

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, THE CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.NO.34932 OF 2019
AND

W.M.P.NOS.35716 AND 35717 OF 2019

Dr.R.Shankar Shanmugham

.. Petitioner

-vs-

1. The State of Tamil Nadu,
rep. by the Secretary to Govt.,
Health and Family Welfare Dept.,
Secretariat, Chennai-9.
2. The State of Tamil Nadu,
rep. by the Secretary to Govt.,
Personnel and Administrative Reforms Dept.,
Secretariat, Chennai-9.
3. The Director of Medical Education,
Poonamallee High Road, Kilpauk,
Chennai-10.
4. The Secretary,
Indian Nursing Council,
8th Floor NBCC Centre,
Plot No.2, Community Centre,
Okhla Phase-I, New Delhi 110 020.
5. The Registrar,
Tamil Nadu Nurses and Midwives
Council, Santhome High Road,
Chennai-4.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records of the 1st respondent in connection with the impugned adhoc Rules passed by him in G.O. (Ms.) No.285, Health and Family Welfare (AA2) Department, dated 04.09.2008 published

in Gazette on 15.10.2008, subsequent amendment issued in G.O. Ms.No.113, Health and Family Welfare (AA2) Department, dated 19.04.2017, published in Gazette on 10.05.2017 and to quash the same and further direct the respondents to fix the qualifications in accordance with the Indian Nursing Council norms.

For Petitioner : Mr.Ali Hassan Khan
for Mr.G.Ilamurugu

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

Heard learned counsel for the petitioner.

2.The petitioner is apprehensive of the fact that respondents will proceed to make an appointment on the post of Principal to the Government Colleges of Nursing without adhering to the qualifications which are essential and without giving benefit of the preferential qualifications. The contention in the writ petition appears to be that the qualifications which have been prescribed are not in conformity with the Indian Nursing Council Regulations read with Tamil Nadu Nurses and Midwives Council Regulations and that appointments are going to be made from amongst the Readers whose names find place in the Civil Nursing List in accordance with seniority.

3.The apprehension is that the seniority might have a overriding effect without taking notice of the preferential qualification of Ph.D., which is also prescribed in the Regulations of the Indian Nursing Council. Learned counsel submits that the Rules are silent and therefore, any process of appointment on the post of Principal without adhering to such Rules would be in violation of the Regulations of the Council which are binding in respect of such posts.

4.Learned counsel has further invited the attention of the Court to the qualifications prescribed and the impugned amendment dated 19.04.2017 whereby the source of recruitment for appointment has been described as "from the category of Reader in Nursing as per the Civil Nursing list seniority".

5.Having considered the submissions raised, we also made an enquiry from the learned counsel as to when such appointments are scheduled to take place, of which the information tendered is that there are two posts of Principal which are lying vacant and they are likely to be filled up. But, we do not find any such advertisements on record or any such material brought forth

by the petitioner to demonstrate that the respondents have proceeded with the selections and appointments on the post in question.

6. In the background aforesaid, the apprehensions expressed by the petitioner at this stage do not deserve to be entertained and it shall be open to the petitioner to approach the State Government for redressal of such grievance in the event any such advertisement is being issued or likely to be issued bereft of the Rules and Regulations that are applicable in respect of the eligibility conditions prescribed for the post of Principal of Government Nursing School.

7. The petitioner, if he is so advised, can approach the appropriate forum for challenging any such action in the event it is established that the process adopted on selection and appointment to the post of Principal is otherwise not in conformity with the Rules.

8. We are, therefore, not inclined to entertain this petition, without prejudice to the rights of the petitioner to approach the appropriate forum including the State Government in this regard.

The Writ Petition is consigned to records with the aforesaid observation. There shall be no order as to costs. Consequently, W.M.P.Nos.35716 and 35717 of 2019 are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sra

To

1. The Secretary to Govt. of Tamil Nadu,
Health and Family Welfare Dept.,
Secretariat, Chennai-9.
2. The Secretary to Govt. of Tamil Nadu,
Personnel and Administrative Reforms Dept.,
Secretariat, Chennai-9.
3. The Director of Medical Education,
Poonamallee High Road, Kilpauk, Chennai-10.

4. The Secretary,
Indian Nursing Council, 8th Floor NBCC Centre,
Plot No.2, Community Centre, Okhla Phase-I,
New Delhi 110 020.

5. The Registrar,
Tamil Nadu Nurses and Midwives
Council, Santhome High Road, Chennai-4.

+1cc to Mr.G.Ilamurugu, Advocate, S.R.No.766
+1cc to the Government Pleader, S.R.No.443

W.P.No.34932 of 2019

RK(CO)
CS/31/01/2020



WEB COPY