



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2021

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MR. JUSTICE P. VELMURUGAN

W.A. (MD) No. 1852 of 2021

and C.M.P. No. 8071 of 2021

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The Teachers Recruitment Board
Rep. by its Member Secretary,
DPI Campus,
Chennai.

.. Appellant/2nd Respondent

Vs.

1. K. Barida Beevi

.. 1st Respondent/Writ Petitioner

2. The State of Tamil Nadu
Rep. by its Secretary,
School Education Department,
Fort St. George,
Chennai.

.. 2nd Respondent / 1st Respondent

3. The Director of School Education,
DPI Campus,
Chennai.

.. 3rd Respondent/
/3rd Respondent

Prayer : Writ Appeal filed under Clause 15 of Letters Patent against the order dated 11.02.2021 passed in W.P. (MD) No. 272 of 2021.

Prayer in WP (MD). 272/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-4. To issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned ineligible list of certificate verification published by the 2nd respondent vide his proceedings Nil dated 11.01.2020 (published in the official website of TRB) in so far as the petitioner is concerned and the consequential impugned proceedings No. NIL dated 28.12.2020 issued by the 2nd respondent (published in the Official Website of the TRB) and quash the same as illegal in so far as it relates to the non inclusion of the petitioners name is concerned and consequentially to direct the respondents to treat the petitioner as a candidate belonging to the Backward Class (Muslim) Community and consequently to appoint the petitioner as Computer Instructor taking into consideration of the marks secured by the petitioner within the period that may be



stipulated by this Court.

For Appellant : Mr.VR.Shanmuganathan
For Respondents : Mr.Mohammed Imran
for M/s.Ajmal Associates for R1
Mr.P.Subbaraj,
Special Govt. Pleader for RR 2 & 3

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J U D G M E N T

PUSHPA SATHYANARAYANA, J.

Aggrieved by the order of the writ Court allowing W.P.(MD) No.272 of 2021 in favour of the first respondent / writ petitioner, the Teachers Recruitment Board (in short, "TRB") instituted this appeal.

2. The case of the writ petitioner/first respondent herein before the writ court was that she born to Hindu parents, who converted to Islam in 1990 and got their names changed. The name of the writ petitioner was changed to "K.Barida Beevi" from "K.Perinbavalli" and her father's name was changed as "S.Kamal Mohaideen" from "S.Karuppasamy". While so, she completed SSLC and HSC courses in 1995 and 1997 respectively bearing her original name. The change in names were effected in Government Gazette only on 29.01.1997, pursuant to which, she obtained community certificate. Her graduation and post graduation certificates and also the subsequent testimonials bear the present name. In such backdrop, responding to the notification dated 01.03.2019 issued by the appellant, she applied for the post of Computer Instructor Grade-I and upon successfully passing the examination, she was asked to upload the certificates. The certificate verification was held on 09.01.2020, thereupon, her name was published in the ineligible list, without assigning any reason. She enquired in the office of the appellant in person on 13.01.2020 and also submitted a representation of even date through RPAD. Thereafter, she got an SMS from the TRB stating "Ineligible for BCM Turn". She explained the right position in person on 20.01.2020 in vain and subsequently, submitted another representation on the same date. Even the revised eligibility list also did not contain the name of the writ petitioner. Thus, she filed the writ petition. The learned Single Judge allowed the writ petition vide order dated 11.02.2021, questioning which, the present appeal is filed.

3. Heard learned counsel on either side and perused the materials placed before this Court.

4. The facts are not in dispute. The ground on which the candidature of the first respondent was not considered was that

<https://hcservices.ecourts.gov.in/hcservices/>



there was a mismatch between the name of the writ petitioner in her school testimonials and the other records and also her father's name in the Gazette notification did not match with the name mentioned in the community certificate. At this juncture, it is apt to reproduce the following paragraphs of the counter-affidavit :

"7. It is submitted that the petitioner's candidature was considered as ineligible as the information furnished by the petitioner during Level-I verification does not match with the certificates produced during the certificate verification and the Board could only considered the name mentioned in the SSLC certificate, which does not match with the petitioner's name. The petitioner has not produced necessary documents to prove her genuineness of her claim stating that she was named as K.Perinbavalli, which was considered as misleading and fault on the part of the candidate to produce proper certificates during CV.

8. It is submitted that the petitioner claims that her family was converted from Hindu to Muslim and eventually changed her name in the year 1990 as Barida Beevi, in that case she has not taken any steps to incorporate the same in her SSLC and HSC certificate. She has submitted Gazette publication in the year 1997. In the Gazette notification also the petitioner father's name was referred as Karuppasamy which does not match with name in the community certificate issued to the petitioner. There is difference in the father's name of petitioner in community certificate and Tamil Nadu Gazette notification.

