

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	PRONOUNCED ON
12.10.2020	29.10.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.11070 OF 2015

M.Shibikumaran

... Petitioner

- Vs -

1. The State of Tamil Nadu
rep. by Secretary to Government
Education Department
Fort St. George, Chennai 600 009.
2. The Member Secretary
Teachers Recruitment Board
4th Floor, EVR Sampath Salai
DPI Compound, College Road
Chennai 600 006.
3. A.Alexander
(R-3 impleaded vide order of Court
dated 18.8.15 in MP 4/2015)
in WP 11070/2015

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for the records of the 2nd respondent herein in his proceedings dated 31.3.15 and the consequential selection order dated 08/04/2015 and quash the same and direct the 2nd respondent to give postings to the petitioner on the interview conducting on 28.11.14 for the post of direct recruitment of Assistant Professors in Tamil Nadu Collegiate Educational service for Government Arts and Science Colleges-2012.

For Petitioner : Mr. G.Sankaran

For Respondents : Mr. S.Suresh Kumar, GA for R-1
Mr. C.Munusamy, Spl. GP for R-2
Mr. S.Kamadevan for R-3

ORDER

Though this matter pertains to the year 2015, however, on the consent of the learned counsel on either side, the same is taken up for disposal.

2. It is the case of the petitioner that on completing his post-graduate degree in M.A. in the year 2008, the petitioner also came out successful in the SET exam in the year 2013. It is further averred by the petitioner that he belongs to Backward community and is a physically challenged person. Applications were called for by the 2nd respondent for filling up the posts of Assistant Professors by direct recruitment in the Tamil Nadu Collegiate Educational Service in the Government Arts and Science Colleges to which the petitioner applied. The petitioner was called for certificate verification and after perusal, the petitioner was declared to be fully qualified for appointment to the post of Assistant Professor. It is the further case of the petitioner that pursuant to the certificate verification, the petitioner was found eligible for recruitment for the post of Assistant Professor for the subject History and his name was also published in the list. Though interview was fixed between 24.11.14 and 28.11.14, however, the petitioner was not called for interview, but five other persons, similarly placed were called for interview. Though the five persons were also awarded 5 marks, like the petitioner, they alone were called for interview, while the petitioner was not called for interview.

3. It is further averred that W.P. No.30757 of 2014 was filed by the petitioner pursuant to him not being called for interview and in the said petition, the respondents submitted that the petitioner would be called for oral interview consequent upon which the petition was closed and, accordingly, the petitioner attended the interview on 28.11.14 in which he got 6 marks. In effect, the total marks awarded to him stood at 11 (5 + 6) marks. It is the further averment of the petitioner that the interview for the post of Assistant Professors in History was over by 28.11.14. However, curiously, nearly four months thereafter, on 25.3.15, the 2nd respondent herein had called the 3rd respondent for oral interview. The interview was conducted for the 3rd respondent alone without issuance of any fresh notification about the interview and the 3rd respondent was awarded 7 marks in the oral interview and subsequently selected under the BC (General) PSTM category. It is the further averment of the petitioner that once the oral interview was over on 28.11.14 pursuant to the notification issued then, it was incumbent on the official respondents to issue postings to the successful candidates and behind the back of those candidates, calling the 3rd respondent for interview and selecting him is

opposed to the principles of natural justice. Though the petitioner ought to have been selected and appointed, however, to his detriment, the 3rd respondent was selected and, left with no other alternative, the present petition has been filed for the relief supra.

