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W.P.No.3203 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2022

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.3203 of 2021
and
W.M.P.No.4805 of 2021

S.Arivuselvan

... Petitioner

Vs.

1.Tamil Nadu Public Service Commission,
Rep. by the Secretary,
TNPSC Road,
VOC Nagar, Park Town,
Chennai.

2.The Commissioner,
Department of Archaeology,
Government of Tamil Nadu,
Tamil Valarchi Valaagam,
Tamil Salai,
Chennai - 600 008.

3.K.Vasanthakumar

4.M.Suresh

5.R.Subhashini

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for



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records pertaining to the order Na.Ka.No.A1/6922/2014 dated 23.01.2021 read with the Selection Notification dated 16.12.2020 issued by the 1st respondent, Quash the same to the extent they have selected and appointed the respondents 3 to 5 as invalid and consequently direct the respondents to select the petitioner to the post of Archaeological Officer under the MBC category with all consequential benefits pursuant to the Advertisement No.563 Notification No.33/2019 dated 28.11.2019 issued by the 1st respondent.

For Petitioner : Ms.S.Meenakshi

For Respondents : Mr.Karthikrajan
Standing Counsel
for R1

Mr.L.S.M.Hasan Fizal
Additional Government Pleader
for R2

Mr.C.K.Chandrasekhar
for R3 to R5

ORDER

This Writ Petition has been filed challenging the selection notification dated 16.12.2020 under which the private respondents have been declared to be selected. The petitioner has challenged the impugned selection list on the ground that the private respondents have not studied Tamil as one of the



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subjects in Degree course, which is a mandatory educational qualification required for getting selected to the post of Archaeological Officer in the Archaeology Department of the Government of Tamil Nadu.

2. According to the petitioner, the respective private respondents have not studied Tamil as a language paper in their respective Degrees and therefore, they are ineligible to get selected as Archaeological Officer in the Archaeology Department as per the notification issued by the respondents inviting candidates for selection.

3. A Counter Affidavit has been filed by the Tamil Nadu Public Service Commission viz., the first respondent herein denying the allegations of the petitioner. They would submit that the private respondents have satisfied the educational requirements for being appointed as Archaeological Officers as per the notification, as their medium of instruction in the graduation level was Tamil.

4. The private respondents have also filed their separate counters



before this Court, denying the contention of the petitioner and in particular,

they have highlighted the courses contained in the paper 'Art' through Tamil

Literature in paragraph No.9 which is extracted hereunder:

<i>Sl.No.</i>	<i>Syllabus</i>		<i>1998 to 2013 (Non Semester Pattern)</i>	<i>2014 onwards (Semester Pattern)</i>
1	Nedunelvaadai	Lines 72 - 130	Art Through Tamil Literature (TZD)	Tamil I BTA/BTS/ BTP 1:1:01
2	Maduraikanchi	Lines 351-370		
3	Pattinapalai	Lines 142 - 157		
4	Pari Paadal	Verses on Sevvel & Thirumaal		Tamil II BTA/BTS/ BTP 2:1:08
5	Silappathigaram	Kunrak Kurvak, Vettava Vari, Aranketruk Khaadai		
6	Naalayira Prabandam	Divya Periyazhvar Pasurungal		
7	Thevaarathil Appar Pasurungal	Descriptions of different temples and special features of Murthys		Tamil III BTA/BTS/ BTP 3:1:15
8	Periya Puranam	Sivamoorthangal		
9	Kalingathuparani	Natarajar, Bichadanar, Arthanaareswara, Somaskandhar, Kalasambara, Dakshinamoorthi, Sandikeswarar, Possalar Naayanar Verses Nos.1 - 11		
10	Kambha Ramayanam	Verse No.1 Negerappadalam 13, 19, 23 - 30		Tamil IV BTA/BTS/ BTP 4:1:22
11	Seevagasindhamani	Kaanthruvaththal ayar		



<i>Sl.No.</i>	<i>Syllabus</i>	<i>1998 to 2013 (Non Semester Pattern)</i>	<i>2014 onwards (Semester Pattern)</i>
		Illambhagam Verse 590-295	
12	Thanigaipuranam	A scene of Agathiyar's getting Arul, 16 Dhiyaana slokaas of Lord Subramania	

5. They have also stated that their medium of instruction was only in Tamil and therefore, they would contend that they have satisfied the educational qualification required for appointment and further, they would submit that having secured higher marks than the petitioner, the first respondent Commission has duly selected them for the invited posts and therefore, there is no illegality in the selection.

