

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 02.02.2021  
CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.20175 of 2020  
and W.M.P.No.24923 of 2020

C.Sathya

... Petitioner

-vs-

- 1.THE DIRECTOR OF SCHOOL EDUCATION,  
DPI CAMPUS, COLLEGE ROAD,  
NUNGAMBAKKAM, CHENNAI - 600 006.
- 2.THE DISTRICT EDUCATIONAL OFFICER,  
UDUMALPET EDUCATIONAL DISTRICT,  
UDUMALPET, TIRUPPUR DISTRICT.
- 3.THE CHIEF EDUCATIONAL OFFICER,  
TIRUPPUR DISTRICT, TIRUPPUR.
- 4.THE ASSISTANT DIRECTOR,  
PROFESSIONAL AND EXECUTIVE EMPLOYMENT BRANCH OFFICE,  
MADURAI - 625 007.
- 5.THE SECRETARY,  
SRI VISALAKSHI GIRLS (GOVT.AIDED) HIGHER SECONDARY SCHOOL,  
VENKATESA MILL (POST), UDUMALPET,  
TIRUPPUR DISTRICT.

... Respondents

Prayer: Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus, directing the 1<sup>st</sup> respondent to conduct an enquiry relating to the interview held on 20.05.2020 for selection to the post of Post Graduate Teacher in Physics in the 5<sup>th</sup> respondent-Sri Visalakshi Girls (Government Aided) Higher Secondary School, Udumalpet, Tiruppur District and to direct the 5<sup>th</sup> respondent to conduct the recruitment process afresh and make appointment to the post of Post Graduate Teacher in Physics on merit and in accordance with the recruitment norms / procedures prescribed in the Tamil Nadu Recognised Private Schools (Regulations) Act 1973 and Rules 1974 and Government of Tamil Nadu, after the order issued by the Government of Tamil Nadu for reopening of the Higher Secondary Schools in the State.

For Petitioner : Mr.A.C.Asaithambi

For R1 & R2 : Mr.P.Raja  
Govt. Advocate

## O R D E R

The petitioner has filed this writ petition, seeking a direction to the 1<sup>st</sup> respondent to conduct an enquiry relating to the interview held on 20.05.2020 for selection to the post of Post Graduate Teacher in Physics in the 5<sup>th</sup> respondent-Sri Visalakshi Girls (Government Aided) Higher Secondary School, Udumalpet, Tiruppur District and to direct the 5<sup>th</sup> respondent to conduct the recruitment process afresh and make appointment to the post of Post Graduate Teacher in Physics on merit and in accordance with the recruitment norms / procedures prescribed in the Tamil Nadu Recognised Private Schools (Regulations) Act 1973 and Rules 1974 and Government of Tamil Nadu, after the order issued by the Government of Tamil Nadu for reopening of the Higher Secondary Schools in the State.

2. According to the petitioner, she passed M.Sc. (Physics) in I Class with Distinction and also B.Ed., with Distinction and she, pursuant to the advertisement, issued by the 5<sup>th</sup> Respondent in the newspaper, calling for qualified candidates to the post of P.G.Teacher in Physics subject, applied for the same under Open Competition. It is the case of the petitioner that she received an Interview Card dated 13.05.2020 on 19.05.2020, fixing the interview date as 20.05.2020 and she also participated in the interview. The grievance of the petitioner is that even after a lapse of more than six months, no intimation regarding the selection has not been published by the 5<sup>th</sup> respondent. It is further case of the petitioner that subsequently, she came to know through RTI reply dated 08.07.2020 that prior to the receipt of list of candidates from the Employment Exchange, the interview call letter was prepared and the date of interview was fixed. It is also the case of the petitioner that as per Rule 5(3) of Employment Exchange (Compulsory Notification of Vacancies) Rules, 1960, the employer should furnish the results of selection within 15 days, which has not been done by the 5<sup>th</sup> respondent so far, meaning thereby that the selection process is not yet completed. It is stated that she also sent a representation dated 20.11.2020 to the 1<sup>st</sup> Respondent and also the Director of Vigilance and Anti-Corruption, Chennai to conduct enquiry in respect of the interview held on 20.05.2020. Having exhausted all the remedy and left with no other efficacious alternative remedy, she is before this Court, seeking for a suitable direction.

3. Heard the learned counsel on either side and perused the material documents available on record.

4. A perusal of the averments shows that the petitioner completed her M.Sc. (Physics) with distinction coupled with B.Ed. Distinction. She has also registered her name with the

Employment Exchange. The 5<sup>th</sup> Respondent, being an Aided school, issued a notification dated 06.03.2020 in the newspaper, whereby applications have been invited from the eligible candidates to fill up three vacancies, out of which, one is earmarked for P.G.Teacher (Physics). Admittedly, the petitioner received an Interview Card dated 13.05.2020 on 19.05.2020 for an interview scheduled to be held on 20.05.2020. The plea of the petitioner is that even though six months have gone by on the date of filing this Writ Petition, results have not been published. According to the petitioner, the 4<sup>th</sup> Respondent had handed over the list of employment exchange-sponsored candidates to R5 only on 15.05.2020 and the 5<sup>th</sup> Respondent, prior to receipt of the list, sent a communication for interview in a hasty manner. The petitioner also relied upon Rule 5(3) in support of her submission that intimation regarding selection should be sent to the Employment Exchange within 15 days. The said Rule is extracted hereunder:

"5 (3) An employer shall furnish to the concerned Employment Exchange, the results of selection within 15 days from the date of selection."

It is further stated that non-furnishing of the results of selection within 15 days to the Employment Exchange vitiates the entire process of selection and therefore, the whole exercise have got to be redone.

5. This Court is not inclined to accept the contention of the petitioner for the simple reason that there is no compulsion for the employer to necessarily send the results to the Employment Exchange and it is only a formality. The procedure contemplated in the Rule is only a directory in nature and not mandatory.

6. The Hon'ble Supreme Court in the case of *Excise Superintendent, Malkapatnam, Krishna District, Andhra Pradesh vs. K.B.N.Visweshwara Rao and others*, reported in (1996) 6 SCC 216, has held as under:

"6. Having regard to the respective contentions, we are of the view that contention of the respondents is more acceptable which would be consistent with the principles of fair play, justice and equal opportunity. It is common knowledge that many a candidates are unable to have the names sponsored, though their names are either registered or are waiting to be registered in the employment exchange with the result that the choice of selection is restricted to only such of the candidates whose names come to be sponsored by the employment exchange. Under these circumstances, many a deserving candidate are deprived of the right to be considered for appointment to a post under the state.

Better view appears to be that it should be mandatory for the requisitioning Departments for selection strictly according to seniority and reservation as per requisition. In addition the appropriate Department or undertaking or establishment should call for the manes by publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio, television and employment news-bulletins: and then consider the cases of all the candidates who have applied. If this procedure is adopted, fair play would be subserved. The equality of opportunity in the matter of employment would be available to all eligible candidates.

7. In this case, the 5<sup>th</sup> Respondent duly published the vacancies in the newspaper, as laid down by the Supreme Court (supra) and selected candidates and mere non-intimation of the results to the Employment Exchange is not a ground to direct the 5<sup>th</sup> respondent to re-do the whole exercise of recruitment afresh.

8. Finding no merit in the argument put forth by the petitioner, the Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

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+1cc to The Government Pleader Sr.No.5567

akm /28.04.21 /4p-7c/

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