

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.08.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.13372 of 2013
And
M.P.No.1 of 2013

M.Fathima Banu

... Petitioner

Vs.

1.Government of Tamilnadu,
Rep. by its Secretary,
Personnel and Administrative Reforms Department,
Fort St.George,
Chennai - 600 009.

2.The Secretary,
Tamilnadu Public Service Commission,
Chennai.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to proceedings bearing No.1050/RID/PSD-F dated 23.04.2013 issued by the 2nd respondent herein, and quash the same and consequently direct the respondents to treat the petitioner as a Backward Class (Muslim) and appoint her in the post of Junior Assistant, Group IV, pursuant to the notification No.14/2012 issued by the 2nd respondent.

(Prayer amended as per the order of this Court dated 18.08.2020 made in M.P.No.2 of 2013 in W.P.No.13372 of 2013.)

For Petitioner : Mr.Arun
for M/s.M.N.Sumathy

For Respondent : Mr.S.Thangavel for R1
Special Government Pleader
Mr.N.Balamurali Krishnan for R2

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records pertaining to proceedings bearing No.1050/RID/PSD-F dated 23.04.2013 issued by the second respondent, and to quash the

same and to consequently direct the respondents to treat the petitioner as a Backward Class (Muslim) and to appoint her in the post of Junior Assistant, Group IV, pursuant to the notification No.14/2012 issued by the second respondent.

2.The case of the petitioner is that the petitioner initially belonged to Hindu religion, Telugu Chetty Community, which is a Backward Class. Thereafter, she married a Muslim and got converted to Muslim and also obtained a Community Certificate from the Deputy Tahsildhar, Gobichettipalayam, that she belonged to Backward Class Muslim Labbai Community. Thereafter, the petitioner's husband died and the petitioner also obtained a Certificate from the Sub-Collector, Gobichettipalayam, that she is a Destitute Widow.

3.It is the further case of the petitioner that she applied for the post of Junior Assistant included in Group IV Services through online and appeared for the written examination on 07.07.2012 and obtained 151.5 marks. The cut-off mark for Backward Class Women is 140. The second respondent called the petitioner for Certificate Verification and when the petitioner appeared for Certificate Verification, she was denied appointment on the ground that she was a converted Muslim and could not be treated as Backward Class. Thereafter, the petitioner made representation dated 01.03.2013 to the respondents to consider her status as Destitute Widow in the Backward Class (Muslim) category and since there was no response, has filed this writ petition.

4.Heard the arguments advanced on either side and perused the materials available on record.

5.The issue raised in this writ petition is no longer res integra. The Hon'ble Apex Court has, in its decision reported in (1996) 3 SCC 545 (Valsamma Paul Vs. Cochin University and Others), discussed the issue in detail and has held that a person cannot claim reservation as per the converted caste in view of the advantageous start in life availed by her/ him in the caste by birth. Hence, the prayer sought for in the writ petition cannot be granted.

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6.The writ petition is accordingly dismissed. However, this order will not stand on the way of the petitioner to avail the benefits in the original category in which she was born. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1.The Secretary,
Personnel and Administrative Reforms Department,
Fort St.George,
Chennai - 600 009.

2.The Secretary,
Tamilnadu Public Service Commission,
Chennai.

+1 cc to Government Advocate sr27085

+1 cc to Mr.N.Balamuralikrishnan Advocate sr27148

W.P.No.13372 of 2013
And
M.P.No.1 of 2013

ssi(co)
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