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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2021

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.17500 of 2019

1. M.Harikrishnan

2. P.Vigneshwaran

.. Petitioners

Vs.

1. The State of Tamil Nadu
rep. by its Principal Secretary to Government
Personnel and Administrative Reforms Department
Secretariat, Fort St.George
Chennai-9.

2. The State of Tamil Nadu
rep. by its Principal Secretary to Government
Animal Husbandry, Dairying and Fisheries Department
Secretariat, Fort St.George
Chennai-9.

3. The Secretary
Tamil Nadu Public Service Commission
TNPSC Road, VOC Nagar
Park Town, Chennai-3.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned Government Order in G.O.Ms.No. 141 Animal Husbandry, Dairying and Fisheries (FS2) Department dated 19.07.2018 issued by the 2nd respondent, quash the same in so far as the qualification prescribed for direct recruitment to the post of Inspector of Fisheries is concerned and consequently restore the qualification prescribed for direct recruitment to the post of Inspector of Fisheries as per G.O.Ms.No.225 Forest and Fisheries Department dated 23.02.1985.



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For Petitioners

: Mr.G.Sankaran

For Respondents

Mr.C.Harsha Raj,
Additional Government
Pleader for R1 and R2

Mr.V.Govardhan for
M/s.Karthik Rajan for R3

ORDER

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

The writ petition challenges the notification in G.O.Ms.No.141, Animal Husbandry, Dairying and Fisheries (FS2) Department, dated 19.07.2018 issued by the second respondent, amending the qualification for the post of Inspector of Fisheries in the Special Rules for Tamil Nadu Fisheries Subordinate Service.

2. Learned counsel for the petitioners has referred Annexure appended to Rules to show post of Inspector of Fisheries was filled originally by way of direct recruitment from and amongst the candidates possessing the qualification given in the unamended Rules, with a proviso to give first preference to the candidates possessing Bachelor of Fisheries Science (B.F.Sc.) Degree from Tamil Nadu Agricultural University or its equivalent and if sufficient number of such candidates are not available, the candidates possessing other qualifications shall be considered. By the amendment in the Rules, the preference to the qualification of B.F.Sc. Degree has been taken away.

3. The challenge to the amendment has been made alleging violation of Articles 14 and 16 of the Constitution of India. According to learned counsel for the petitioners, preference to the candidates holding the degree of Bachelor of Fisheries Science Degree was given based on intelligible differentia. Thus, it could not have been withdrawn by way of an amendment.

4. Learned counsel for the petitioners submits that preference to certain qualification would be given when such qualification is higher to other qualification or based on other criteria. The respondents evolved Rules to provide preference to qualification of degree in B.F.Sc. from the Tamil Nadu



Agricultural University or its equivalent degree based on the aforesaid criteria. Therefore, the amendment to the Rules taking away the preference to the candidates in possession of the qualification of the degree of B.F.Sc. from the Tamil Nadu Agricultural University or equivalent degree be set aside, as it is offending Articles 14 and 16 of the Constitution of India.

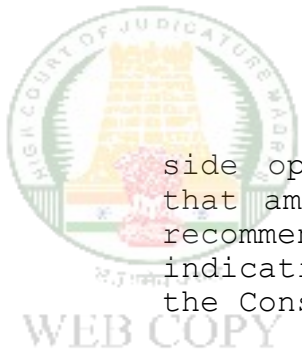
5. To support the argument, learned counsel for the petitioners has made a reference to the judgment of Supreme court in the case of U.P. Power Corporation Ltd. v. Ayodhya Prasad Mishra [(2008) 10 SCC 139]. The issue therein was similar to the issue involved in this petition. The Apex Court held that the classification is permissible if it is based on intelligible differentia and has rational nexus with the object sought to be achieved. In the instant case, classification of the candidates possessing the qualification of B.F.Sc. degree was made on the parameters considered by the Apex Court in the case supra.

6. Learned counsel for the petitioners has made a further reference to the judgment of the Apex Court in Government of A.P. v. P.Dilli Kumar [(1993) 2 SCC 310], wherein, a candidate possessing the qualification of Post Graduate was given preference in the matter of direct recruitment as well as in promotion. The Apex Court did not interfere in the preference given to Post Graduate candidates. Learned counsel submits that applying the dictum of the Apex Court in case supra, the amendment to the notification impugned herein may be set aside.