4. Learned counsel appearing for the petitioner submitted that four posts were sought to be filled up by the respondents of which two posts were earmarked for women category and two posts were allotted for general turn. Though the petitioner is a PSTM candidate, the petitioner is entitled to participate in the general turn quota, though he is a physically challenged person. The notification was published for interview to the post of Assistant Professor and interview was also held between 24.11.14 and 28.11.14. It is the further submission of the learned counsel for the petitioner that certificate verification for the petitioner was carried out in which he was awarded 5 marks and, thereafter, as he was not called for interview, in spite of his being selected and qualified, based on the directions of this Court, interview was conducted for the petitioner, on 28.11.14 in which he secured 6 marks. Therefore, for all purposes, the interview for the post of Assistant Professors in History stood completed on 28.11.14 and any further interview would have to be conducted only after publishing necessary fresh notification in accordance with law. However, out of the blue, the 2nd respondent had conducted interview for the 3rd respondent on 25.3.15, more so without issuing any fresh notification, which is per se impermissible and unsustainable. It is the further submission of the learned counsel for the petitioner that after completion of the interview for the post of Assistant Professors in History on 28.11.14, no fresh notification was issued for interview, but notifications were issued only for interview for the post of Psychology, Sociology, Sanskrit, Visual Communication, Indian Culture and Human Rights on 19.2.15 and for Commerce (Computer Application), Commerce (IB) and Computer Technology on 12.3.15. The 2nd respondent having not issued any fresh notification for oral interview for the post of Assistant Professor in History, the interview conducted on 25.3.15 for the 3rd respondent is wholly illegal and deserves to be interfered. It is the further submission of the learned counsel for the petitioner that not only the interview conducted for the 3rd respondent without issuance of any notification is impermissible, but only to aid the selection of the 3rd respondent, 7 marks had been awarded to the 3rd respondent, to make him get marks above the petitioner and other similarly placed persons, which clearly shows that act of the 2nd respondent to bestow benefit on the 3rd respondent. This exercise carried out by the 2nd respondent is wholly not in accordance with law and, therefore, deserves to be interfered with by setting aside the selection of the 3rd respondent.

5. Learned Special Government Pleader appearing for respondents 1 and 2 submits that though the petitioner and other persons, including the 3rd respondent, claimed their preference under the PSTM quota, as no supporting certificates were placed, they were granted time to produce the same. Pursuant to the grant of time, the 3rd respondent and other persons placed the requisite certificates, which was verified on 25.2.15 and 25.3.15. Considering the certificates submitted by the 3rd respondent, his case was considered. It is the further submission of the learned Special Government Pleader that the petitioner also did not satisfy the cut off marks under the physically challenged category as well as under the Backward Class (General) category and, therefore, his case was not considered. It is further submitted that the 3rd respondent was selected on the basis of the submission of the certificate under the PSTM category and also taking into consideration the higher marks scored by him than the petitioner and he was provisionally selected in the Backward Class (General) category under the PSTM quota. Therefore, it is submitted that as the respondents 1 and 2 having followed the procedure prescribed, no interference is called for with the impugned order.

Learned counsel appearing for the 3rd respondent vehemently opposed the petition and submitted that the omission of the name of the 3rd respondent to be called for oral interview, as he too had secured the required marks in certificate verification led to the filing of an application under the RTI Act and since no orders were passed on the said application, appeal was moved before the appellate authority, which led to his being called for oral interview on 25.3.15. It is the further submission of the learned counsel for the 3rd respondent that he had obtained marks above the petitioner and, therefore, he was selected and appointed. It is the further submission of the learned counsel for the 3rd respondent that he was not the only person called for oral interview on 25.2.15 and 25.3.15, as persons from very many disciplines were called for oral interview, as like the petitioner, who was also included for being interviewed pursuant to the orders of this Court, as his name was wrongly omitted to be included in the provisional list when oral interview took place for Assistant Professors in History during 24.11.14 to 28.11.14. It is the further submission of the learned counsel for the 3rd respondent that while he was selected under the PSTM category under the BC - General Turn, however, for want of required marks, the petitioner was not selected under the BC (General) category, as he had obtained marks lesser than the 3rd respondent and also not under the physically challenged category as he did not have the requisite cut off marks. It is the pointed submission of the learned counsel for the 3rd respondent that even the name of the petitioner was included for oral interview only after the filing of writ petition before this

Court and, therefore, there is no embargo on the official respondents to call the 3rd respondent for oral interview on the order in the appeal by the appellate authority under the RTI Act. Further, it is submitted by the learned counsel for the 3rd respondent that the 3rd respondent having been selected and appointed as way back on 7.2.17 and is functioning as Assistant Professor as on date, the whole process having come to a close, way back then, it would not be in the best interests to disturb the said selection and appointment, which would be very much in detriment to the 3rd respondent, as he has settled and has been functioning for more than four years in the said post. Therefore, it is prayed that no interference is called for with the order impugned herein.

