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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.18628 of 2009

H.Premraj

...Petitioner

Vs

1. The Secretary to Government,  
Department of Higher Education,  
Fort St. George,  
Chennai-600 009.

2. The Director of Collegiate Education,  
E.V.K.Sampath Maligai, College Road,  
Chennai 600 006.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records relating to G.O.Ms.No.91 dated 03.04.2009, quash Clause 2 and 3 in so far as the M.Phil.,/Ph.D., degrees obtained before 2007-2008.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.C.Selvaraj  
Government Advocate

O R D E R

Heard Mr.R.Subramanian, learned counsel for the petitioner and Mr.C.Selvaraj, learned Government Advocate for the respondents.

2.The petitioner has challenged G.O.Ms.No.91 (Higher Education Department) dated 03.04.2009 specifically Clauses-2 and 3 thereof, reading as follows:



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## ABSTRACT

Higher Education - M.Phil. and Ph.D. degrees obtained through correspondence / Distance Education / Open University System declared as ineligible for appointment - Orders - Issued.

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Higher Education (K2) Department  
G.O. (Ms.) No.91  
Dated: 3.4.2009  
Panguni-21  
Thiruvalluvar Aandu-2040  
Read:

Letter (Ms) No.268, Higher Education (K2 Department, dated 29.8.2006.

.....

### ORDER:

During the meeting of the Vice-Chancellors of Universities under the aegis of Higher Education Department held on 21.6.2006 under the Chairmanship of Hon'ble Minister for Higher Education, the Vice-Chancellors have informed that no Ph.D. programme is available in Distance Education. Since the UGC has done away with acquiring of SLET / NET qualification for Ph.D and M.Phil candidates, it has become essential to improve the quality of M.Phil/ Ph.D. course. To strengthen this, it was suggested that from the academic year 2007-2008 onwards, M.Phil / Ph.D. programme may not be offered through Distance Education and the same will be offered only in regular courses.

2. Based on the decision taken in the meeting, the Government in Letter (Ms) read above, directed all the Universities under the aegis of Higher Education Department that M.Phil/ Ph.D. courses should not be offered through distance education from the academic year 2007-2008 and they should be offered only in the regular stream.

3. The Government have now examined the matter in detail and hereby declare that the M.Phil and Ph.D. degrees obtained through the Correspondence / Distance Education / Open University System are ineligible for Government appointments and appointment as Lecturers in Colleges / Universities including self-financing colleges.

(BY ORDER OF THE GOVERNOR)

K.GANESAN

Principal Secretary to Government.'



3.The sole argument adduced is to the effect that the Government Order should operate prospectively and should not adversely impact those candidates who have obtained their degrees prior to the date of the Government Order.

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4.Learned counsel for the petitioner would draw my attention to a clarification that has been issued by the respondents subsequent to the aforesaid G.O. under communication in No.8609A/F2/2014-1 dated 13.06.2014 to the effect that the operation of G.O. was only prospective. This G.O. has also been referred to in a decision rendered by the Second Bench of this Court in the case of C.Senthil Vs. The Secretary, Tamil Nadu Public Service Commission, Chennai-600 006 and others (W.A.No.1406 of 2016 order dated 03.01.2018), confirming the aforesaid position at paragraph-15 reading as follows:

'15.Further it is seen that by issue of G.O.Ms.No.91 (Higher Education Department) dated 03.04.2009, the Government declared that the M.Phil and Ph.D degrees obtained through the Correspondence / Distant Education / Open University System are ineligible for Government appointments and appointment as lecturers in Colleges/ Universities including self financing colleges. Further, the Government of Tamil Nadu has issued a clarification by letter No.8609A/F2/2014-1 dated 13.06.2014 to the Chairman, Teachers Recruitment Board, in which it is stated that the orders issued in G.O.Ms.No.91 stating that the M.Phil and Ph.D degrees obtained through correspondence / Open University System are ineligible for Government Appointments and appointment of Lecturers in colleges/ Universities including self financing colleges, will be only prospective effect, i.e., from the date of issue of the Government Order.'

5. In light of the aforesaid, the case of the petitioner is liable to be accepted and Clauses-2 and 3 of G.O.Ms.No.91 dated 03.04.2009 shall operate prospectively. This writ petition is allowed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vs



To

1. The Secretary to Government,  
Department of Higher Education,  
Fort St. George,  
Chennai-600 009.

2. The Director of Collegiate Education,  
E.V.K.Sampath Maligai, College Road,  
Chennai 600 006.

+lcc to Mr.R.Subramanian, Advocate Sr No.44021

+lcc to Government Pleader Sr No.44615

W.P.No.18628 of 2009

PCH (CO)  
PR (27/09/2021)