



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.15268 of 2017

WEB COPY

1.P.Vinoth Kumar
2.S.Selvamoorthy

... Petitioners

Vs.

- 1.The State of Tamil Nadu
represented by its Principal Secretary,
Department of School Education,
Secretariat,
Chennai -9.
- 2.State of Tamil Nadu
represented by its Principal Secretary,
Welfare of Differently Abled persons Department,
Secretariat,
Chennai -9.
- 3.The State Commissioner,
Welfare of Differently Abled persons Department,
Lady Wellington College Campus,
Triplicane,
Chennai.
- 4.The Director of School Education,
O/o. The Director of School Education,
DPI Campus,
College Road,
Chennai -6.
- 5.The Teachers Recruitment Board,
represented by its Chairman,
4th Floor, EVK Sampath Maaligai,
DPI Campus,
College Road,
Chennai -6.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to grant relaxation of the minimum eligibility mark prescribed for physically challenged person on par with Scheduled Tribe candidates as 40% in the Direct Recruitment of Post Graduate Assistants 2016-17, in the light of Section 38 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, within the time stipulated by this Court.



For Petitioners : Mr.T.Lajapathi Roy
For R1 to R4 : Mr.Government Advocate
Government Advocate
For R5 : Mr.V.R.Shanmuganathan
Standing counsel

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ORDER

This writ petition has been filed for a direction to the respondents to grant relaxation of the minimum eligibility mark prescribed for physically challenged person on par with Scheduled Tribe candidates as 40% in the Direct Recruitment of Post Graduate Assistants 2016-17, in the light of Section 38 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, within the time stipulated by this Court.

2. The case of the petitioners is that the petitioners have completed Post Graduation along with B.Ed., and the first petitioner is unemployed and the second petitioner is working as Secondary Grade Teacher. While so, the fifth respondent Teachers Recruitment Board has issued a Notification, pertaining to Direct Recruitment of Post Graduate Assistants / Physical Education Director Grade-I, on 09.05.2017. In view of the above said Notification, the petitioners have participated in the recruitment and they were qualified to the post of P.G.Assistant. Further, the respondents have allocated 3% reservation for the physically challenged persons, among 3375 overall seats. But, the fifth respondent Board has failed to relax the minimum eligibility mark for the Physically Challenged Persons. For Scheduled Tribe Candidates, the minimum eligibility mark is fixed as 40%, whereas for Physically Challenged Person, it is fixed as 50%. If 50% is taken as minimum eligibility mark for physically challenged persons, none of the physically challenged persons can get the benefit of reservation as the minimum eligibility mark is very much higher. Hence, the petitioners have made a representation to the respondents on 24.07.2017, seeking to relax the minimum eligibility mark prescribed for Physically Challenged persons, by invoking Section 38 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation), Act, 1995. But, till date the said representation was not considered. Hence, the petitioner has filed the present writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioners would submit that this Court may issue a direction to the respondents to consider the petitioners' representation, dated 24.07.2017, within a specified period as fixed by this Court.

4. The learned Government Advocate appearing for the respondents 1 to 4 has no serious objection for such an order being passed by this Court.

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



5. The facts in the present case are not in dispute. The petitioners have made a representation to the respondents on 24.07.2017, on the ground that the minimum eligibility mark prescribed for Physically Challenged Persons to the post of P.G. Assistant is unreasonable. However, Section 38 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation), Act, 1995, is not applicable to the present case on hand. In respect of the recruitment policy, the Government has to take a decision and it is the policy decision of the State Government and by invoking Section 38 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation), Act, 1995. Hence, the prayer sought for by the petitioner cannot be granted. Accordingly, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (AS)

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/ /2021

Sub Assistant Registrar(CS)

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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 Principal Secretary,
State of Tamil Nadu,
Department of School Education,
Secretariat,
Chennai -9.
- 2.The Principal Secretary,
State of Tamil Nadu,
Welfare of Differently Abled persons Department,
Secretariat,
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- 3.The State Commissioner,
Welfare of Differently Abled persons Department,
Lady Wellington College Campus,
Triplicane,
Chennai.



4.The Director of School Education,
O/o. The Director of School Education,
DPI Campus,
College Road,
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WEB COPY

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-11322[F] dated
16/03/2021)

+1 CC to M/s.SPL GP (SR-11526[F] dated 16/03/2021)

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RK(13.05.2021) 4P 7C