7. Learned counsel for the petitioners has further made a reference to the judgment of the Apex Court in Binoy Viswam v. Union of India [(2017) 7 SCC 59]. Paragraphs 78 to 80 of that judgment were referred to show under what circumstances a provision can be challenged. The Supreme Court permitted challenge if amendment lacks legislative competence or if it is in contravention of the fundamental rights stipulated in Part III of the Constitution. A reference to paragraph 83 is also given. Therein, referring to the judicial review permitted by the Indian Courts, issue was decided. Learned counsel prays to allow the petition as it falls within the four corners of the permissible review by the High Court.

8. Learned counsel for the petitioners also referred to the judgment of the Apex Court in the case of P.U.Joshi v. Accountant General [(2003) 2 SCC 632] and submitted that the amendment to the Rule withdrawing first preference to the candidate holding B.F.Sc. degree or equivalent qualification to the post of Inspector of Fisheries, by the impugned notification dated 19.07.2018 may be struck down.

9. The writ petition has been seriously contested by the



side opposite. Learned Additional Government Pleader submitted that amendment to the Rule has been made after considering the recommendation made by the Tamil Nadu Public Service Commission indicating violation of equality guaranteed under Article 16 of the Constitution of India in the existing Rule.

10. The Tamil Nadu Public Service Commission found that the candidates getting lesser marks in the selection, are recommended for appointment based on the first preference given to the degree holder of B.F.Sc., thereby sacrificing the merit in the selection.

11. According to learned Additional Government Pleader, a candidate holding degree in B.F.Sc. or equivalent degree gets appointment even if he obtains lesser marks in the selection, thereby merit is sacrificed. It is due to first preference to the candidates having qualification of B.F.Sc. Thus, the State Government considered the recommendation of the Public Service Commission and after finding the recommendation to be just and reasonable, amended the Rules.

12. According to learned Additional Government Pleader, the amendment was made not only for equivalence to the candidates in possession of the required qualification, but to include those, who are having qualification of B.F.Sc. from University other than the Tamil Nadu Agricultural University. The purpose of amendment was to maintain the principle of equality enshrined under Article 16 of the Constitution of India in the public employment. The detailed reasons have been stated in the counter filed by the second respondent.

13. Learned Additional Government Pleader further submits that when the Administration is having the authority to analyse the issue within their competence and make an amendment to the Rules, the same cannot be struck down, unless there is material to show amendment without legislative competence or in violation of fundamental rights guaranteed under Chapter III of the Constitution.

14. In support of his above contention, learned Additional Government Pleader made a reference to the judgment of the Apex Court in Union of India v. S.Maadasamy [(2019) 6 SCC 674], wherein, the Apex Court, relying upon the earlier decision in the case of P.U.Joshi in paragraph 6.5, held in paragraph 6.6. that when a conscious decision was taken while amending Rules by the Government, after considering the pros and cons of the matter, it cannot be struck down. The challenge to the amendment is not for want of legislative competence or violation of fundamental rights.



15. According to the Apex Court, judicial review in such matters is limited. It is to be left to the administration having the authority to determine the required qualification for the post. Therefore, it is the submission of learned Additional Government Pleader that the writ petition has to be dismissed.

16. We have considered the rival submissions of the parties and perused the records.

17. A challenge to Government Order dated 19.07.2018 has been made whereby the qualification to the post of Inspector Fisheries was amended. As learned counsel for the petitioners made a reference to the qualification to the post of Inspector of Fisheries prior to the amendment and subsequent to the amendment, we are reproducing the same for ready reference, as under.

Qualification to the post of Inspector of Fisheries prior to amendment:

Sl. No.	Post (1)	Method of appointment (2)	Qualification (3)	
2.	Inspector of Fisheries	(i) Direct Recruitment	(i)	Must possess a degree of Bachelor of Science (B.F.Sc.) awarded by the Tamil Nadu Agricultural University or its equivalent degree; or
			(ii)	Must possess the Associate Diploma in Fisheries Science of the Central Institute of Fisheries Education, Bombay; or



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Sl. No.	Post (1)	Method of appointment (2)	Qualification (3)
			(ii) Must possess a degree of M.A. or M.Sc. in Zoology or Marine Biology; Provided that, first preference shall be given to the candidates possessing B.F.Sc., degree of Tamil Nadu Agricultural University and only if sufficient number of such candidates are not available, the candidates possessing other qualifications shall be considered.