This Court gave its anxious consideration to the contentions advanced by the learned counsel appearing for the various parties to the lis and also perused the materials available on record.

The facts in issue are not in dispute relating to the issuance of notification calling for applications to the post of Assistant Professors for various subjects of which one was History, of which this Court is concerned now in the present writ petition. Equally there is no dispute with regard to the stage of process of certificate verification, which was completed. The question arises in the selection process only therefrom after the certificate verification. A perusal of the materials placed by the petitioner reveals that he too had obtained 5 marks in the certificate verification and on the basis of which he ought to have been called for oral interview. However, as he was not called for oral interview to be held between 24.11.14 and 28.11.14, the said lacunae led to the filing of W.P. No. 30575/14 and on the submission of the respondents therein that the petitioner would also be called for oral interview, this Court closed the said writ petition. It is pertinent to point out here that the notification notifying 24.11.14 to 28.11.14 as the dates for oral interview for the post of Assistant Professors in History was issued pursuant to which oral interview was also conducted. It is further to be pointed out that on the said notified date, i.e., 28.11.14, the petitioner was accommodated and oral interview was conducted in which the petitioner was awarded 6 marks.

The whole grievance of the petitioner pertains to the oral interview held for the 3rd respondent on 25.3.15, almost four months after the oral interview was concluded for the post of Assistant Professor in History. The main thrust of argument on behalf of the petitioner is that no notification was issued relating to the oral interview to be conducted for the post of Assistant Professor in History on 25.3.15, though notifications

were issued on 19.2.15 and 12.3.15 relating to the conduct of oral interview for the subjects Psychology, Sociology, Sanskrit, Visual Communication, Indian Culture and Human Rights and for Commerce (Computer Application), Commerce (IB) and Computer Technology.

It further transpires from the documents as also the counter filed by the respondents that both the petitioner and the 3rd respondent fall under the PSTM quota as also both belong to BC category. The counter filed by the 2nd respondent further reveals that since many of the candidates did not produce the certificate relating to PSTM, they were asked to obtain and produce the same before the 2nd respondent, a communication in that regard has also been issued to the petitioner herein by the 2nd respondent. It is nowhere the case of the 2nd respondent that the petitioner has failed to produce the said certificate even after the certificate verification was completed, as his name finds place in the general merit list drawn by the 2nd respondent. Further, the general merit list also reveals that the name of the 3rd respondent is way back in the said list below the petitioner. Therefore, it is not the case of the 2nd respondent that the petitioner is not eligible for being appointed as he was way below in the seniority for his name to be not considered for selection and appointment with particular reference to the 3rd respondent.

In this backdrop, the counter filed by the 2nd and 3rd respondents assume significance.

The counter affidavit filed by the 2nd respondent reveals that when certificate verification was conducted, it was found that many of the candidates, who had fallen within the zone of PSTM category, were not in possession of the requisite certificate and, therefore, time was granted to them to get the requisite certificate for which certificate verification was conducted on 25.2.15 and 25.3.15. Insofar as the petitioner is concerned, the basic certificate verification was conducted on 28.11.14. The crux of the counter of the 2nd respondent is to the effect that only for the purpose of certificate verification pertaining to PSTM quota, verification was conducted on 25.2.15 and 25.3.15. However, curiously, the counter of the 2nd respondent is silent as to the verification of PSTM certificate of the petitioner. However, the document found in the additional typed set filed by the petitioner reveals that on 5.1.15, the 2nd respondent had called upon the petitioner to produce the PSTM certificate obtained from the Registrar of the concerned University instead of the Director, where the petitioner had completed his course. Further, the counter of the 2nd respondent reveals that the post earmarked for PSTM candidate under the physically challenged quota was given to

