. Learned counsel for writ petitioner very fairly submitted that writ petitioner after passing 10th Standard on 01.04.1998 joined three years Diploma course in Electronics and Communication Engineering



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and passed the same on 01.04.2001. Thereafter, while in employment as Anganwadi worker, writ petitioner joined in Manonmaniam Sundaranar University under Open University Scheme in 2015 and completed three years degree course in 2018. This has already been alluded to supra.

6. Adverting to a Government Order being G.O.Ms.No.242 (Higher Education (B1) Department), dated 18.12.2012 learned counsel submits that SSLC + 3 years Diploma + 3 years degree which is described as 10+3+3 is to be considered as equivalent to plus-two (+2). It was also submitted that this aspect has been dealt with by a Hon'ble Single Judge of this Court vide order dated 28.02.2017 in W.P.(MD)No.152 of 2013 (Paragraph No.12), though in some other context.

7. In the aforesaid backdrop, Mr.Aayiram K.Selvakumar, learned Additional Government Pleader, who accepts notice on behalf of respondents, on instructions submitted that the name of writ petitioner figures in the list already sent by fourth respondent to the third respondent and third respondent is now processing the names that have been said.

8. With regard to aforesaid Government Order qua equivalence being G.O.Ms.No.242 (Higher Education (B1) Department), dated 18.12.2012, learned State counsel seeks time to get instructions and revert to this Court.

9. Registry to show the name of State counsel in the next listing.

10. List on 16.10.2019.'

2. There shall be an order of interim stay as prayed for till next listing, ie., till 16.10.2019.

3. To be noted, prayer says 'seat', but, it is clarified that it is one 'slot'.'

2. Today, with respect to G.O.Ms.No.242 (Higher Education Department), dated 18.12.2012, it is submitted that there is a subsequent Government Order being G.O.(Ms.)No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017.



Interestingly, G.O.(Ms.)No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017 makes a specific reference to two other Government Orders, both of which are prior to G.O.Ms.No.242 (Higher Education Department), dated 18.12.2012. These two Government Orders are G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009 and G.O.(Ms.)No.116, Personnel and Administrative Reforms Department, dated 18.08.2010.

3. In effect, all these Government Orders touch upon the central theme of instant writ petition pertaining to whether 10+2 qualification is equivalent to 10+3+3. An attempt was made to submit that while G.O.Ms.No.242, dated 18.12.2012 has been made by Higher Education Department, other three Government Orders have been made by Personnel and Administrative Reforms (M) Department.

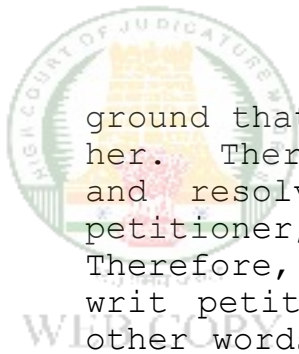
4. Be that as it may, all Government Orders are in exercise of executive powers under Article 154 of Constitution of India and therefore, if there is a overlap, the same has to be adjudicated upon and decided.

5. Considering the case file before this Court and considering the trajectory of the hearing today, this Court is of the considered view that this writ petition can be disposed of without embarking upon the aforesaid adjudication exercise, leaving it open to be done in any other matter where a similar issue arises or in the case of this very writ petitioner at a later stage if that be so.

6. The reason is, in the written instructions given to the learned State counsel which was placed before this Court by State counsel, one paragraph reads as follows:

Further, it is submitted that since 42 years is maximum age limit, a provisional list of eligible candidates have been arrived at, as per which, the Anganwadi Workers born on or after 01.01.1978 to the year 1980 alone could be selected to undergo ANM Training this year. (800 eligible and willing candidates who have born in the year 1978 to 1980) are available). Hence, the turn for the candidates who have born after 1980 could be reached only for next academic year. As such, as per the age and educational qualifications of the Petitioner herein, her candidature would not be reaching the Panel of eligible and willing candidates for this academic year.'

7. From the aforesaid written instructions and the relevant paragraph extracted supra, it comes to light that writ petitioner has not been selected for counseling now underway, qua ANM Training this year not solely on the ground of qualification but also on the



ground that her turn has not come considering the long list ahead of her. Therefore, even if this qualification issue adjudicated upon and resolved and even if it is resolved in favour of writ petitioner, she will not be able to undergo the training this year. Therefore, the question of qualification more particularly whether writ petitioner qualifies qua 10+2 requirement is left open. In other words to state with clarity and specificity, whether the writ petitioner's 10+3 (Diploma) + 3 (Graduation in Open University) qualification will be equivalent to 10+ 2 requirement is left open.

8. As the long list ahead of writ petitioner has kept her waiting this year, this writ petition is dismissed, however leaving it open to the writ petitioner to canvass the aforementioned qualification issue by way of separate writ petition with a suitable prayer.

9. To be noted, this view is taken, also owing to the extremely limited and narrow prayer in the instant writ petition which has set been out supra in the opening part of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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To

1.The Secretary for Higher Education, Fort St.George, Chennai-9.

2.The Director,

Directorate of Public Health and Preventive Medicine,
Chennai.

3.Project Director cum Director,
Integrated Child Development Scheme,
(ICDS), Tharamani, Chennai.

4.Project Officer, ICDS, Collectorate Building,
Virudhunagar.

+1 CC to SPL GP SR-94260.

Order made in
W.P. (MD)No.21336 of 2019
Dated:23.10.2019

CS(07.11.2019) 5P 6C