

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.19611 of 2014

and

MP Nos.1 and 2 of 2014

K.G.R.Jeyaprakash

... Petitioner

vs.

1.State of Tamil Nadu, ... Respondents

rep. by its Secretary to Government,
School Education Department,
Secretariat,
Chennai 600 009.

2.The Chairman,
Teachers Recruitment Board,
College Road,
Chennai 600 006.

3.The Director of School Education,
College Road,
Chennai 600 006.

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus, to call for the records of the 2nd Respondent in relation to the list of ineligible candidates for the post of **School Assistant** published in the website on 14.07.2014 in the proceedings No.Nil and quash the same insofar as the Petitioner is concerned as illegal, arbitrary and contrary to University Grants Commission Regulation and consequently direct the Respondents to issue order of appointment to the Petitioner for the post of B.T. Assistant (History) in the B.C. (General)/B.C. (Tamil Medium) category.

For Petitioner : Mr.C.Vediappan
for Mr.S.Vijayan

For Respondents 1 & 3 : Mr.S.Suresh Kumar,
Government Advocate

For 2nd Respondent : Mr.C.Munusamy,
Special Government Pleader

ORDER

Petitioner has come up with this Writ Petition seeking to quash the list of ineligible candidates for the post of **School Assistant** published by the 2nd Respondent in the website on 14.07.2014, insofar as he is concerned, as it is arbitrary and contrary to the Regulations of the University Grants Commission and for a consequential direction to the Respondents to issue order of appointment to him for the post of B.T. Assistant (History) in B.C. (General)/B.C. (Tamil Medium) category.

2. According to the Petitioner, he passed S.S.L.C. in October 1984. Though, he appeared for Higher Secondary Examination in April 1985 and October 1985, he could get through only two subjects. Thereafter, he joined B.A. (History) in the Open University Scheme in 1986 in the University of Madras. Before joining B.A. (History) course, the Petitioner underwent preparatory programme for Foundation Course and passed in the Entrance Test conducted by the Institute of Distance Education, University of Madras and passed B.A. (History) Degree in October 1990. Thereafter, he pursued B.Ed. Course in Tamil Medium and passed the same in March 1994.

3. It is the case of the Petitioner that, he is fully qualified to be appointed as B.T. Assistant (History) and hence, he applied for Tamil Nadu Teacher Eligibility Test (TNTET) 2013 for the post of Secondary Grade Assistant and B.T. Assistant and appeared in the Test, which was conducted on 18.08.2013 and secured 90 out of 150 marks. Later, the Petitioner appeared for Certificate verification on 24.01.2014. On seeing the selection list published in the website, the Petitioner came to know that, he was not selected for the post of School Assistant, as has not undergone education in the study pattern of 10+2+3+1, i.e. he has not completed Higher Secondary Education. Challenging the said selection list, the Petitioner has come up with the present Writ Petition.

4. Learned counsel for the Petitioner submitted that, passing out Higher Secondary Examination is not the only requisite qualification for admission to a Three year Degree course as per the Regulation of the University Grants Commission and that, Entrance Test is also one of the qualifications for admission to a Three year Degree Course. According to the learned counsel, as the Petitioner has cleared the Entrance Test for admission to B.A. (History) Degree course, and that, when he has obtained a Degree, which is valid as per the Regulation of the University Grants Commission, there is no impediment for the Respondents in appointing him to the post of BT Assistant.

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 passed B.A. (History) without passing XII standard, thereby, he has not passed Degree 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. It 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. 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. Hence, in view of the foregoing discussion and taking into account the ratio laid by the Apex Court in the decision cited supra, the Petitioner is not entitled to the relief sought in this Writ Petition, as he has not passed XII Standard.

In fine, this Writ Petition stands dismissed, as devoid of merits. No costs. Consequently, connected miscellaneous petitions are closed.

-Sd/-

Assistant Registrar (CS)

// True Copy //

Sub Assistant Registrar

(vsi2/aeb)

To:

1.State of Tamil Nadu,
rep. by its Secretary to Government,
School Education Department,
Secretariat,
Chennai 600 009.

2.The Chairman,
Teachers Recruitment Board,
College Road,
Chennai 600 006.

3.The Director of School Education,
College Road,
Chennai 600 006.

+1 C.C. to MR.P.GANESAN AND S.VIJAYAN Advocate SR.NO.37897

+1 C.C. to THE GOVERNMENT PLEADER SR.NO.38218

W.P.No.19611 of 2014
and MP Nos.1 and 2 of 2014

PVS (CO)
UM (15.12.2020)



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