another person, meaning thereby that the petitioner was not falling within the category of physically challenged person as he did not satisfy the cut off marks. The list of BC candidates, including persons, who fall within the PSTM category, who were coming within the zone of consideration, arranged on the basis of the date of birth, arranged in the general merit list, the document which finds place in the additional typed set filed by the petitioner reveals that while the name of the petitioner is shown at S.No.47, the name of the 3rd respondent is shown at S.No.190. From the above, it is clear that the name of the petitioner finds place above the name of the 3rd respondent in the general merit list.

It is further evident from the counter of the 2nd respondent that the petitioner was not considered under the physically challenged category, as he had not secured the requisite marks to fall within the zone of consideration. Equally, the petitioner also has no quarrel as to having not been selected under the physically challenged category. The petitioner as well as the 3rd respondent fall under the BC (GT) category aided with the PSTM quota.

Further, the counter of the 2nd respondent reveals that while the 3rd respondent was provisionally selected under BC (GT) category with PSTM preference and having scored 12 (5 + 7) marks, the candidature of the petitioner was rejected as he did not secure the requisite marks under the physically challenged category. However, the counter further proceeds on the same length and it is stated that the petitioner was not selected as he did not secure the required cut off marks under the physically challenged category as well as BC (General) category. From the above it is evident that on the one hand the 2nd respondent states that the petitioner case was rejected under the physically challenged category, on the other hand, it is claimed that the petitioner not having secured the required cut off marks under the BC (General) category as well, his case was rejected.

However, one curious aspect, which stares on the face of the record is the fact that it is the claim of the 2nd respondent that the selection of the 3rd respondent is under the preferential basis of PSTM, while the petitioner's candidature comes under physically challenged category, however, the records tabled before this Court by the petitioner reveals another facet of the case, against the 2nd respondent.

Vide communication dated 5.1.2015, the 2nd respondent had called upon the petitioner to produce PSTM certificate from the Registrar of the concerned University instead of the Director of the University. The said document is placed on record in the

additional typed set of papers filed by the petitioner. If it is the case of the 2nd respondent that the petitioner's case was not considered under the PSTM category, this Court is at a loss to understand the analogy of the 2nd respondent in communicating with the petitioner to obtain PSTM certificate from the Registrar of the University vide the above communication. There is no reason forthcoming from the 2nd respondent to counter the above letter, which is a piece of document defeating the very stand taken by the 2nd respondent. To put it in a nutshell, the 2nd respondent's case breaks apart on all fronts with regard to non-consideration of the petitioner under the PSTM quota. The non-selection of the petitioner under the physically challenged quota for not having secured the required marks may be an acceptable stand on the side of the 2nd respondent, but the rejection of the candidature of the petitioner under the PSTM quota under the BC (General) category, more so, when the 2nd respondent themselves had called upon the petitioner to produce the corrected certificate, requires consideration in the light of the later selection and appointment of the 3rd respondent.

Be that as it may. This Court now embarks upon to analyse the selection and appointment of the 3rd respondent to find out whether the said appointment is in accordance with law. It is the categorical case of the petitioner that after the oral interview was closed for selection of candidates for the post of Assistant Professor in History on 28.11.14, without issuance of any fresh notification, calling upon the 3rd respondent to attend the oral interview, the interview has been conducted at the back of the aspiring candidates and to their detriment, the 3rd respondent has been selected.

Further, a perusal of the application form submitted by the petitioner reveals that the petitioner had not only opted for physically challenged category, but had also opted for preferential basis under PSTM quota. Therefore, the stand of the 2nd respondent that the petitioner could not be considered under the PSTM category as he has not opted for the same is devoid of merits.

