



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.955 of 2022 and

W.P.No.8622 of 2022

Nakshatra Bind A.K., minor aged 17 years,
Rep. by her mother and natural guardian,
Mrs.Dhanya. ... Appellant in both WA & WP.

vs

1. The State of Tamilnadu,
rep. by Principal Secretary to Government,
Education Department, Fort St. George,
Chennai 600 009.
2. The Director of School Education,
College Road, Chennai 600 006.
3. The State Board of School Education,
Tamilnadu, Rep. by its Member Secretary,
Chennai 600 006.
4. The Department of Government Examinations,
Chennai 600 006.
5. M/s.Everwin Matric Higher Secondary School,
Rep. by its Correspondent/Secretary,
Kolathur,
Chennai 600 099. ... Respondents in both WA & WP.

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 19.01.2022 passed in W.P.No.20204 of 2021 on the file of this Court; Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration to declare GO (2D) No.15 dated 26.7.2021 on the file of the first respondent as illegal, arbitrary and to struck off the same.



Prayer in W.P.No.20204 of 2021: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 3 and 4 to forthwith issue mark sheet for the writ petitioner for having undergone Secondary School Leaving Certificate Course under the 5th respondent / School in 2020-21 in pursuant to the G. O. Ms. No. 48, dated 25.2.2021, School Education (A. The) Department, Government of Tamil Nadu.

For the Appellant/
Petitioner : Mr.R.Selvakumar

For the Respondents : Mr.P.Muthukumar
State Govt. Pleader
assisted by Mr.K.M.D.Muhilan,
Govt. Advocate for RR 1 to 4.

JUDGMENT

(Judgment of the Court was delivered by
the Hon'ble Chief Justice)

By the writ appeal, challenge is made to the judgment dated 19.01.2022 whereby the prayer made by the petitioner writ appellant to issue secondary school mark sheet in order to get admission to the higher class in the State of Kerala. By the writ petition, challenge is made to the G.O. (2D) Nos.15 and 48 pursuant to which all the students were issued mark sheets declaring them to have passed in all subjects without giving marks.

2. The learned counsel for the writ appellant submits that initially, the State of Tamil Nadu issued G.O.Ms.No.48, dated 25.02.2021 declaring all the students to have qualified the secondary school examination with the arrangement that further course of action in that regard would be determined subsequently. But, by a subsequent G.O. bearing G.O. (2D) No.15, dated 26.07.2021, a decision was taken to issue a mark sheet declaring the students to have passed without awarding of the marks. The aforesaid has caused difficulty to the writ appellant to get admission in the State of Kerala where the school authorities are insisting for furnishing the mark sheet



of secondary class so as to give admission to the writ appellant. The petitioner writ appellant approached the Kerala High Court where a detailed order has been passed and by virtue of it, the petitioner writ appellant could get admission in the higher class based on the certificate produced by him.

3. The writ petition herein has been filed challenging the subsequent G.O. to seek direction on the State of Tamil Nadu to award marks for the secondary class despite the fact that no examination was conducted for the secondary class in the relevant period due to Covid-19 pandemic. The direction has been sought for the personal inconvenience of the petitioner, though it has already been redressed by the Kerala High Court with the issuance of the direction for admission of the petitioner. The challenge to the G.Os. was not accepted by the learned Single Judge finding them to be a policy decision of the Government to declare every candidate for having passed in the secondary examination for the relevant year.

4. The submission of the learned counsel for the petitioner writ appellant that award of marks as has been decided by CBSE cannot be accepted. The CBSE is a different examination Board and otherwise, their decision cannot mandate the State Government to change its policy decision and more specifically to award the marks without an examination which otherwise would not be appropriate. It is not only the State of Tamil Nadu but many States have taken the similar decision not to insist the students to appear in the examination during the course of Covid-19 pandemic and to be declared to have passed the examination without award of marks and consequently thereupon, marksheet was issued to declare them as passed without award of marks. The State of Tamil Nadu has taken the decision of similar nature and we do not find any illegality in the policy decision of the State Government so as to cause interference in the impugned G.Os. Marks can be awarded in case of examination where performance of student is assessed but cannot be in a case where no examination was conducted.

5. In view of the above and finding no error in the judgment of the learned Single Judge, the writ appeal as also the writ petition are dismissed. No costs.



An oral prayer has been made by the learned counsel for the writ appellant to grant leave to appeal. We do not find any legal issue of such nature, involved where a leave of the nature prayed by the learned counsel for the writ appellant can be granted. Accordingly, the oral prayer is declined and rejected.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

sra

To:

1. The Principal Secretary to Government of Tamilnadu,
Education Department, Fort St. George,
Chennai 600 009.
2. The Director of School Education,
College Road, Chennai 600 006.
3. The Member Secretary,
State Board of School Education,
Tamilnadu, Chennai 600 006.
4. The Department of Government Examinations,
Chennai 600 006.

+2cc to Mr.R.Selvakumar, Advocate Sr.28740

W.A.No.955 of 2022

and W.P.No.8622 of 2022

kk[co]

srg 06/05/2022