Qualification to the post of Inspector of Fisheries subsequent to amendment:

(a) For the items (i), (ii) and (iii) and the proviso thereunder in column (3) against the entry "(i) Direct Recruitment" in column (2) and the corresponding entry "2. Inspector of Fisheries" in column (1) thereof, the following entries shall be substituted, namely.-

"Must possess a degree of Bachelor of Fisheries Science awarded by the Tamil Nadu Fisheries University or any other University or Institution recognised by the University Grants Commission

Or

Must possess a degree of M.Sc. in Zoology or Marine Biology or Coastal Aquaculture or Mariculture or Special Zoology or Coastal Engineering or Oceanography awarded by any University Grants Commission".

18. A perusal of the unamended Rules shows several



qualifications for the post of Inspector of Fisheries to be filled by direct recruitment. The qualification therein is not only a degree of Bachelor of Fisheries Science, awarded by the Tamil Nadu Agricultural University or its equivalent degree, but also Associate Diploma in Fisheries Science of the Central Institute of Fisheries Education, Bombay or degree of M.A. or M.Sc. in Zoology or Marine Biology. The proviso to the amended Rule gives first preference to the candidates possessing qualification of B.F.Sc. degree of Tamil Nadu Agricultural University and only if sufficient number of such candidates are not available, the candidates possessing other qualification shall be considered.

19. By virtue of the unamended Rule, en bloc preference was given to a candidate possessing the qualification of B.F.Sc. degree awarded by the Tamil Nadu Agricultural University or its equivalent, ignoring the candidates possessing other qualification. The selection to the post of Inspector of Fisheries by way of direct recruitment is conducted by the Public Service Commission under the unamended Rules. It was realized that the candidates obtaining higher marks in the selection are not appointed, while the candidates having the qualification of B.F.Sc. degree with lesser marks in the selection are appointed on account of the first preference, thereby the merit is sacrificed, offending rule of equality under Article 16 of the Constitution of India.

20. In the light of the above, the State Government considered the recommendation made by the Public Service Commission and found reasons to amend the qualification to take away the preference given to a particular qualification.

21. A challenge to the said amendment has been made mainly on the ground that preference given to a particular qualification was after considering it to be higher qualification and based on the intelligible differentia permissible for that purpose.

22. A reference to the qualification for the post of Assistant Director has been given to show preference to a particular qualification in matter of promotion. In this regard, we would first refer to the judgment cited by learned counsel for the petitioners.

23. In U.P. Power Corporation, relied by learned counsel for the petitioners, the Apex Court has permitted the classification if it is based on intelligible differentia or for object sought to be achieved. In the light of the ratio laid down in paragraph 37 of the said decision, we have examined the matter and find no basis for classification of the qualification



in the present case. The detailed counter to the writ petition filed by the second respondent rather shows violation of Article 16 of the Constitution of India due to preference to the qualification of B.F.Sc.

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24. The other judgment referred to by learned counsel for the petitioners is Government of A.P. v. P.Dilli Kumar supra. In the said case, preference was given to the candidates possessing higher qualification than the required qualification provided under the Rules. The preference was not found violative of Articles 14 and 16 of the Constitution of India being higher qualification. In the instant case, we do not find the qualification possessed by the petitioners to be higher qualification and therefore, the judgment supra would not apply to the present case.

25. The other judgment referred to by learned counsel for the petitioners is Binoy Viswam supra. Paragraphs 78 to 80 of the said judgment are quoted hereunder for ready reference.

"78. With this, we advert to the discussion on the grounds of judicial review that are available to adjudge the validity of a piece of legislation passed by the Legislature. We have already mentioned that a particular law or a provision contained in a statute can be invalidated on two grounds, namely: (i) it is not within the competence of the Legislature which passed the law, and/or (ii) it is in contravention of any of the fundamental rights stipulated in Part III of the Constitution or any other right/provision of the Constitution. These contours of the judicial review are spelled out in the clear terms in case of State of MP Vs. Rakesh Kohli [(2012) 6 SCC 312 : (2012) 3 SCC (Civ) 481], and particularly the following paragraphs:

"16. The statute enacted by Parliament or a State Legislature cannot be declared unconstitutional lightly. The court must be able to hold beyond any iota of doubt that the violation of the constitutional provisions was so glaring that the legislative provision under challenge cannot stand. Sans flagrant violation of the constitutional provisions, the law made by Parliament or a State Legislature is not declared bad.

