



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

WEB COPY

W.A. (MD)No.928 of 2020
and C.M.P. (MD) No.5093 of 2020

- 1.The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Maligai,
College Road, Chennai - 6.
- 2.The Member Secretary,
Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Maligai,
College Road, Chennai - 6. ... Appellant/Respondents 2 & 3

Vs.

- 1.A.Pandi Selvi ... 1st Respondent/Writ Petitioner
- 2.The State of Tamil Nadu,
Rep. by its Secretary,
School Education Department,
Secretariat, Chennai.
- 3.The Director of School Education,
College Road, Chennai. ... Respondents 2 & 3/Respondents 1 & 4

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.(MD)No.2479 of 2020, dated 16.03.2020.

Prayer in WP(MD). 2479 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Direct the 2nd respondent to select the petitioner for appointment to the post of PG Assistant (Tamil) in conformity with the order dated 23.1.2020 made in WP(MD). No.25427/2019 on the file of this Honourable Court and consequently to direct the 4th respondent to appoint the petitioner as PG Assistant (Tamil) within the period that may be stipulated by this Honourable Court.

For Appellants	: Mr.VR.Shanmuganathan Standing Counsel
For Respondent No.1	: Mr.Mohammed Imran
For Respondent No.2	: Mrs.S.Srimathy, Special Government Pleader

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**JUDGMENT****(Judgment of the Court was delivered by M.M.SUNDRESH, J)**

The case of respondent No.1 was not considered for the post of Post Graduate Assistant (Tamil) on the premise that the requisite certificates have been produced after the cut of date fixed on 15.07.2019. However, according to Respondent No.1/writ petitioner, the result itself was published on 14.07.2019. Taking note of the above, the learned Single Judge allowed it. Challenging the same, this Writ Appeal is allowed.

2.On a similar issue, a Division Bench of this Court in Writ Appeal (MD) No.1058 of 2020, dated 23.12.2020, passed an order in favour of the writ petitioner as could be seen through the following paragraphs:-

"4. Mr.V.R.Shanmuganathan, learned Standing Counsel appearing for the appellant, by referring to the notification, would submit that the required qualification ought to have been obtained by passing the required qualification and obtaining the certificates, as on the last date of submission of filled~in online application. For better appreciation, the relevant portion from the notification is extracted as under:

"6.The candidates not having prescribed qualifications, as on the last date of submission of filled~in online application shall not be eligible to apply for the examination. The candidates should satisfy themselves about their eligibility before applying. It is to be noted that if a candidate is allowed to appear for the examination it does not imply that the eligibility of the candidate is verified.

Note: All qualifying / equivalent certificates should have been obtained prior to the last date for submission of filled~in online applications."

5. The first respondent completed the Masters Degree (Botany) in the month of May, 2019 and passed the required qualification as on 14.07.2019, in view of the declaration of results by the University. However, the provisional mark list was issued belatedly and this was considered as a ground for disqualification, based on the Note in Paragraph No.6 of the notification (extracted supra).

6. In fact, in Paragraph No.1 of the said notification, it is mentioned as follows:

"1.The qualification prescribed above for this post should have been obtained by passing the required qualification after completing 10th (SSLC) and +2 (Higher Secondary or its equivalent) followed by an U.G. Degree in the relevant subject (for which



candidate applies). Candidates should also possess a Post Graduate degree in the same subject and a B.Ed. or its equivalent awarded by a University or Institution recognized by the University Grants Commission."

7. As per the notification, what is required is passing of the required qualification. The cut-off date for the required qualification was fixed as 15.07.2019 and the petitioner passed the Degree Course well within the cut-off date, ie., on 14.07.2019, in view of the declaration of results by the University. Though the provisional certificate was issued belatedly, the first respondent also produced the same at the time of Certificate Verification and therefore, it cannot be construed that the first respondent was not having the required prescribed qualification, as on the last date of submission of filled-in online application.

8. In view of the foregoing discussions and reasonings, this Court is not inclined to interfere with the impugned order passed by the learned Single Judge and accordingly, this writ appeal is dismissed. Consequently, connected miscellaneous petition is closed."

3. The learned Standing Counsel appearing for the appellants submitted that as against the order of the Division Bench referred supra in Writ Appeal (MD) No.1058 of 2020, dated 23.12.2020, a Special Leave Petition has been preferred. It is further submitted that respondent No.1 having participated in the process, cannot contend to the contrary and she is bound by the notification.

4. Learned counsel for respondent No.1 submitted that the notification itself has been considered by the Division Bench of this Court referred supra. The respondent has produced the requisite certificate at the time of certificate verification. Therefore, no interference is required.

5. We are in agreement with the judgment made by the Division Bench. The Division Bench held that on the cut off date, the respondent was qualified. Further, at the time of certificate verification, the petitioner produced the certificates for verification. The facts are not in dispute. When the respondent was not in a position to comply condition, the question of non-compliance does not arise, especially, when she is otherwise qualified. The Hon'ble Apex Court has drawn a distinction with respect to the compliance and suppression. Considering the peculiar facts of the case, this Court is of the view the petitioner is entitled to succeed. In such view of the matter, the question of acquiescence and estoppel would not arise. Accordingly, we are in agreement with the order passed by the learned Single Judge referred supra.



6.The Writ Appeal stands dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

Sd/-

Assistant Registrar(CO)

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/ /2021

Sub Assistant Registrar(CS)

sj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Secretary,
School Education Department,
State of Tamil Nadu,
Secretariat, Chennai.

2.The Director of School Education,
College Road, Chennai.

+1 CC to M/s.H.MOHAMMED IMRAN, Advocate (SR-13535[F] dated 25/03/2021)

+1 CC to M/s.SPL GP (SR-13628[F] dated 25/03/2021)

W.A. (MD) No. 928 of 2020

24.03.2021

MJ(CO)

TR(28.04.2021) 4P 5C