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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No. 801 of 2013

and

M.P(MD) No.1 of 2013

K.Muthukumar

... Petitioner

Vs.

1. Teachers Recruitment Board
Rep. by its Chairman
4th Floor, EVK Sampath Maaligai
DPI Compound, College Road
Chennai- 600 006

2.The Director of School Education
DPI Compound, College Road
Chennai- 600 006

3. The Joint Director of School Education
DPI Compound, College Road
Chennai- 600 006

4.The Chief Educational Officer
Tirupur District
Tirupur

5.Government Higher Secondary School
Rep. by its Head Master
Panchalingampalayam
Tirupur District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to permit the petitioner to perform the duties as Graduate Assistant (BT Assistant) in the subject of Tamil in the 5th respondent school in accordance with the order of appointment dated 10.12.2012 of the third respondent.

For Petitioner : Mr.J.Ashok

For Respondents : Mrs. Srimathy
Special Government Pleader

**ORDER**

The relief sought for the in the present writ petition is for a direction to direct the respondent to permit the writ petitioner to perform the duties as Graduate Assistant (BT Assistant) in the subject of Tamil in the 5th respondent school in accordance with the order of appointment dated 10.12.2012 of the third respondent.

2. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was issued with an order of appointment to the post of B.T Assistant (Tamil) in proceeding dated 10.12.2012. However the writ petitioner was not permitted to join duty on account of the fact that the degree obtained by the writ petitioner was questioned by the competent authority. Thus the writ petitioner is constrained to move the present writ petition.

3. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner had undergone the diploma in teacher education course through regular pattern and therefore the said diploma qualification is to be taken into account for the purpose of accommodating the writ petitioner atleast in the post of secondary Grade Teacher.

4. This Court is of the considered opinion that the writ petition is filed based on the appointment order issued in proceedings dated 10.12.2012 and the order of appointment states that the writ petitioner was appointed as B.T Assistant (Tamil).

5. The learned Special Government Pleader appearing on behalf of the respondents states that order of appointment was issued mistakenly without verification of educational qualification acquired by the Writ Petitioner. On verification of the qualification it was found that the Writ Petitioner was not possessing the requisite qualification and accordingly he was not permitted to join duty. The Writ Petitioner cannot seek a direction to join duty based on the order of appointment which was otherwise issued by way of mistake or based on certain erroneous facts.

6. This Court is of the considered opinion that the Writ Petitioner has acquired diploma in teacher education course in the month of June 2010. He studied two year diploma course from the year 2008-2010. During the very same academic duration, the writ petitioner possessed the qualification of B.Lit (Tamil) through correspondence conducted by the Tamil Nadu Open University and completed B.Lit (Tamil) in the year 2010. Thus the Writ Petitioner acquired two qualification from the same academic



university system is invalid as per the judgement of the Honourable Supreme Court of India. This apart the Division Bench of the Madras High Court has also held that as far as teaching posts are concerned, the candidates, who studied in the regular pattern in the regular colleges, alone ought to have been considered for appointment.

7. Teaching is a noble profession. Profession of teaching is a skill and taking classes is an art. Thus the candidates who studied in the regular colleges in regular pattern prescribed by the University Grants Commission alone are to be considered for appointment to the teaching posts. The candidates who studied through open university system without even attending regular classes cannot be considered for appointment of public posts. Such a degree obtained may be useful for the purpose of securing knowledge and not for the purpose of securing public appointment. In this great Country opportunity for education must be provided. The court is not opposing the policy of introducing various courses for the purpose of acquiring knowledge. However in respect of public appointment only those degrees and qualifications, which are all obtained through regular pattern as per University Grants Commission regulations alone are to be considered for the purpose of appointment. Thus though the Courts are not opposed to such degrees obtained through open university system, the judicial orders are passed only for the purpose of securing the genuineness to be maintained in the public appointment. Gaining knowledge through various modes can never be prevented by any authority. Thus the citizens are acquiring knowledge through private tuitions by attending private classes, open university system or through institutions or by travelling abroad and those aspects are not questioned by the public authorities as well as by the Courts. The only question to be considered is that those qualification acquired which all are not recognized by the university grants commission, can be considered for appointment to the public posts. Thus the very principles are decided by the Hon'ble Supreme Court by stating that such degrees obtained through open university system are invalid for the purpose of providing public appointment.

8. This being the factum of the case, the writ petitioner cannot be provided with the appointment to the post of B.T Assistant (Tamil) as he did not possess requisite qualification as per the qualification prescribed in the rules. However if the writ petitioner is otherwise qualified for any other posts, it is left open to the writ petitioner to participate in the process of selection, if any notified by the competent authorities.



9. With these observations, this Writ Petition stands disposed of. No costs.

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Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar (CS)

To:

1. The Chairman
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4. The Chief Educational Officer
Tirupur District
Tirupur
5. Head Master
Government Higher Secondary School
Panchalingampalayam
Tirupur District

+1CC to M/S.J.ASHOK Advocate SR.No.73849.

W.P[MD)]No.801 of 2013

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