17. This Court has repeatedly stated that legislative enactment can be struck down by court only on two grounds, namely (i) that the appropriate legislature does not have the



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competence to make the law, and (ii) that it does not (sic) take away or abridge any of the fundamental rights enumerated in Part III of the Constitution or any other constitutional provisions. In State of AP Vs. McDowell and Co. [(1996) 3 SCC 709], while dealing with the challenge to an enactment based on Article 14, this Court stated in para 43 of the Report as follows: (SCC pp. 737-38) :

"43. ... A law made by Parliament or the legislature can be struck down by courts on two grounds and two grounds alone viz. (1) lack of legislative competence, and (2) violation of any of the fundamental rights guaranteed in Part III of the Constitution or of any other constitutional provision. There is no third ground. ... if an enactment is challenged as violative of Article 14, it can be struck down only if it is found that it is violative of the equality clause/equal protection clause enshrined therein. Similarly, if an enactment is challenged as violative of any of the fundamental rights guaranteed by Sub-Clauses (a) to (g) of Article 19(1), it can be struck down only if it is found not saved by any of the Clauses (2) to (6) of Article 19 and so on. No enactment can be struck down by just saying that it is arbitrary or unreasonable. Some or the other constitutional infirmity has to be found before invalidating an Act. An enactment cannot be struck down on the ground that court thinks it unjustified. Parliament and the legislatures, composed as they are of the representatives of the people, are supposed to know and be aware of the needs of the people and what is good and bad for them. The court cannot sit in judgment over their wisdom."

...

26. In Mohd. Hanif Quareshi Vs. State of Bihar [AIR 1958 SC 731], the Constitution Bench further observed that there was always a presumption in favour of constitutionality of an enactment and the burden is upon him, who attacks it, to show that there has been a clear violation of the constitutional principles. It stated in para 15 of the Report as under: (AIR pp. 740-41)

"15. ... The courts, it is accepted, must presume that the legislature understands and



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correctly appreciates the needs of its own people, that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds. It must be borne in mind that the legislature is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest and finally that in order to sustain the presumption of constitutionality the court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation."

27. The above legal position has been reiterated by a Constitution Bench of this Court in Mahant Moti Das v. S.P. Sahi [AIR 1959 SC 942].

28. In Hamdard Dawakhana v. Union of India [AIR 1960 SC 554 : 1960 CrLJ 735], inter alia, while referring to the earlier two decisions, namely, Bengal Immunity Co. Ltd. Vs. State of Bihar [AIR 1955 SC 661] and Mahant Moti Das, it was observed in para 8 of the Report as follows: (Hamdard Dawakhana case, AIR p. 559):

"8. Therefore, when the constitutionality of an enactment is challenged on the ground of violation of any of the Articles in Part III of the Constitution, the ascertainment of its true nature and character becomes necessary i.e. its subject-matter, the area in which it is intended to operate, its purport and intent have to be determined. In order to do so it is legitimate to take into consideration all the factors such as history of the legislation, the purpose thereof, the surrounding circumstances and conditions, the mischief which it intended to suppress, the remedy for the disease which the legislature resolved to cure and the true reason for the remedy..."

In Hamdard Dawakhana, the Court also followed the statement of law in Mahant Moti Das and the two earlier decisions, namely, Charanjit Lal Chowdhury v. Union of India [AIR 1951 SC 41 : 1950 SCR 869] and State of Bombay v. F.N. Balsara [AIR 1951 SC



318 : 1951 (52) CrL.J. 1361] and reiterated the principle that presumption was always in favour of constitutionality of an enactment.

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30. A well-known principle that in the field of taxation, the legislature enjoys a greater latitude for classification, has been noted by this Court in a long line of cases. Some of these decisions are *Steelworth Ltd. v. State of Assam* [1962 Supp. (2) SCR 589]; *Gopal Narain v. State of U.P.* [AIR 1964 SC 370]; *Ganga Sugar Corpn. Ltd. v. State of U.P.* [1980 (1) SCC 223 : 1980 SCC (Tax) 90]; *R.K. Garg v. Union of India* [1981 (4) SCC 675 : 1982 SCC (Tax) 30]; and *State of W.B. v. E.I.T.A. India Ltd.* [2003 (5) SCC 239]."

