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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.35235 of 2012

and

M.P.No.1 of 2012

R. Srividhya

...Petitioner

Vs.

1. The Government of Tamil Nadu
Represented by its Secretary,
Education Department,
Fort St.George,
Chennai - 600 039.
2. The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Maaligai,
DPI, Compound, College Road,
Chennai 600 006.
3. The Director of School Education,
DPI, Compound, College Road,
Chennai 600 006.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue of a Writ of Mandamus to direct the 2nd respondent herein to award marks for question Nos.50, 55, 44, 137, 99, 33, 34, 35, 41, 42, 46, 53, 54, 57, 58, 60, 101, 104, 105, 132, 134, 114, 5, 11, 25, and 33 by reevaluating the answer sheet of the petitioner (Roll No.12TE25651950) for the Re-test held on 14.10.2012 so as to issue Teacher Eligibility Test Certificate to the petitioner and consequently direct all the respondents herein to forthwith appoint the petitioner as B.T. Assistant Teacher (Maths) in Tiruvannamalai District.



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For Petitioner : Mr.K.Raja

For Respondents : Mr.C.Kathiravan
Senior Counsel for R2 (TRB)

V.Yamunadevi for R1 & R3
Special Government Pleader

ORDER

This Writ Petition is filed to issue a Writ of Mandamus to direct the 2nd respondent herein to award marks for question Nos.50, 55, 44, 137, 99, 33, 34, 35, 41, 42, 46, 53, 54, 57, 58, 60, 101, 104, 105, 132, 134, 114, 5, 11, 25, and 33 by reevaluating the answer sheet of the petitioner (Roll No.12TE25651950) for the Re-test held on 14.10.2012 so as to issue Teacher Eligibility Test Certificate to the petitioner and consequently direct all the respondents herein to forthwith appoint the petitioner as B.T. Assistant Teacher (Maths) in Tiruvannamalai District.

2. The petitioner belongs to OC category and possessed the necessary qualification viz., B.Sc., B.Ed., The 2nd respondent conducted the Tamil Nadu Teacher Eligibility Test on 12.07.2012 in accordance with the Right to Education Act and the conditions laid down by the National Council for Teacher Education. It is submitted by the learned counsel for the petitioner and the learned counsel for the respondents that the cut off mark was 90 out of 150 and that the petitioner had originally secured 87 marks. It is also admitted that the syllabus for the examination would be Class VI to VIII but their difficulty standard as well as linkages will be up to the Higher Secondary stage.

3.It is the case of the petitioners that the answer sheet needs to be reevaluated inasmuch as 26 questions requires correction for the following reasons:

(a) The syllabus being with reference to the Standards/Classes VI to VIII and only the linkages with difficulty would go up to the Secondary Standard stage. Question Nos.33, 34, 35, 41, 42, 44, 46, 50, 53, 54, 55, 57, 58, 60, 99, 101, 104, 105, 114, 132, 134 and 137 were framed out of syllabus.

(b) In addition insofar as Question Nos.5, 11, 25 are concerned, the same may have to be decided on obtaining the opinion of the subject experts for right answers.



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(c) Further insofar as question No.5, the answers to the questions in the test conducted by the Teachers Recruitment Board were primarily taken from the books authored by S.K.Mangal and Dr.K.Nagarajan, however both the authors had given different answers as would be evident from the fact that the answer to the Question No.5 in the book authored by S.K.Mangal is 'B' whereas the answer to the Question No.5 in the book authored by Dr.K.Nagarajan is 'D'. 'D' is the answer shaded by the petitioner. Thus, it is the case of the petitioner that question 'D' is also possibly correct answer.

(d) With regard to question Nos.11 and 25, it is the case of the petitioner that instead of translation of the questions in Tamil, it only contained transliteration. It is further submitted by the learned counsel for the petitioner that in any event, question numbers 5, 11 and 25 are outside the syllabus.

4.To the contrary, it was submitted by the learned counsel for the respondents as under:-

a. That the subject experts have not expressed any views that the above questions are framed from out of syllabus.

b. That the Teachers Recruitment Board is a recruiting agency and for lack of space to preserve, the records relating to the relevant year has been destroyed and therefore the Board is not able to submit the records pertaining to TET 2012 as per the directions of this Court dated 24.02.2020 to show that the above questions are not out of syllabus.

c.Reliance was placed on the Division Bench Order in W.A.Nos.1097 and 1099 of 2014 to submit that correctness of the answers given by an expert body cannot be the subject matter of judicial review.

d.It is settled law that while exercising the power of judicial review under Article 226 of the Constitution of India, this Court cannot act like an expert body, by replacing the assessment made by experts.

There is no dispute regarding the above legal position. However, the facts of the present case is slightly different. While it is the specific case of the petitioners that Question Nos.33, 34, 35, 41, 42, 44, 46, 50, 53, 54, 55, 57, 58, 60, 99, 101, 104, 105, 114, 132, 134 and 137 were out of syllabus, respondents have filed a counter wherein it was stated that the subject experts have not expressed any views that the above questions are framed from out of syllabus which is vague.



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5. It was submitted by the counsel for the respondent that this Court has already directed an Expert Committee to examine the issues on the set of questions being out side the syllabus, it is appropriate that all the issues raised with reference to the disputed questions also be examined by the said committee.

6. Mr. K. Raja, learned counsel for the petitioner would submit that he may be permitted to submit her representation along with the relevant records which would show that these questions are outside the syllabus and the respondents may be directed to examine the same and on the basis of the opinion of the expert committee dispose of the same within a specific time. Mr. C. Kathiravan, the learned Senior Counsel for the 2nd respondent agrees to the above suggestion and stated that the above exercise would be carried out.

7. In view of the foregoing discussions, the following directions are issued:

a. The petitioner is directed to submit her representation within a period of four weeks from the date of receipt of a copy of this order along with the supporting documents to the respondents

b. The respondents within a period of 6 weeks from the date of receipt of a copy of the representation, shall place the same before the expert committee.

c. The expert committee shall within a period of 8 weeks thereafter, submit its report on the said issue.

d. If on the basis of the report by the expert committee, the petitioner is entitled to any benefits, the same shall be extended to the petitioner. In case, the petitioner is aggrieved by the expert committee report, it is open to the petitioner to redress the grievance in the manner known to law.

It is clarified that the above directions are issued on the basis of the submissions that an expert committee has been constituted, in case the expert committee has not been constituted or not in place, an expert committee shall be constituted by the appropriate respondent/authority within a period of four weeks from the date of receipt of a copy of this order and the time line fixed above will stand accordingly modified by adding the time granted for constituting the expert committee.



9. In the result, this Writ Petition is disposed of the above terms. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gv

To:

1. The Government of Tamil Nadu
Represented by its Secretary,
Education Department,
Fort St.George,
Chennai - 600 039.
2. The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Maaligai,
DPI, Compound, College Road, Chennai 600 006.
3. The Director of School Education,
DPI, Compound, College Road,
Chennai 600 006.

+1cc to Mr.K.Raja, Advocate, S.R.No.28237
+1cc to Special Government Pleader, S.R.No.28880

W.P. No.35235 of 2012
and
M.P. No.1 of 2012

SKM(CO)
AJ(07/06/2022)