As already pointed out, the counter of the 2nd respondent reveals that as many candidates had produced certificates not issued by the competent authority, the candidates, who were called for certificate verification between 24.11.14 and 28.11.14, of which the petitioner is one among them, were asked to produce the PSTM certificate issued by the competent authority. However, in the counter of the 2nd respondent, there is no whisper as to whether the certificates of the 3rd respondent was verified between 24.11.14 and 28.11.14. However, an answer to the same could be found in the counter filed by the 3rd respondent, in which the 3rd respondent has stated that his

certificate was verified on 25.11.14 and he was also awarded with 5 marks.

Be that as it may. The communication addressed to the 3rd respondent by the 2nd respondent, which according to the 2nd respondent is a communication calling upon the 3rd respondent for interview, has been placed on record in the typed set of documents filed by the 2nd respondent. The said communication reveals that the same is for the purpose of interview on 25.3.15, however, a perusal of the said letter reveals that the purpose for which it has been issued is two-fold. Firstly, it is for the purpose of interview and secondly it is also for the purpose of certificate verification. It is relevant to point out at this juncture that even according to the 3rd respondent, his certificates were verified on 25.11.14. If that be the case, what was the necessity for the 2nd respondent to verify the certificates once over, to which no answer is available on record. However, the meaning that could be ascertained from the other materials available on record is to the effect that the 3rd respondent has been asked to appear for interview with all the original certificates.

One other glaring fact, which transpires from the said document is that in S.No.13 of the abovesaid letter, the 3rd respondent has been called upon to place the certificate pertaining to his falling under PSTM category. In this regard, a careful perusal of the said letter reveals that while verification of certificates as placed by the 3rd respondent has been done by the 2nd respondent by affixing a tick mark to each of the entry, which is pertinent to the case of the 3rd respondent, curiously, there is no tick mark pertaining to his PSTM certificate. However, as already stated, the counter of the 2nd respondent had detailed that certificate verification relating to submission of PSTM certificate alone was done on 25.3.15. If that be the case, the absence of tick mark signifying the placing of the certificate relating to PSTM by the 3rd respondent assumes significance, for the simple reason that according to respondents 2 and 3, the selection of the 3rd respondent is only under the PSTM quota under the BC (General) category.

Further, what is evident from the above letter dated 25.3.15 is the fact that the said letter is both for the purpose of oral interview as also certificate verification. Certificate verification precedes oral interview. Only persons, who had satisfied the certificate verification criteria, were provisionally selected and shortlisted, as is evident from merit list published for this purpose. Though the name of the 3rd respondent is also found place in the said list, however, much below that of the petitioner, this Court is at a loss to

understand that how inspite of non-placing of PSTM certificate, the candidature of the 3rd respondent was considered even during the the second time, which according to the 2nd respondent was purely for the purpose of verifying the certificate with regard to completion of course under the PSTM category. In the absence of any credible document to show that the 3rd respondent had completed the course under PSTM category, how preferential treatment was given to the 3rd respondent to entail his selection under the PSTM category.

One more document, which goes against the case of the respondents is the notification published, showing the provisional list of candidates being called for interview, of which History is one of the subject, which is dated 13.11.2014. In the said notification, the following has been averred by the 2nd respondent :-

"After thorough scrutiny of such documents submitted by the candidates in the above mentioned two clarification camps, a revised certificate verification mark list was prepared for all eligible candidates. Based on the revised certificate verification marks, the list of candidates called for interview for the below mentioned subjects in the 1:5 ratio duly following communal reservation is to be uploaded in the official website of TRB in due course."

From the above notification, it is evident that as on 13.11.14, based on the certificate verification, list of candidates, who have been called for interview in the ratio prescribed and following communal reservation is to be uploaded, meaning thereby, that the said procedure for calling of persons for interview stands finalised by the 2nd respondent. In such a backdrop, curiously, on 25.3.15, the 3rd respondent has been called for interview, sans any notification.