79. Again in *Ashok Kumar Thakur v. Union of India & Ors.* [2008 (6) SCC 1 : 3 SCEC 35] , this Court made the following pertinent observations:

"219. A legislation passed by Parliament can be challenged only on constitutionally recognised grounds. Ordinarily, grounds of attack of a legislation is whether the legislature has legislative competence or whether the legislation is ultra vires the provisions of the Constitution. If any of the provisions of the legislation violates fundamental rights or any other provisions of the Constitution, it could certainly be a valid ground to set aside the legislation by invoking the power of judicial review. A legislation could also be challenged as unreasonable if it violates the principles of equality adumbrated in our Constitution or it unreasonably restricts the fundamental rights under Article 19 of the Constitution. A legislation cannot be challenged simply on the ground of unreasonableness because that by itself does not constitute a ground. The validity of a constitutional amendment and the validity of plenary legislation have to be decided purely as questions of constitutional law. This Court in *State of Rajasthan v. Union of India* [1977 (3) SCC 592] said: (SCC p. 660, para 149) :

"149. ... if a question brought before the court is purely a political question not involving determination of any legal or constitutional right or obligation, the court would not entertain it, since the court is concerned only with adjudication of legal rights and liabilities." Therefore,



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the plea of the petitioner that the legislation itself was intended to please a section of the community as part of the vote catching mechanism is not a legally acceptable plea and it is only to be rejected."

80) Furthermore, it also needs to be specifically noted that this Court emphasised that apart from the aforesaid two grounds no third ground is available to invalidate any piece of legislation. In this behalf it would be apposite to reproduce the following observations from State of A.P. & Ors. v. McDowell & Co. & Ors., which is a judgment rendered by a three Judge Bench of this Court:

"43...A law made by Parliament or the legislature can be struck down by courts on two grounds and two grounds alone, viz., (1) lack of legislative competence and (2) violation of any of the fundamental rights guaranteed in Part III of the Constitution or of any other constitutional provision. There is no third ground. We do not wish to enter into a discussion of the concepts of procedural unreasonableness and substantive unreasonableness – concepts inspired by the decisions of United States Supreme Court. Even in U.S.A., these concepts and in particular the concept of substantive due process have proved to be of unending controversy, the latest thinking tending towards a severe curtailment of this ground (substantive due process). The main criticism against the ground of substantive due process being that it seeks to set up the courts as arbiters of the wisdom of the legislature in enacting the particular piece of legislation. It is enough for us to say that by whatever name it is characterised, the ground of invalidation must fall within the four corners of the two grounds mentioned above. In other words, say, if an enactment is challenged as violative of Article 14, it can be struck down only if it is found that it is violative of the equality clause/equal protection clause enshrined therein. Similarly, if an enactment is challenged as violative of any of the fundamental rights guaranteed by Sub-



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Clauses (a) to (g) of Article 19(1), it can be struck down only if it is found not saved by any of the clauses (2) to (6) of Article 19 and so on. No enactment can be struck down by just saying that it is arbitrary or unreasonable. Some or other constitutional infirmity has to be found before invalidating an Act. An enactment cannot be struck down on the ground that court thinks it unjustified. Parliament and the legislatures, composed as they are of the representatives of the people, are supposed to know and be aware of the needs of the people and what is good and bad for them. The court cannot sit in judgment over their wisdom. In this connection, it should be remembered that even in the case of administrative action, the scope of judicial review is limited to three grounds, viz., (i) unreasonableness, which can more appropriately be called irrationality, (ii) illegality and (iii) procedural impropriety (see Council of Civil Service Unions v. Minister for Civil Service [1985 AC 374 : (1984) 3 All ER 935 (HL) : (1984) 3 WLR 1174] which decision has been accepted by this Court as well). The applicability of doctrine of proportionality even in administrative law sphere is yet a debatable issue. (See the opinions of Lords Lowry and Ackner in R. v. Secy. of State for Home Deptt., ex p Brind [1991 (1) AC 696 : 1991 (2) WLR 588 : (1991) 1 All ER 720 (HL)] AC at 766-67 and 762.) It would be rather odd if an enactment were to be struck down by applying the said principle when its applicability even in administrative law sphere is not fully and finally settled."

26. The Apex Court permitted judicial review to strike down the provision if it lacks legislative competence or is violative of the fundamental rights guaranteed under Part III of the Constitution. In paragraph 83 of the said judgment quoted herein, the jurisdiction exercised by the Indian Court has also been referred and the same is quoted herein for ready reference.

