



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2021

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P (MD) No.17295 of 2020

WEB COPY

M.Keerthika

... Petitioner

Vs.

1.University Grants Commission,
Represented by its Secretary,
Bahadurshah Marg Road,
New Delhi-11.

2.The Chairperson,
The Central Board of Secondary Education,
(An Autonomous Organisation under the Union Ministry of Human
Resource Development Govt. Of India),
Shiksha Kendra, 2, Community Centre,
Preet Vihar, Delhi-110092.

3.The Secretary (CBSE),
The Central Board of Secondary Education,
PS, 1-2, Institutional Area,
Extension, Patparganj,
Delhi-110092.

4.The Head,
NET Bureau,
University Grants Commission,
South Campus, University of Delhi,
Benito Juarez Marg,
New Delhi-110 021.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in No.CBSE/JS/NET/2018-19 dated 08.10.2020 on the file of the Respondent No.3 and quash the same as illegal and consequently for a direction directing the Respondents to consider the petitioner under OBC Category and declare the petitioner as qualified for the post of Assistant Professor in the UGC NET Examination July-2018 on the basis of the Marks secured by the petitioner and issue National Eligibility Certificate to the petitioner within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.S.Maharajan
Standing Counsel for R1



Mr.P.Karthick
Standing Counsel for RR2 &3

ORDER

This writ petition has been filed challenging the impugned proceedings of the third respondent dated 08.10.2020 and for a consequential direction to the respondents to consider the candidature of the petitioner under the OBC category.

2. The petitioner applied for the UGC NET Examination during July 2018 under the General category. The application submitted by the petitioner was taken into consideration and the petitioner was also allowed to take the examination and the petitioner secured 50.67% marks. According to the petitioner, she belongs to OBC category and she was not able to apply under this category since the community certificate was not available at the time when she made the application.

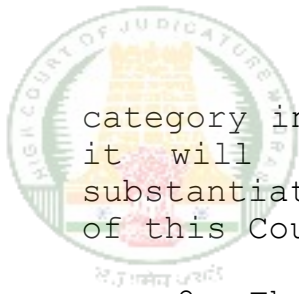
3. The further case of the petitioner is that the cut-off marks for the OBC category is only 46% and the petitioner has secured 50.67% and it is well over the cut off mark and the petitioner stands a good chance to get selected as a OBC candidate.

4. The petitioner therefore made a representation to the respondents requesting to consider her candidature under the OBC category. The third respondent through the impugned proceedings, dated 08.10.2020, has rejected the claim made by the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

5. Heard Mr.T.Lajapathi Roy, learned counsel appearing on behalf of the petitioner, Mr.S.Maharajan, learned Standing Counsel appearing on behalf of the first respondent and Mr.P.Karthick, learned Standing Counsel appearing on behalf of the second and third respondents.

6. The main ground that has been raised by the learned counsel for the petitioner is that the mistake committed by the petitioner in not applying under the OBC category at the time of making the application should not be put against her and it is a condonable mistake. The learned counsel in order to substantiate his submissions, brought to the notice of this Court the earlier order passed by this Court in W.P. (MD).No.9286 of 2020 dated 15.07.2020.

7. Per contra, the learned counsel appearing on behalf of the second and third respondents submitted that the petitioner had consciously applied under the General category and after failing to obtain the cut-off marks fixed for the General category, now wants to be considered under the OBC category. Such a change of the



category in the middle of the selection can never be entertained and it will open flood-gates. The learned counsel in order to substantiate his submissions relied upon the Division Bench Judgment of this Court in W.A.(MD).No.739 of 2019 dated 23.07.2019.

8. The learned counsel further submitted that an opportunity was also given to carry out the corrections in the application and even this opportunity was not utilised by the petitioner and therefore, there are absolutely no grounds to grant the relief sought for by the petitioner.

9. In the present case, the petitioner had consciously applied under the General category even at the time when the application was submitted. The petitioner also wrote the examination and secured 50.67%. At this point of time, the petitioner realised that the cut-off mark secured by her does not satisfy the minimum requirement in order to be considered under the General category. Therefore, the petitioner turned around and wanted her to be considered as OBC candidate since the cut-off mark secured by the petitioner satisfied the cut-off mark fixed for OBC candidates.

10. The order that was cited by the learned counsel for the petitioner will not apply to the facts of the present case. In the present case, it is not as if the petitioner has inadvertently committed the mistake by choosing her candidature under the General category. This choice was made by the petitioner consciously. The only reason why the petitioner wants her to be considered under the OBC category is the marks secured by the petitioner in the examination. The rules of the game should never be permitted to be changed in the middle of the game. If such change of category is permitted in the middle of selection, it will have a cascading effect and it will open flood-gates. It will always be possible for a candidate to apply under the General category and later turned around and seek for contesting on a different category only based on the marks secured in the examination. This practise cannot be entertained and the reasons given by the third respondent in the impugned order is perfectly valid.

11. The Division Bench judgment relied upon by the learned counsel appearing on behalf of the second and third respondents also makes it clear that whenever a candidate has failed to utilise the opportunity to make the corrections in the application, a subsequent request cannot be entertained and a candidate cannot be allowed to shift from one category to another.

12. In view of the above discussion, this Court does not find any ground to interfere with the impugned order passed by the third respondent and the same is hereby sustained. It goes without saying that it will always be open to the petitioner to participate in the future selection under the relevant category, if she satisfies all the other requirements.



13. In the result, this writ petition is dismissed. No Costs.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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.

PJL

To

1.University Grants Commission,
Represented by its Secretary,
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+1 CC to M/s.V.MAHARAJAN, Advocate (SR-15659[F] dated 09/04/2021)

+1 CC to M/s.P.KARTHICK, Advocate (SR-15699[F] dated 09/04/2021)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-15594[F] dated
09/04/2021)

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