

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.3989 of 2014
and
MP No.1 of 2014

N.Suresh Babu

...Petitioner

vs.

1. State of Tamil Nadu,
rep. by its Secretary to Government,
School Education Department,
Secretariat,
Chennai 600 009.
2. The Chairman,
Teachers Recruitment Board,
Chennai 600 006.
3. The Director of School Education,
Chennai 600 006.
4. The Director of Elementary Education,
Chennai 600 006.
5. The Chairman,
University Grants Commission,
New Delhi.
6. The Director,
Institute of Distance Education,
University of Madras,
Chennai 600 005.

...Respondents

(R6 impleaded vide order dated 28.10.2020 in W.M.P.No.23952 of 2017 in W.P.No.3989 of 2014)

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the Respondents to appoint the Petitioner as B.T. Assistant in any one of the Government Schools with all consequential benefits.

For Petitioner : Mr.P.Ganesan
For Respondents 1, 3 & 4 : Mr.S.Suresh Kumar,
Government Advocate
For 2nd Respondent : Mr.C.Munusamy,
Special Government Pleader
For 5th Respondent : Mr.P.R.Gopinathan
For 6th Respondent (impleaded): No appearance

O R D E R

Petitioner has come up with this Writ Petition seeking a direction to the Respondents to appoint him as B.T. Assistant in any one of the Government Schools with all consequential benefits.

2. According to the Petitioner, he passed 10th Standard in 1988; completed B.A. (History) in 1997, M.A. (History) in October 2000 and M.A. (English) in 2009. Thereafter, he appeared for XII standard examination and passed the same in March 2009. In May 2010, he obtained B.Ed. Degree and passed M.Ed. in 2012. He appeared in the Teachers Eligibility Test conducted in 2013 and got through Paper-II meant for the post of B.T. Assistant. When the Petitioner participated in the Certificate verification on 23.01.2014, he was orally informed by the Teachers Recruitment Board that, he has not undergone the study pattern of 10+2+3.

3. It is the case of the Petitioner that, as per the Regulation of the University Grants Commission, Teachers Eligibility Test is one of the prescribed qualifications for admission to three year Degree Course and that, he has passed the Eligibility Test. According to him, when he has passed XII Standard in March 2009 itself, the Government Order in G.O.Ms.No.107, Personnel & Administrative Reforms Department, dated 18.09.2009, directing that, candidates who have acquired qualification in the pattern 10 +2 +3 alone are eligible for appointment, can have only prospective effect and that, it cannot bind him. Hence, it is the case of the Petitioner that, there are no impediments for the Respondents in considering him for appointment to the post of B.T. Assistant.

4. No counter is filed on behalf of the Respondents/Education Department. However, the 5th Respondent/University Grants Commission has filed counter Affidavit, wherein, it is stated that, the issue of appointment of the Petitioner as B.T. Assistant in any of the Government Schools with all consequential benefits is not under the purview of the University Grants Commission.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. Facts in issue are not in dispute. Admittedly, the Petitioner has not passed XII standard in 10+2+3 study pattern. Similar issue was dealt with by a Division Bench of this Court in the case of N.Ramesh vs. Sibi Maden Gabriel reported in (2008) 3 MLJ 255, relevant portion of which, reads thus:

"14. Section 26 of the UGC Act authorises the UGC to make Regulations. In exercise of the power conferred under Section 26(1)(f), Regulations have been framed in 1985. The relevant provisions of such Regulations as amended from time to time are extracted hereunder:-

"2. Admission/Students

(1) No student shall be eligible for admission to the 1st degree course through non-formal/distance education unless he has successfully completed 12 years schooling through an examination conducted by a Board/University. In case there is no previous academic record, he shall be eligible for admission if he has passed an entrance test conducted by the University provided that he is not below the age of 18 years on July 1 of the year of admission."

7. The said judgment was taken upto Supreme Court and the Honourable Supreme Court in the case of Annamalai University v. Information & Tourism Department, (2009) 4 SCC 590, dismissed the Appeals, by holding as under:

"57. Relaxation, in our opinion, furthermore cannot be granted in regard to the basic things necessary for conferment of a degree. When a mandatory provision of a statute has not been complied with by an administrative authority, it would be void. Such a void order cannot be validated by inaction.

