

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.31881 of 2013

and

MP Nos.1 of 2013 and 1 of 2014

K.Jothi

...Petitioner

.Vs.

1. State of Tamil Nadu, rep. By  
its Secretary to Government,  
School Education Department,  
Secretariate, Chennai - 9.
2. The Chairman,  
Teachers Recruitment Board,  
Chennai - 600 006.
3. The Director of School Education,  
Chennai - 600 006.
4. The Director,  
Elementary Education,  
Chennai - 600 006.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to award 7 marks to petitioner bearing Roll No.13TE31211829 in respect of Question Nos.5, 8, 17, 25 (Child Development and Pedagogy), 39 (Language I - Tamil), 79 (Language II - English), 108 (Social Science) in Series Code D (Paper II) i.e. totally 7 marks and declare pass in the Tamil Nadu Teacher Eligibility Test (TNTET), 2013 by placing the petitioner in the appropriate place so as to enable the petitioner to get appointment as B.T. Assistant (English), the result published with mistakes committed in the preparation of key answers and setting question papers and to conduct re-examination.

For petitioner : M/s.S.Ruban

For respondents: Mr.S.Suresh Kumar,

Government Advocate for R1, R3 & R4

Mr.C.Munusamy,

Spl. Govt. Pleader for R2

O R D E R

Petitioner has come up with this writ petition seeking direction to the respondents to award 7 marks to her for Roll No.13TE31211829 in respect of Question Nos.5, 8, 17, 25 (Child Development and Pedagogy), 39 (Language I - Tamil), 79 (Language II - English), 108 (Social Science) in Series Code D (Paper II) i.e. totally 7 marks and declare pass in the Tamil Nadu Teacher Eligibility Test (TNTET), 2013 by placing her in the appropriate place so as to enable her the petitioner to get appointment as B.T. Assistant (English), the result published with mistakes committed in the preparation of key answers and setting question papers and to conduct re-examination.

2. According to the petitioner, she possessed qualification of B.A. (English) and B.Ed. It is averred that as per notification published on 22.05.2013, she appeared for the examination held during August 2013 for the post of Secondary Grade Assistants and B.T. Assistants and scored 88 marks in the said examination, whereas the minimum marks prescribed by the respondent Board was 90 marks. At this juncture, she applied for valuation and found that the key answers for seven questions are wrong. It is her case that though she answered correctly for such seven questions, marks were not awarded. That being so, she is eligible for awarding marks for those seven questions. Hence, she submitted her objection to the respondent -Board on 30.08.2013, which has not evoked any response and, therefore, the present petition has been filed for appropriate direction.

3. Learned counsel for the petitioner submits that the claim of the petitioner made in this writ petition for awarding marks is genuine one as she answered correctly for the questions, though the key answers for seven questions are wrong, Hence, he prays that appropriate direction may be issued to consider the claim of the petitioner for appointment as B.T. Assistant (English), by allowing this writ petition.

4. Mr.C.Munusamy, learned Special Government Pleader appearing for the 2<sup>nd</sup> respondent vehemently opposed the contentions made by the learned counsel for the petitioner and the said issue has been decided by this Court already in W.P. No.32401 of 2013. Accordingly, the petitioner is not entitled for any relief and prays for mere dismissal of this writ petition.

5. Heard the learned counsel on both sides and perused the materials available on record.

6. The issue involved herein has been dealt with and

negatived by this Court in W.P. No.32401 of 2013, dated 28.10.2020 and the operative portion of the said order is quoted hereunder for ready reference :-

"4. A perusal of the materials available on record reveal that the selection had taken place in the year 2013. However, no interim order has been granted by this Court reserving any post to be kept vacant. Though it is the submission of the petitioner that the answers given by him is right for which marks has not been awarded, it is to be pointed out that the issue is a technical issue, which has to be gone into by the concerned authorities at the relevant point of time. After a lapse of seven years, when all the posts have been filled up and no post is kept vacant and no interim order has been granted by this Court reserving any post to be kept vacant, at this distant point of time, after a lapse of seven years, it would not be justifiable for this Court to reopen the selection and render a verdict. The expert opinion as to the answers given in the key answer book cannot be substituted with a judicial opinion as it is within the realm of experts to decide on the answers. Trying to undo a particular selection at this distant point of time would not be in the interest of the persons, who had already been appointed and who have been functioning till date.