It is an admitted position, that for calling for interview of candidates for a particular subject, it is necessary on the part of the 2nd respondent to publish a notification, which has been done on the earlier occasion. However, no notification has been published while calling the 3rd respondent for interview on 25.3.15. Such a deviation from the mandated procedure is wholly impermissible. Without issuance of any notification, calling a person for interview by the 2nd respondent is wholly unsustainable. As could be seen from the typed set of documents filed by the petitioner, relating to the notifications issued calling for interview of candidates for certain other subjects, however, no fresh or additional notification has been issued for the purpose of calling the 3rd respondent for interview, which

procedure is alien to the well established procedures relating to selection and appointment. Further, it also transpires from the documents placed on record by the petitioner in the additional typed that for all the subjects, where aspirants have been called for oral interview, notification has been issued by the 2nd respondent, but for the interview pertaining to the 3rd respondent. This Court is at a loss to understand as to the deviation from the said procedure and the 2nd respondent has also not come out with any justifiable reason for traversing from the above procedure.

It is the contention of the 3rd respondent that he was called for interview by the communication dated 25.3.15 based on the order of the appellate authority under the RTI Act, in the application which was submitted by the 3rd respondent to the officer under the RTI Act, eliciting details for his not being called for oral interview. It is to be pointed out that though such a stand is taken by the 3rd respondent, but for the application filed by the 3rd respondent seeking details for him being not called for oral interview and a further communication by the designated officer under the RTI Act stating that the 3rd respondent has been called for oral interview, however, no document purporting to be the order passed by the appellate authority on the basis of which the 3rd respondent has been called for oral interview has been placed before this Court. Further, this Court is at a loss to understand as to how an order could be passed by the appellate authority with reference to calling the 3rd respondent for oral interview, as the said power is not within the domain of the said authority. However, except for the said stand taken by the 3rd respondent, there is no record placed either by the 3rd or the 2nd respondent to substantiate the said stand. Further, the counter of the 2nd respondent is totally silent on this aspect and does not speak anything about the calling of the 3rd respondent based on the orders of the appellate authority under the RTI Act. While the initial counter filed by the 2nd respondent is silent on the above aspect, equally the additional counter filed by the 2nd respondent is also silent about the said aspect. Therefore, except for a stand taken by the 3rd respondent, nothing in the record substantiates his stand for this Court to infer otherwise. In such a scenario, this Court is of the view that a contention in air cannot be advanced without there being material to sustain the said submission. Further, it is to be pointed out that even had the appellate authority under the RTI Act had issued any directions, which is beyond the comprehension of this Court, this Court is at a loss to understand as to how without issuance of any notification, the 3rd respondent could be called for oral interview. Except for the communication by the 2nd respondent to the 3rd respondent calling him for interview,

there is nothing in the sort of notification, a mandated procedure, to call a person to attend the oral interview.

Further, a perusal of the letter issued to the 3rd respondent calling him for oral interview on 25.3.15 does not reveal that he has been called for interview based on the directions of the appellate authority under the RTI Act and also on the ground that his name was inadvertently omitted to be included in the provisional list of candidates, who were called for oral interview. Therefore, what is not available in black and white in the documents, placed before this Court, cannot be amplified on the basis of the counter filed by the 2nd respondent. The respondents have to stand or fall on the basis of the documents and counter is only an extrapolation of the way in which the documents should be interpreted and the counter alone cannot be the source for justifying the act of the 2nd respondent.

Though it is the claim of the 2nd respondent that the 3rd respondent having scored 7 marks in the oral interview and 5 marks in the certificate verification, in all scoring 12 marks, stood above the petitioner, who had scored only 6 marks in the oral interview and 5 marks in the certificate verification, totalling to 11 marks, this Court, refrains from proceeding any further to comment on the said higher marks obtained by the 3rd respondent. When the procedure has not been followed in calling the 3rd respondent for oral interview, the marks obtained by him in the said oral interview loses its significance and the higher marks alleged to have been obtained by the 3rd respondent will not come to the aid of the 3rd respondent to contend that he will have a march over the petitioner in the matter of selection and appointment. A person, who has not been selected and appointed in a procedural manner, as mandated, cannot claim that the marks obtained by him, being higher, he stands on a higher pedestal than the other person, who has obtained lower marks, even though the person, who had obtained lower marks has been called for interview by following the prescribed procedure.

