



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 23.02.2021**

**CORAM:**

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH  
AND  
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

**W.P. (MD)No.3153 of 2021  
and W.M.P. (MD)Nos.2504 & 2505 of 2021**

T.Sunmathi

... Petitioner

Vs.

1.The Government of Tamil Nadu,  
Rep. by its Chief Secretary,  
Secretariat, St. George Fort,  
Chennai - 600 009.

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

3.The Secretary to Government,  
Personnel and Administrative Reforms Department,  
Secretariat, St. George Fort,  
Chennai - 600 009.

4.The Secretary,  
Tamil Nadu Public Service Commission,  
TNPSC Road, Park Town,  
Chennai - 600 003.

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned Explanation (iv) and (v) of section 2(d) of Tamil Nadu Appointment on Preferential basis in the services under the State of Persons studied in Tamil Medium (Amendment) Act 2020 (Act No. 35 of 2020) and quash the same and consequently direct the respondents to restore section 2(d) of Tamil Nadu Appointment on preferential basis in the Services under the State of Persons studied in Tamil Medium Act 2010, so far as the appointments, where degree or post-graduate degree is prescribed as educational qualification, is concerned.



For Petitioner : Mr.D.Shanmugaraja Sethupathi  
For Respondents 1 to 3: Mr.Sricharan Rengaraja,  
Additional Advocate General  
assisted by  
Mr.N.Shanmugaselvan  
Additional Government Pleader

For 4th Respondent : Mr.D.Sivaraman

**ORDER**

[Order of the Court was made by **M.M. SUNDRESH, J.**]

The petitioner, who happened to study in English medium and thereafter, switched over to Tamil medium, being conscious of the benefit conferred under the Act 35 of 2020, which reserves 20%, seeks to challenge the amendment, which after taking note of mischief caused, stating that such reservation can only be applied to such of those candidates who acquired qualification for post by studying only in Tamil medium throughout.

2.For better understanding of the issue involved, we would like to place on record the provision, as it stood before amendment and thereafter :

2.(d) "persons studied in Tamil medium" means persons who have obtained the educational qualification or qualifications prescribed for direct recruitment in the rules or regulations or orders applicable to any appointment in the services under the State through Tamil medium of instruction."

**Amendment of Section 2:**

Explanation.- for the purpose of this clause.-

(ii) in cases, where a Higher Secondary Course is prescribed as the educational qualification, one shall have studied SSLC and the Higher Secondary Course through Tamil medium of instruction.

(iii) in cases, where a diploma is prescribed as the educational qualification, one shall have studied SSLC and the diploma through Tamil medium of instruction or if the diploma is obtained after completion of Higher Secondary Course then one shall have studied SSLC, Higher Secondary Course and the diploma through Tamil medium of instruction.



(iv) in cases, where a degree is prescribed as the educational qualification, one shall have studies SSLC, Higher Secondary Course and the degree through Tamil medium of instruction.

(v) in cases, where a post-graduate degree is prescribed as the educational qualification, one shall have studies SSLC, Higher Secondary Course, degree and the post-graduate degree through Tamil medium of instruction."

3.This definition clause is sought to be challenged by the petitioner with respect to Explanation iv alone, though all the clauses contained in Explanation stand on the same footing. Learned counsel for the petitioner submitted that without any basis, the earlier definition clause has been modified. The petitioner joined the Tamil medium only for the purpose of getting reservation under PSTM category. Therefore, unilaterally, removing the said provision would cause prejudice to her. The classification made will not stand the scrutiny of law.

4.The learned Additional Advocate General appearing for the State submitted that the classification has got an access to the object. The object is to facilitate those who are studying in mother tongue. These students take up the mother tongue, both out of passion and out of necessity. Those, who could afford, would study in a private schools having English as a medium of education as against the others, who cannot afford. The most of the Government schools in the State of Tamil Nadu are imparting education only in the local language. The experience hither-to shows that the earlier provision was misused by such and such candidates, who after consciously studied in the English Medium, switched over later keeping in view of the employment under the reserved category. The reservation is a concession with an object which is sought to be destroyed by such activities. Such an anomaly is sought to be rectified under the amendment by giving it to those who actually needed.

5. On a query raised by the Court that at least, those students, who studied in Tamil medium and thereafter, switched to English medium at a higher level can be considered after exhausting those who have completed the classification only with Tamil as medium of language, the learned Additional Advocate General submitted that it involves certain logistics as there may be different combination and categories and in any case, the same would be looked into by the Government and if so, after exhausting the category which come under the definition, which is under challenge, the respondents have got legislative competence and there is no violation of fundamental rights to declare it as unconstitutional.



6.We do not find any merit in this writ petition. There is a laudable object in the amendment. The amendment mainly seeks to cure the defects that occurred earlier, by preventing a prospective candidate like the petitioner to misuse the provisions, which are to facilitate only such of those students having a disadvantage of position and in the light of the mandate of Article 16 of the Constitution of India, the person like the petitioner does not need a further reservation.

7.We are talking about a horizontal reservation among each category, in 200 roster which is being followed by the State of Tamil Nadu. The reservation cannot be given to a candidate who switched over from one medium to another medium only to get the benefit out of it. Rather, it is meant for somebody who has not foreseen this, but may undergo to a particular process of study.

8.The learned Additional Advocate General appearing for the State is right in saying that the duty of the State is to take care of a section of those, who cannot be compared with others while protecting the local language. Certainly, Tamil as a local language needs protection. The classification is genuine one, as stated by us already. The classification is also a valid one. When we deal with classification, a certain amount of leverage will have to be given to the policy makers. We do not find any manifest arbitrariness in the classification. In fact, the earlier wider definition, as rightly submitted by the learned Additional Advocate General went against the very object of the enactment. The petitioner did two wrongs. Firstly, she facilitated those who did not deserve a reservation and in the process prevented the others who deserve it. Therefore, looking from any perspective, we do not find any reason to uphold that the amendment is unconstitutional.

9.While disposing of this writ petition, we may ask the respondents to look into the suggestion made by this Court that in the event of a candidate coming under PSTM as defined under the amended Section 20 of the Act, not being available, an alternative can be looked into, such as, considering a one, who did substantial part of education in Tamil medium and thereafter, switched over to English medium. This, in our considered view, would facilitate the patronage of the language and help the students, who also may not be termed on par with those, who studied in English as a medium of education. Having said that, we leave it to the wisdom of the respondents to look into this aspect.



10. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

ogy/rm  
To

1. The Chief Secretary,  
Secretariat, St. George Fort,  
Chennai - 600 009.

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

3. The Secretary to Government,  
Personnel and Administrative Reforms Department,  
Secretariat, St. George Fort,  
Chennai - 600 009.

4. The Secretary,  
Tamil Nadu Public Service Commission,  
TNPSC Road, Park Town,  
Chennai - 600 003.

+1 CC to Mr.D.SIVARAMAN, Advocate ( SR-6853[F] dated 24/02/2021 )

+1 CC to Mr.D.SHANMUGARAJA SETHUPATHI, Advocate ( SR-6909[F] dated 24/02/2021 )

+1 CC to SPL GP ( SR-7335[F] dated 25/02/2021 )

**W. P. (MD) No. 3153 of 2021**

**23.02.2021**

KM (10.03.2021) 5P 8C