



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2020

CORAM:

**THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
AND**

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.A(MD)No.226 of 2019

M.P.Murugananthan

... Appellant / Writ Petitioner

Vs.

1.The Teacher Recruitment Board,
College Road,
Chennai - 600 006,
Rep. by its Chairman.

2.P.Kumar

3.K.Kesaven

4.R.M.Cinthan

5.T.Tamil Selvan

... Respondents / Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 04.12.2018 made in W.P(MD)No.21845 of 2018 on the file of this Court.

Prayer in WP(MD). 21845/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus calling for the records relating to the impugned tentative provisional selection list published by the 1st respondent dated 13/08/2018 and quash the same as illegal insofar as it relates to petitioner's non-inclusion is concerned and consequently direct the 1st respondent to select me for the post of drawing teacher.

For Appellant

: Mr.M.E.Elango

For R - 1

: Mr.VR.Shanmuganthan,
Special Government Pleader.



JUDGMENT

(Judgment of the Court was delivered by
M. DURAISWAMY, J.)

Challenging the order passed by the learned Single Judge dated 04.12.2018 made in W.P(MD)No.21845 of 2018, the appellant / Writ Petitioner has filed the above Writ Appeal.

2.The appellant / writ petitioner filed the Writ Petition to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned tentative provisional selection list published by the first respondent dated 13.08.2018 and to quash the same and consequently directing the first respondent to select the petitioner for the post of drawing teacher.

3.According to the writ petitioner, he belonged to Scheduled Caste community and had studied in Tamil medium. He has completed SSLC, HSC and obtained Technical Education Higher Grade (Free Hand Outline and Model Drawing). Further, according to the petitioner, he is a Technical Teachers Certificate holder in Drawing. Besides holder of Bachelor of Fine Arts (BFA) degree, B.Lit (Tamil), M.A. (Tamil) and Tamil Pandit Training and now pursuing Ph.D.(Tamil). When the Government called for application for the post of Technical Teacher (Drawing) in the year 2010, the petitioner's name was not considered. The petitioner filed a Writ Petition in W.P.No.29903 of 2010 before the Principal Bench of this Court to consider his candidature under the priority quota. This Court by order dated 28.11.2017 dismissed the Writ Petition recording that the name of the petitioner will be considered in future if he found fit in the selection list. In these circumstances, the first respondent invited application to fill up the posts of Special Teacher (Physical Education, Drawing, Music, Sewing) vide notification dated 26.07.2017. Since the petitioner studied all his courses in Tamil medium, he is entitled to be considered under the PSTM priority quota, besides communal reservation. Further, in the written examination he secured 57 marks and he was called for certificate verification on 09.08.2018. Though he has furnished all the required certificates, his name was not included in the Tentative Provisional Selection List published by the first respondent on 13.08.2018. His Employment Exchange seniority is taken into account and weightage of 5 marks is added, his aggregate mark will be 62. Since the petitioner's date of birth is 01.01.1974, he should be placed above the respondents 2 to 5, who are younger to him in age and also secured less marks than him. In such circumstances, the petitioner has filed the Writ Petition.

4.The learned Single Judge by order dated 04.12.2018 dismissed the Writ Petition. Challenging the same, the writ petitioner has filed the above Writ Appeal.



5.The learned counsel appearing for the appellant / writ petitioner submitted that the Division Bench of this Court in W.A (MD)No.1146 of 2019 dated 06.11.2019 (Vadivukarasi Vs. The Member Secretary and others), in similar circumstances, allowed the Writ Appeal and directed the respondents therein to implement the directions issued in W.P(MD)No.28458 of 2018 etc., batch dated 12.03.2019 in the case of the appellant therein also.

6.Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the first respondent also fairly submitted that the impugned order passed by the learned Single Judge in W.P(MD)No.21845 of 2018 may be set aside and the Writ Appeal may be allowed and the first respondent may be directed to implement the directions issued in W.P(MD)No.28458 of 2018 etc., batch dated 12.03.2019.

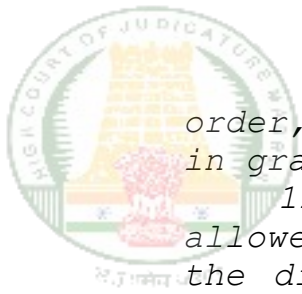
7.In the unreported Judgment dated 06.11.2019 made in W.A(MD) No.1146 of 2019 (Vadivukarasi Vs. The Member Secretary and others), the Division Bench of this Court held as follows:

"8.Considering the said submission made by the first respondent Board, the writ petition was dismissed on the ground that the appellant cannot be considered under the category reserved for the people who have studied in Tamil Medium as she did not produce the requisite certificate in the requisite format when applications were called for to fill up the said posts.

9.The issue as to whether there was a possibility of issuing such certificate was considered in a batch of cases by the Principal Bench in W.P.Nos.28458 of 2018 etc., batch. When the writ petitions were heard by the learned Single Judge, the learned Additional Advocate General appearing for the first respondent Board had stated that no such certificate was issued by the Director of Government Examinations as they were unable to issue such certificate for want of records. Taking note of these submissions and other submissions made before the Court, the writ petitions were allowed by common order dated 12.03.2019.

10.It is informed by the learned Special Government Pleader that the order and directions issued in the batch of cases vide order dated 12.03.2019 have been implemented.

11.We find that the appellant is also similarly placed person. Though the arguments advanced by the appellant before the learned Writ Court in the writ petition was slightly different from the arguments advanced in the batch of cases before the Principal Bench, considering the fact that the similarly placed persons have been granted the relief by the learned writ Court, vide order dated 12.03.2019 and is perfectly in



order, we find no ground to discriminate the appellant in granting such a relief.

12. For the above said reason, the writ appeal is allowed and the respondents are directed to implement the directions issued in W.P(MD)No.28458 of 2018 etc., batch dated 12.03.2019 in the case of the appellant as well. No Costs. Consequently, connected Miscellaneous are closed."

8. From a reading of the Judgment of the Division Bench of this Court, which is referred above, since the issue involved in the present Writ Appeal is identical to the facts and circumstances of the case referred above, the order passed by the learned Single Judge in W.P(MD)No.21845 of 2018 is liable to be set aside and accordingly, the same is set aside. Consequently, the Writ Appeal is allowed and the first respondent is directed to implement the directions issued in W.P(MD)No.28458 of 2018 etc., batch dated 12.03.2019 in the case of the appellant as well. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ps

To

The Chairman,
The Teacher Recruitment Board,
College Road,
Chennai - 600 006.

+1 CC to Mr.M.E.HEROLD SINGH, Advocate(SR-5303[F] dated 07/02/2020)

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