Though a stand has been taken by the 2nd respondent in the counter that the interview board consists of experts in the subject, who, after duly analysing the teaching skills of the candidates had allotted the marks, however, it is to be pointed out that the said allotment of marks has been done not in accordance with the procedure and it is an isolated interview conducted for a particular purpose, which does not have the requisite legal sanction. In such a backdrop, the assessment of the comprehensive merit and ability of the individual, viz., the 3rd respondent herein, is not in test before this Court and in which area this Court is not entering into, but the same is negated for the simple reason that the test of reasonableness

and fair procedure has not been followed, which is the basic requirement in the legal domain.

One more aspect, which throws light on the type of selection made relating to the 3rd respondent requires to be highlighted. Though the oral interview was over as early as on 28.11.2014, for a period of four months, till the end May, 2015, no selection and appointment was made to the post of Assistant Professor. But after the oral interview conducted for the 3rd respondent on 25.3.15, within a span of 10 days, the selection was completed notifying the 3rd respondent as one of the person selected. This Court is at a loss to understand the tortoise approach in the initial leg of the selection process and the hare approach in the subsequent leg of the selection process. Though it may be argued that after completion of the selection process for all the streams, the publication of selection was made, but the isolated selection without any notification of the 3rd respondent precludes this Court from entertaining any such type of reason that may be advanced by the 2nd and 3rd respondents. But for the selection of the 3rd respondent at the later point of time in an isolated manner without following the rule of law, there would not be any embargo on the part of the 2nd respondent to publish the list as a consolidated one. Anyhow, judicial decorum demands not to proceed further in amplifying the fallacies committed by the 2nd respondent in the matter of selection.

In the above backdrop of the analysis of the entire facts and documents as placed before this Court, this Court is of the considered opinion that all is not well with the selection process of the 3rd respondent, which deserves interference at the hands of this Court. Though a contention has been raised by the learned counsel for the 3rd respondent that the 3rd respondent has settled in his routine and has been functioning as such and settled with family and children and, therefore, at this eleventh hour, this Court may not intervene in the selection process, however, the same cannot be accepted for the simple reason that even when the interim order was vacated and based on which representation was given by the 3rd respondent for appointment leading to filing of a writ petition and obtaining a direction for passing orders on the said representation, the 3rd respondent was well aware of the Damocles sword that was hanging over his head in the event of this Court holding against his selection, which was always subject to the result of the writ petition. It is further to be pointed out that this Court cannot be lured into the intricacies of the individual's personal life, but it is only justice, which has to prevail ultimately and sympathies should be pushed to the backseat while dealing with such situations. That being the case, mere lapse of time would not enure to the benefit of the 3rd respondent to

allow him to continue in the appointment, which would otherwise be not only a travesty of justice, but wholly impermissible and unsustainable, as the same is not in accordance with law.

For the reasons aforesaid, the impugned order of selection and appointment of the 3rd respondent is hereby set aside. The 2nd respondent is directed to consider the case of all the candidates, who fall within the zone of consideration and after calling them for oral interview and following the mandated procedures, select and appoint the suitable candidates based on their subjective merit and ability after following the communal reservation and other reservation aspects.

This writ petition is allowed with the aforesaid directions. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Secretary to Government
Education Department
Government of Tamil Nadu
Fort St. George, Chennai 600 009.
2. The Member Secretary
Teachers Recruitment Board
4th Floor, EVR Sampath Salai
DPI Compound, College Road
Chennai 600 006.

+1cc to Mr.G.Sankaran, Advocate, SR.No.34965

+1cc to the Government Pleader, SR.No.35212

PRE-DELIVERY ORDER IN
W.P. NO. 11070 OF 2015

EV(CO)
KKV/04/11/2020