



WEB COPY

W.P(MD)No.1765 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.03.2020
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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.1765 of 2020

and

WMP(MD)Nos.1485, 1487 and 1488 of 2020

T.Mohamad Rafik

...Petitioner

vs.

1)The Secretary,
Tamil Nadu Public Service Commission,
O/o. the Tamil Nadu Public Service Commission,
Greems Road,
Chennai-600006.

2)The Joint Secretary,
Tamil Nadu Public Service Commission,
O/o. the Tamil Nadu Public Service Commission,
Greems Road,
Chennai-600006.

3)The Member Secretary,
Tamil Nadu Public Service Commission,
O/o. the Tamil Nadu Public Service Commission,
Greems Road,
Chennai-600006.

4)The Controller of the Examination,
Tamil Nadu Public Service Commission,
O/o. the Tamil Nadu Public Service Commission,
Greems Road,
Chennai-600006.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings No.Nil dated 10-01-2020 issued by the 1st respondent (Published in the Official website of the TNPSC) and quash the same as illegal and consequentially to direct the respondents to treat the petitioner as a candidate belonging to the Backward class(Muslim) Community and consequently to consider the petitioner for the appointment to the post of village Administrative Officer or Junior Assistant under BC (M) category within the period that may be stipulated by this Hon'ble Court.

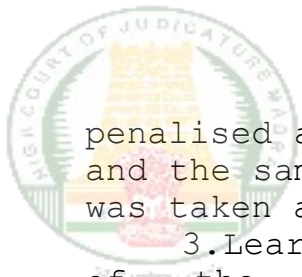
For Petitioner : Mr.Mohamed Ibrahim
For Respondents : Mr.D.Sivaraman



ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings No.Nil dated 10-01-2020 issued by the 1st respondent (Published in the Official website of the TNPSC) and quash the same as illegal and consequently to direct the respondents to treat the petitioner as a candidate belonging to the Backward class(Muslim) Community and consequently to consider the petitioner for appointment to the post of Village Administrative Officer or Junior Assistant under BC(Muslim) category within the period that may be stipulated by this Court.

2.The petitioner would submit that he belonged to Hindu Schedule Caste Community. His name was Ambethkar at that point of time. Having good faith in Islam, he got converted with his family to Islam as Labbai Muslim on 30.04.2013 and changed his name to T.Mohamad Rafik in the Government Gazette. He was also issued with community certificate bearing No.FA9D698A6A687B86 dated 09.11.2015 by the competent authority namely, Zonal Deputy Tahsildar, as Muslim Labbai certifying that he belongs to Backward Class (Muslim) and the same was also officially notified and the said community certificate is still in force. While so, the 1st respondent published a Notification/Advertisement No.19/2019 dated 14.06.2019, by which, applications were invited through online mode from the eligible candidates for direct recruitment for the post of Combined Civil Services Examination -IV(Group-IV) for the year 2018-2019 and 2019-2020. The educational qualification prescribed for recruitment to the post of Village Administrative Officer is that a candidate should possess minimum general educational qualification viz., must have passed SSLC in Public Examination or its equivalent with eligibility for admission to higher secondary course of studies or to college course of studies. As the petitioner had completed 12th Standard from SKV Higher Secondary School, Peraiyur Taluk, Madurai District, he is qualified for appointment to the post of Village Administrative Officer and the petitioner applied for the above post under B.C(Muslim) category to the 2nd respondent through online mode and the petitioner was issued with a Hall Ticket for the written examination scheduled to be held on 01.09.2019. The petitioner secured 250.5 marks in the written examination and the communal rank was 62 in BC(Muslim) category. The petitioner uploaded his certificates in the official website of the TNPSC. But, to his shock and surprise, the 1st respondent vide impugned proceedings No.Nil dated 10.01.2020 published in the official website of the TNPSC, has informed that applicants belonging to the Scheduled Castes, Backward Classes, Most Backward Classes and De-notified Communities on conversion to Islam shall be treated as 'others'. According to the petitioner, if his community is treated as 'others', he will not be selected. The petitioner is socially oppressed person and suffered with stigma and due to social oppression, converted into other religion for which, he cannot be



penalised and therefore, he preferred a representation on 14.01.2020 and the same was also acknowledged by the respondents, but no action was taken and therefore the petitioner is before this Court.

3.Learned counsel for the respondents would state that in view of the Government Letter No.587/Pi.Na.Ci.Pi/2019-1, dated 17.05.2019, the petitioner is not entitled to the relief.

4.Heard the learned counsel for the petitioner as well as the respondents.

5.The issue involved in this writ petition has already been decided by this Court, wherein, this Court in similar circumstances has held as follows:-

''7.There is no serious dispute with regard to the facts of the case and therefore, there is no requirement to again reiterate the facts. This Court therefore, will directly go into the issue that is raised in the present Writ Petition. The issue that has been raised is as to whether the petitioner, who was originally a Hindu and belonged to a backward class community and after marriage got herself converted into Islam and also got a Community Certificate issued by a Competent Authority by showing her as belonging to backward class Muslim, can be brought in under the category of ?Others? by virtue of the Government letter dated 04.05.2017 ?

8.It is important to note that the Government letter deals with a situation where a person who belongs to a BC or MBC community latter gets himself or herself converted to Islam. Such persons are directed to be brought within the category of ?Others?. This Government letter could have been in evoked against the petitioner, if the petitioner had not received any Community Certificate after her conversion to Islam. However, in the present case, the earlier Community Certificate issued to the petitioner was cancelled and a fresh Community Certificate has been given to the petitioner by the Competent Authority by showing her as a backward class Muslim. In the light of this Community Certificate, the petitioner cannot be brought under the category of ?Others?. The Government letter that was referred by the learned Standing Counsel appearing for the respondent cannot be put against the petitioner.

9.It is at this juncture, this Court has to take note of the judgment that was cited by the learned counsel for the petitioner. This Court under similar circumstances had held that a Hindu Nadar, who belongs to the backward class community, on conversion to Islam becomes a Labbai Muslim, should be considered as a backward Muslim. This Court had therefore directed the respondent to treat the petitioner therein as a backward community Muslim. In the



present case, the petitioner is in a better footing, since she has also been granted Community Certificate to the effect that she is a backward community Muslim.

10. In view of the above discussion, this Court is of the considered view that the results of the petitioner ought not to have been withheld and the respondent should have published the result of the petitioner and should have called the petitioner for the written and oral test and proceeded further with the selection. Therefore, the impugned communication of the respondent dated 13.02.2019, is hereby quashed and the respondent is directed to publish the result of the petitioner and consider the candidature of the petitioner, if there is any vacancy.''

6. In my considered opinion, the above decision is squarely applicable to the present case. Here also, the petitioner has been issued with the community certificate by the competent authority and therefore, he is entitled for selection under BC(Muslim) category and the community certificate has not been cancelled till date and therefore, the petitioner is entitled for consideration of his candidature under B.C(Muslim) category.

7. Therefore, the impugned proceedings No.Nil dated 10-01-2020 issued by the 1st respondent is quashed and the respondents are directed to treat the petitioner as a candidate belonging to the Backward Class(Muslim) Community and consider him for appointment to the post of Village Administrative Officer or Junior Assistant under BC(Muslim) category. Such exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (ADII)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

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+1 CC to M/s.D.SIVARAMAN, Advocate (SR-11380[F] dated 12/03/2020)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-11498[F] dated 13/03/2020)

W.P(MD)No.1765 of 2020

DATED : 12.03.2020

KB(18.08.2020) 5P 7C