....

17. It is submitted that since the name of the father in community certificate and Gazette notification differs she was not considered for selection under BCM (W) category."

5. A perusal of the counter-affidavit makes it abundantly clear as to how the appellant Board nonchalantly dealt with the candidates. It is true that the TRB has been performing an arduous task of selecting thousands of teaching faculties for the entire width and breadth of the State. The mistakes committed by the candidates should not be allowed to put spokes on the selection process. However, if the authorities are satisfied that the mistake is unintentional, they have a bounden duty to give some respect to the marks secured by the candidates and show some leeway for the unintentional mistakes, for which, the candidates should not be forced to lose one great opportunity. But to our dismay, there is no such mechanism in place, which is the reason



the writ petitioner was forced to knock at the doors of this Court.

6. As rightly held by the learned Single Judge, when the writ petitioner produced the Gazette notification *qua* the change of her name and that of her father, the TRB should have taken it into account to consider her case under the reserved category. The appellant should educate its officials as to how they should behave in such a predicament and the candidates should not be allowed to suffer for such mistake. Further, there is no force in the submission of the Board that there is a discrepancy between the name of the father of the petitioner in the community certificate and the Gazette. The delay in effecting Gazette publication in the instant case cannot be put against the writ petitioner, as it cannot be expected that everyone aware of the procedure in such scenario and got their name change effected in Gazette.

7. The writ petitioner submitted representations twice one on 13.01.2020 and the other on 20.01.2020. At least, till the same are considered and finally decided, the appellant could have kept one post vacant in the reserved category. But for the reasons best known, the said procedure was not adopted. The contention of the appellant that such a situation would disturb the selection process cannot be accepted in toto and the same cannot be allowed to take away the right of the writ petitioner. Considering the gravity of the mistake, in general, the officials should give, at least, one opportunity to the candidate to rectify the mistake upon necessary conditions, but throwing the marks secured by the candidates to trashes would not only cause irreparable loss to the candidates, but the institution also would lose meritorious candidates.

8. At this juncture, it is relevant to quote the judgment of a co-ordinate Bench in **Chairman, Tamil Nadu Public Service Commission, Chennai V. M.Younus and another, (2014) 1 MLJ 232**, wherein, it was held as follows :

"6. The issue as to the validity of the community certificate issued by the competent authority was considered in the decision reported in **R. Kandasamy v. The Chief Engineer, Madras Port Trust, 1997 WLR 806**. In the said decision it was held that so long as the community certificate issued by the competent authority is not cancelled, the authorities cannot decline to take into consideration the same and insist upon fresh community certificate from the Revenue Divisional Officer.

7. In the decision reported in **Punit Rai v. Dinesh Chaudhary AIR 2003 SC 4355**, it is held that the question



whether a person belongs to a particular caste or not has to be determined by the statutory authority.

8. In view of the above decision and as the first respondent is having valid community certificate issued by the competent authority concerned certifying that he belongs to Muslim Lebbai, and the first respondent having secured the required cut-off marks for selection under the quota reserved for BC (Muslim), the learned single Judge was right in allowing the writ petitions.

9. The issue with regard to the jurisdiction of TNPSC to go into the genuineness of the community certificate was considered by the Full Bench of this Court in the decision reported in **TNPSC v. V.R. Manikandan, (2011) 6 MLJ 609**. In the said decision it is held that the TNPSC has no jurisdiction to verify the information given in the community certificate and the TNPSC cannot withhold the results on the ground of verification of information given in the community certificate, which can be gone into only by the committee constituted for the purpose. Thus, it is beyond doubt that TNPSC cannot decide the genuineness of the community certificate issued by the competent authority in favour of the first respondent is concerned. Only thing TNPSC can do is to issue appointment order stating that the appointment will be subject to verification of the community status and then send the community certificate for verification before the competent authority."

9. In view of the above judgment, it is clear that the TRB cannot go into the merit and validity of the community certificate. Thus, the order of the learned Single Judge does not suffer from any illegality and infirmity and accordingly, the writ appeal fails and the same is liable to be dismissed.

10. In the result, the writ appeal is dismissed upholding the order of the learned Single Judge and the appellant shall comply with the directions issued in the order of the learned Single Judge within a period of four weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

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/ /2022

Sub Assistant Registrar (CS)



1. The Member Secretary,
Teachers Recruitment Board
DPI Campus,
Chennai.
2. The Secretary,
School Education Department,
Government of Tamil Nadu,
Fort St. George,
Chennai.
3. The Director of School Education,
DPI Campus,
Chennai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-37104[F] dated 02/12/2021)

+1 CC to M/s.SPL GP (SR-37208[F] dated 03/12/2021)

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