6. Heard Ms.S.Meenakshi, learned counsel for the petitioner and Mr.Karthikrajan, learned Standing Counsel for respondent No.1, Mr.L.S.M.Hasan Fikal, learned Additional Government Pleader for respondent No.2 and Mr.C.K.Chandrasekhar, learned counsel for the private respondent Nos.3 to 5.

7. The learned counsel for the petitioner drew the attention of this



Court to the following:

- a) RTI Application sent by the petitioner dated 19.01.2021;*
- b) RTI Application sent by Mr.John Juwan dated 19.01.2021;*
- c) RTI Reply dated 05.02.2021.*

8. After referring to the aforementioned documents / orders, learned counsel for the petitioner would submit that as per the RTI reply, it is clear that the Government College of Architecture and Sculpture at Mahabalipuram where the private respondents did their graduation did not have Tamil language as part of their curriculum. Therefore, learned counsel for the petitioner would submit that the private respondents are not qualified to get appointed as per the notification issued by the first respondent inviting applications for the said posts.

9. The learned counsel for the petitioner also drew the attention of this Court to the following:

- a) Mark statement of the petitioner issued by the Tamil Nadu Music and Fine Arts University;*
- b) Notification dated 28.11.2019 issued by the Tamil Nadu Public*



Service Commission.

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10. Referring to the aforementioned documents, she would submit that the petitioner in his graduation has studied Tamil as a separate language paper, whereas the same has not been studied by the respective private respondents. She would also submit that the notification dated 28.11.2019 issued by the Tamil Nadu Public Service Commission makes it clear that a candidate must have passed Tamil as one of the subjects in Degree level. She would also submit that the respective private respondents have also not produced any equivalence certificate with regard to their Degrees i.e., they have not satisfied the first respondent Commission with the Degrees which they have studied in Tamil medium are equivalent to the educational qualification sought for by the Commission under its notification dated 28.11.2019.

11. The learned counsel for the petitioner also drew the attention of this Court to a Judgment of the Honourable Supreme Court in the case of ***Zonal Manager, Bank of India, Zonal Office, Kochi and others Vs. Aarya K.Babu and Another*** reported in **2019 (8) SCC 587** in support of her



contention that the private respondents ought to have produced the equivalence certificate in order to make them eligible for getting selected to the subject posts.

12. Per contra, learned Standing Counsel appearing for the first respondent would reiterate the contents of the Counter Affidavit filed by the first respondent before this Court and would submit that only in accordance with the notification, the respective private respondents have been found eligible for getting selected to the subject posts. It is also submitted that the respective private respondents have also secured higher marks than the petitioner.

13. The learned counsel appearing for the private respondents would submit that the private respondents had completed their entire course of study only in Tamil medium and they have also studied specialized subjects in Tamil Literature, as highlighted in paragraph No.9 of their Counter Affidavit. He would also submit that the educational qualification eligibility does not specifically stipulate that a candidate must have studied Tamil as a language. According to him, having studied the entire course of study in



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Tamil medium and having studied specialized subjects in Tamil Literature, the objections raised by the petitioner is unsustainable. He also drew the attention of this Court to the selection notification and would submit that the private respondents have secured higher marks than the petitioner and therefore, the impugned selection list has been rightly issued by the first respondent / Tamil Nadu Public Service Commission.