"83. It is, thus, clear that in exercise of power of judicial review, Indian Courts are invested with powers to strike down primary



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legislation enacted by the Parliament or the State legislatures. However, while undertaking this exercise of judicial review, the same is to be done at three levels. In the first stage, the Court would examine as to whether impugned provision in a legislation is compatible with the fundamental rights or the Constitutional provisions (substantive judicial review) or it falls foul of the federal distribution of powers (procedural judicial review). If it is not found to be so, no further exercise is needed as challenge would fail. On the other hand, if it is found that Legislature lacks competence as the subject legislated was not within the powers assigned in the list in VII Schedule, no further enquiry is needed and such a law is to be declared as ultra vires the Constitution. However, while undertaking substantive judicial review, if it is found that the impugned provision appears to be violative of fundamental rights or other Constitutional rights, the Court reaches the second stage of review. At this second phase of enquiry, the Court is supposed to undertake the exercise as to whether the impugned provision can still be saved by reading it down so as to bring it in conformity with the Constitutional provisions. If that is not achievable then the enquiry enters the third stage. If the offending portion of the statute is severable, it is severed and the Court strikes down the impugned provision declaring the same as unconstitutional."

27. Challenge to the amendment in the instant case is not on the grounds laid down by the Apex Court in the case supra. It is not that the respondents were lacking competence to amend the Rule or it is infringing fundamental rights under Part III of the Constitution.

28. Thus, the judgments referred to by learned counsel for the petitioners in the case of P.U. Joshi and P.Dilli Kumar do not provide any assistance or support to the petitioners, rather as per the ratio laid down by the Apex Court, the judicial review would not be permissible on a subject in the domain of the administration.

29. At this stage, let us analyse the argument of learned counsel for the petitioners in reference to the alleged violation of Articles 14 and 16 of the Constitution of India. Article 16 requires equality in public employment. It cannot be



denied on the ground of religion, race, caste, sex, descent, place of birth, residence, etc. The exception to it has been provided under Article 16(4) of the Constitution of India where reservation has been permitted in favour of backward classes of citizens.

30. The first preference to the candidate possessing the qualification of B.F.Sc. degree from the Tamil Nadu Agricultural University under the unamended Rule was resulting in literal reservation in favour of them, offending Article 16(2) of the Constitution of India. It is more so that it is not based on intelligible differentia. It is for that reason that the other qualifications provided under the Rules, are said to be appropriate qualifications for the post. The B.F.Sc. degree is not higher qualification to those qualifications.

31. That apart, the State Government has applied its mind before bringing the impugned notification. The information given by the Public Service Commission was showing that by virtue of the first preference, the candidates possessing qualification of B.F.Sc. are getting appointment even after obtaining lesser marks in the selection, to the post of Inspector of Fisheries.

32. To demonstrate the aforesaid in a given case, a candidate securing 50% mark in the selection to the post of Inspector of Fisheries with the qualification of B.F.Sc. would get appointment vis-a-vis the candidate getting 80% mark in the same selection only for the reason that he is in possession of other qualification than of B.F.Sc. Thus, the candidate obtaining 80% in the selection would be denied appointment only for the reason that he is not in possession of the qualification of B.F.Sc. The aforesaid demonstrate sacrifice to the merit due to preference to the qualification of B.F.Sc.

33. In view of the above, we find reasons for the amendment to be not only appropriate, but wholly justified to bring the Rules in conformity with Article 16 of the Constitution of India. The judicial review by the Courts would not be permissible in a matter of qualification of the post, unless it is shown to be without legislative competence or offend a fundamental right guaranteed under Part III of the Constitution. Which qualification is appropriate for the post lies in domain of the administration.

34. In view of the discussions made above, we are unable to accept the challenge to the amended Rules by G.O. dated



19.07.2018 and accordingly, writ petition fails and is dismissed. There will be no order as to costs. Consequently, WMP No.23885 of 2019 is also dismissed.

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Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

kpl/drm

To:

1. The Principal Secretary to Government
Personnel and Administrative Reforms Department
Secretariat, Fort St.George
Chennai-9.
2. The Principal Secretary to Government
Animal Husbandry, Dairying and Fisheries Department
Secretariat, Fort St.George
Chennai-9.
3. The Secretary
Tamil Nadu Public Service Commission
TNPSC Road, VOC Nagar
Park Town, Chennai-3.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.63870

+1cc to the Government Pleader, S.R.No.64055

W.P.No.17500 of 2019

GPL(CO)
SU(14/12/2021)