5. In such view of the matter, this Court is of the considered opinion that the points canvassed by the petitioner at this length of time cannot be gone into and, accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed".

7. As the issue on hand is squarely covered by the decision of this Court stated supra, this Court is not inclined to issue favourable orders to the petitioner at this distant point of time. Therefore, the claim of the petitioner for appointment of the post of B.T Assistant is rejected in the light of the observations made in W.P. No.32401 of 2013 due to laches. Accordingly, the writ petition stands dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

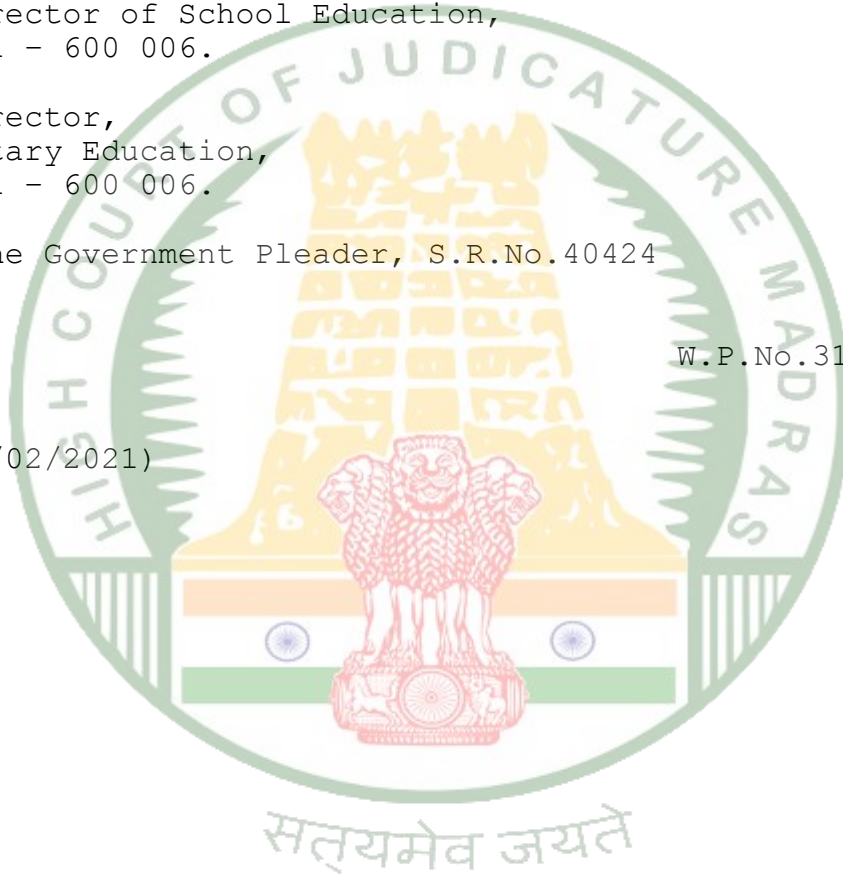
To

1. The Secretary to Government,  
State of Tamil Nadu,  
School Education Department,  
Secretariate, Chennai - 9.
2. The Chairman,  
Teachers Recruitment Board,  
Chennai - 600 006.
3. The Director of School Education,  
Chennai - 600 006.
4. The Director,  
Elementary Education,  
Chennai - 600 006.

+1cc to the Government Pleader, S.R.No.40424

W.P.No.31881 of 2013

sv (co)  
rr ii (03/02/2021)



WEB COPY