14. Admittedly, the respective private respondents have studied their graduation with the medium of instruction as Tamil. They have also studied specialized subjects in Tamil Literature which are as follows:

<i>Sl.No.</i>	<i>Syllabus</i>		<i>1998 to 2013 (Non Semester Pattern)</i>	<i>2014 onwards (Semester Pattern)</i>
1	Nedunelvaadai	Lines 72 - 130	Art Through Tamil Literature (TZD)	Tamil I BTA/BTS /BTP 1:1:01
2	Maduraikanchi	Lines 351-370		
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5	Silappathigaram	Kunrak Kurvak, Vettava Vari, Aranketruk Khaadai		
6	Naalayira Divya Prabandam	Periyazhvar Pasurangal		
7	Thevaarathil Appar	Descriptions of different		Tamil III



Sl.No.	Syllabus		1998 to 2013 (Non Semester Pattern)	2014 onwards (Semester Pattern)
	Pasurangal	temples and special features of Murthys		BTA/BTS /BTP 3:1:15
8	Periya Puranam	Sivamoorthangal		
9	Kalingathuparani	Natarajar, Bichadanar, Arthanaareswara, Somaskandhar, Kalasambara, Dakshinamoorthi, Sandikeswarar, Possalar Naayanar Verses Nos.1 - 11		
10	Kambha Ramayanam	Verse No.1 Negerappadalam 13, 19, 23 - 30		Tamil IV BTA/BTS /BTP 4:1:22
11	Seevagasindhamani	Kaanthruvaththal ayar Illambhagam Verse 590-295		
12	Thanigaipuranam	A scene of Agathiyar's getting Arul, 16 Dhiyaana slokaas of Lord Subramania		

15. The Educational qualification requirement as per the notification dated 28.11.2019 is extracted hereunder:

i) Must possess M.A.Degree in Ancient History and Archaeology or in Archaeology (OR)

Must possess M.A.Degree in History or Indian History or in Tamil awarded by any of the University recognized by the University Grants Commission and A 'Post Graduate Diploma in Epigraphy and Archaeology' awarded by the



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institute of Epigraphy, Department of Archaeology, Government of Tamil Nadu or Post Graduate Diploma in Archaeology awarded by the Archaeological Survey of India.

ii) Must have passed Tamil as one of the subjects in Degree level.

16. As seen from the educational qualification requirement, a candidate must have passed Tamil as one of the subjects in Degree level. It does not stipulate that Tamil language must have been a subject in the Degree level. The respective private respondents have studied their Degree level with medium of instruction as Tamil. They have also studied specialized subjects in Tamil Literature as observed earlier. Therefore, it cannot be said that the private respondents have not passed Tamil as one of the subjects in Degree level. The question of production of equivalence certificate by the private respondents will also not arise as their medium of instruction in their graduate study was only Tamil and that too when they have studied specialized subjects in Tamil literature only in Tamil.

17. The private respondents having studied the entire Degree level



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with medium of instruction as Tamil and having studied specialized subjects in Tamil Literature, there was no necessity for the first respondent Commission to ask the respective private respondents for an equivalence certificate. The respective private respondents have also secured higher marks than the petitioner, which is also not in dispute.

18. Out of the three private respondents, one of them is a woman who had applied under the womens' category. The remaining two private respondents have applied under the MBC category. The petitioner is a male, therefore, the question of challenging the appointment of a woman in this Writ Petition will also not arise. In so far as the remaining two private respondents are concerned, they have admittedly secured higher marks than the petitioner and were eligible to apply for the post. In view of the observations made by this Court in the earlier paragraphs, their selections also cannot be questioned by the petitioner.

19. The decision relied upon by the learned counsel for the petitioner reported in **2019 (8) SCC 587** referred to supra does not aid the petitioner, in view of the fact that there is no requirement for the private respondents to



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produce equivalence certificate in respect of their educational qualification as they have done Degree level with medium of instruction as Tamil and have also studied specialized subjects in Tamil Literature only in Tamil.

20. For the foregoing reasons, this Court does not find any merit in this Writ Petition. Accordingly, this Writ Petition is Dismissed. No Costs. Consequently, connected Writ Miscellaneous Petition is closed.

13.10.2022

Index : Yes/No
Speaking Order : Yes / No
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To
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1. Tamil Nadu Public Service Commission,
Rep. by the Secretary,
TNPSC Road,
VOC Nagar, Park Town,
Chennai.

2. The Commissioner,
Department of Archaeology,
Government of Tamil Nadu,
Tamil Valarchi Valaagam,
Tamil Salai,
Chennai - 600 008.



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ABDUL QUDDHOSE. J.,

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**13.10.2022
(1/2)**