58. The only point which survives for our consideration is as to whether the purported post facto approval granted to the appellant University of programmes offered through distance modes is valid. DEC may be an authority under the Act, but its orders ordinarily would only have a prospective effect. It having accepted in its letter dated 5-5-2004 that the appellant University had no jurisdiction to confer such degrees, in our opinion, could not have validated an invalid act. The degrees become invalidated in terms of the provisions of the UGC Act. When mandatory requirements have been violated in terms of the provisions of one Act, an authority under another Act could not have validated the same and that too with a retrospective effect."

8. Though the Petitioner claims to have been admitted in B.Ed. Degree Course after completion of Teachers Eligibility Test, he passed XII only in the year 2009, after completing his Under-graduation and Post-graduation Degrees. When the University Grants Commission has clearly formulated Regulations for eligibility of candidates for the post of B.T. Assistant, this Court cannot interfere with their policy decision and invoke discretionary jurisdiction.

9. Hence, in view of the foregoing discussion and taking into account the ratio laid by the Apex Court in the decision cited supra, this Writ Petition stands dismissed, as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते Assistant Registrar

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Sub Assistant Registrar

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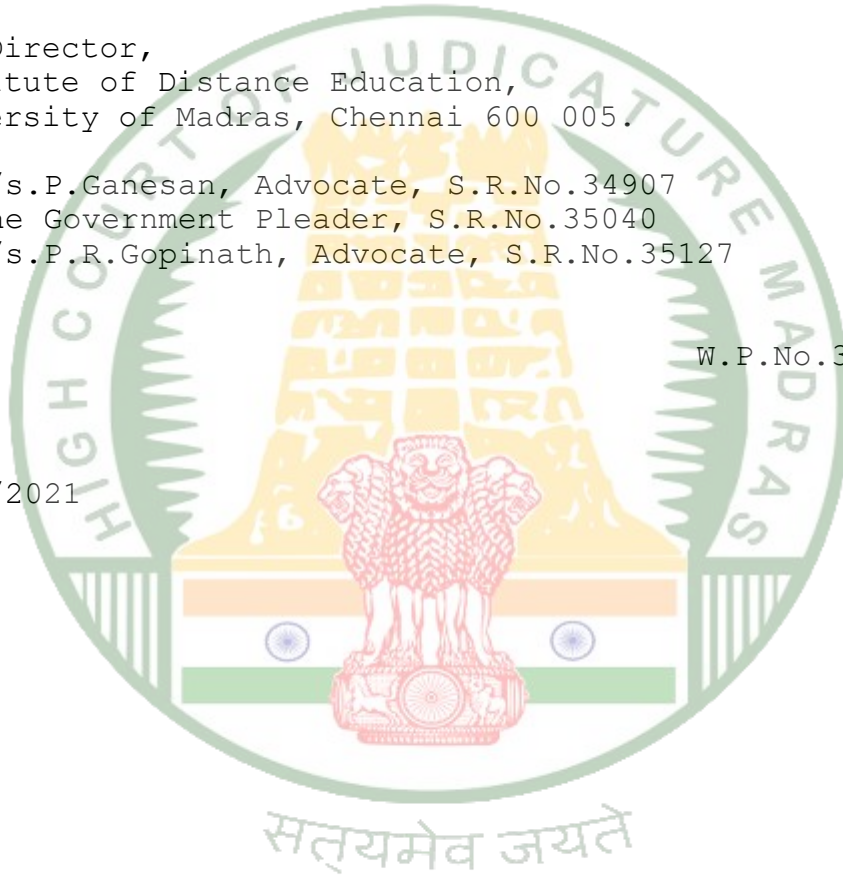
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+1cc to M/s.P.Ganesan, Advocate, S.R.No.34907
+1cc to the Government Pleader, S.R.No.35040
+1cc to M/s.P.R.Gopinath, Advocate, S.R.No.35127

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