



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2021

Coram

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

W.A.No.2041 of 2021
and
CMP.No.13007 of 2021

The Teachers Recruitment Board,
Rep.by its Member Secretary
4th floor, EVK Sampath Maligai,
DPI Compound Nungambakkam,
Chennai.

... Appellant/Respondent

vs.

A.Subramanian

... Respondent/Petitioner

Writ Appeal is filed under clause 15 of the Letter Patent against the order of the learned single Judge dated 10.04.2019 made in W.P.No.18989 of 2011.

Prayer in W.P.No.18989 of 2011: Petition filed under Article 226 of Constitution of India to issue a writ of certiorarified mandamus or any other appropriate writ or order or direction to call for the records relating to the order of the respondent in proceeding RC.No.552/B5/2011 dated 12.07.2011 and quash the same and consequently direct the respondent to appoint the petitioner in the existing vacancies after certification verification for the post of Block Resource Teacher Educators for Block Resource Centers in 32 districts under SSA Scheme.

For Appellant : Mr.K.V.Sajeev Kumar,
Government Advocate

For Respondent : Mr.A.S.Palanisamy for R1

JUDGMENT

(Judgment of the Court was made by S.VAIDYANATHAN, J.)

Instant Writ Appeal is directed against the order dated 10.04.2019 made in W.P.No.18989 of 2011.



2. The candidature of the Writ Petitioner was rejected on the ground that the Writ Petitioner did not evince any interest to participate in the certificate verification and thereby given up the right of participating in the said certificate verification, therefore he is not entitled to the relief sought for in the Writ Petition.

3. The main grievance of the Writ Petitioner was that the Writ Petitioner could not attend the certificate verification as the communication from the Appellant did not reach the Writ Petitioner and that the same was handed over to the person in the next door and after the period was over, the said communication was handed over to the Writ Petitioner which made the Writ Petitioner in not taking part in the certificate verification. The learned Single Judge, taking note of the plea of the parties came to the conclusion that there is no fault on the part of the writ petitioner. It is true that there is no fault on part of the appellant herein also. It is the Postal Department, which is the culprit in not handing over the communication to the concerned person namely, the Writ Petitioner.

4. It is brought to the attention of this Court by the learned counsel appearing for the Appellant that the provisional list of candidates selected for appointment will be published in the Notice Board of TRB and the website of TRB. The publication of results also will be announced through Press/Media. Intimation to the provisionally selected candidates will also be sent by post.

5. It may be true that the Writ Petitioner would not have seen the website, but it does not mean that non scrutiny of the results in the website should be a bar to deprive a candidate, who may be a meritorious person, to throw his candidature out, on the sole ground that the said person did not participate in the certificate verification, on the fault of the Postal Department in not handing over the communication. Even going by the plea of the Appellant in the Writ Petition, it is clear that the communication has been sent only by certificate of posting. It is no doubt that in the technical advancement, a candidate must verify the website, but when more than one intimation is available to the candidate and that there is a specific mentioning that the candidate will be provisionally intimated by post, the present case needs to be considered on humanitarian grounds, as the candidate admittedly had not received the communication from the Postal Authorities and that the Postal Authorities wrongly delivered the communication to the next door.

6. The learned Single Judge has rightly held that it is



purely a mistake on the part of Postal Department for not having delivered the communication in time to the Writ Petitioner, because of that, the Writ Petitioner was prevented from attending the certificate verification.

WEB COPY

7. Hence, we find that there is no reason to interfere with the order of the Learned Single Judge and that the Writ Petitioner is hardly 45 years as on today, and if the petitioner is asked to participate afresh, he will be over aged. Hence, as a special case, as observed by the Learned Single Judge, the case of the Writ Petitioner needs to be considered.

8. Before parting with this order, we make it very clear that there is no need to mention that the candidate will be intimated by post, when they are going to fill up the application through online and after this pandemic almost every thing is in online. In case, the Government is going to retain the system of communication through by post, the same will have to be sent only by Speed Post or Registered post and not by Ordinary Post, as in the present date, even the certificate of posting is no longer there.

9. Mr.Sanjay Kumar, learned Government Advocate also brought to the attention of this Court to the proceedings dated 12.07.2011 of the Member Secretary, Teachers Recruitment Board, Chennai and the relevant paragraphs are extracted below:-

" In his representation dated 29.11.2010. the petitioner Thiru. A. Subramanian has stated that he could not attend certificate verification due to late delivery of the certificate verification letter by the postal authorities. This could not be accepted. As far as Teachers Recruitment Board is concerned, that for the convenience of the candidates, it is publishing every stage of the recruitment process in the website of the Teachers Recruitment Board. Likewise, the list of provisionally selected candidates called for certificate verification on 11.10.2010 for the post of Block Resource Teacher Educators was also posted in the website of the Teachers Recruitment Board. The Board also permit the candidates who do not receive the call letter to download the printout copy of the details of roll number, subject to which selected, certificate verification date and venue of the certificate verification etc. from the website of the Teachers Recruitment Board and attend certificate verification. As such the petitioner could have taken a printout from the website and attended the certificate verification on the fixed date. But he did not do so. Further candidates absented on the date of certificate



WEB COPY

verification are not permitted to attend certificate verification on alternative day. After conducting certificate verification on 11.10.2010, the Board finalized the selection process and published the list of provisionally selected candidates on 14.10.2010. At present no vacancy is available in the Block Resource Teacher Educator for the subject Zoology"

10. As long as more than one method of communication is available for intimation to the candidate, merely because the candidate has not seen the website cannot be a ground to prevent him from associating with the certificate verification, as stated by us earlier. The Government shall not lose a meritorious candidate, on technicalities.

11. With the above observation writ appeal is dismissed. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

dpq

To

The Member Secretary,
The Teachers Recruitment Board,
4th floor, EVK Sampath Maligai,
DPI Compound Nungambakkam,
Chennai.

W.A.No.2041 of 2021
and
CMP.No.13007 of 2021

MG (CO)
SU (29/11/2021)