



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.20204 of 2021
and W.M.P.No.21465 of 2021

Nakshatra Bind A.K., a minor
rep.by her mother and natural guardian Mrs.Dhanya
... Petitioner
Vs.

- 1.The State of Tamil Nadu rep.by
Principal Secretary to the Government,
Education Department,
Fort St.George, Chennai 600 009.
- 2.The Director of School Education,
College Road, Chennai 600006.
- 3.The State Board of School Education, Tamil Nadu,
rep.by its Member Secretary,
Chennai 600 006.
- 4.The Department of Government Examinations,
Chennai 600006.
- 5.M/s.Everwin Matric Higher Secondary School,
rep.by its Correspondent / Secretary,
Kolathur, Chennai 600 099.
...Respondents

Prayer: 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 Petitioner : Mr.R.Selvakumar

For RR1 : Mr.K.Karthikeyan, Government Advocate

For RR2 to RR4 : Mr.P.Gurunathan
Additional Government Pleader



ORDER

The petitioner has filed this writ petition seeking issuance of 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.

2. The case of the petitioner is that his minor daughter Nakshatar Bind, underwent Secondary School Leaving Certificate Course in the academic year 2020-21, through the 5th respondent School and due to COVID 19 pandemic, the education was imparted only through online process and as such examinations could not be conducted and therefore, the 2nd respondent had forwarded a letter to the 1st respondent to declare and issue pass certificate in pursuant to the announcement of policy decision by the Government. Accordingly, the 1st respondent had issued G.O.Ms.No.48 on 25.02.2021 and thereby, the respondents 2 and 3 have issued pass certificate to all the X standard students, including the writ petitioner. When the policy decision was announced by the Government, it also has been announced that 'a detailed guidelines for awarding marks would be issued by the Government'. Thereafter the petitioner family intend to move back to their native district of Kozhikode, in the State of Kerala and had taken Transfer Certificate from the 5th respondent along with the pass certificate. Subsequently the petitioner has made an attempt to file application seeking admission to his daughter in the XI Standard and the online portal of the education department in the State of Kerala had fixed guideline that only those candidates who have obtained D+ grade alone would be eligible to enter and apply in the Website and thereby, the petitioner could not apply for the same as she was not issued with mark sheet. Hence, the petitioner approached the High Court of Kerala and filed Writ Petition in W.P.(C).No.17597 of 2021 and the High Court of Kerala had issued directions, directing the educational authorities in Kerala to accept the petitioner's application and however the grant of admission based on merits were left open to the School authorities and further held that the petitioner has to approach the educational authorities in Tamil Nadu for getting mark sheet. It is alleged by the petitioner that though all pass GO has been issued as early as 25.02.2021 and the pass certificates are issued as early as 26.07.2021, till date, the respondents 3 and 4 have not issued any policy decision as to the award of marks / grant of grade. Aggrieved over the same, the present petition has been filed.

3. The learned counsel appearing for the petitioner submitted that since no marks or grade has been awarded by the State Board of School examinations, Tamil Nadu, who passed out



in the year 2021, she is not in a position to proceed with the filling up of the online application and suffered due to a policy decision taken by the State Government and hence prays for appropriate orders of this Court to enable the petitioner to continue her studies in the State of Kerala.

4. The learned Government Advocate appearing for the respondents submitted that pursuant to the Government Order in G.O.Ms.No.48 dated 25.02.2021, School Education Department, dated 25.02.2021, the Government has issued another G.O.(2d) No.15, dated 26.07.2021, wherein guidelines were framed for issuance of mark certificate and accordingly, the petitioner was also issued with Mark Sheet bearing no.960281 in terms of the said Government Order in favour of the Students by stating that the student has passed in all the subjects and no reference to any marks or grade secured by the student has been made, since it is the policy decision of the Government vide the above said Government Order in G.O.(2d) No.15, dated 26.07.2021 and hence prays for dismissal of this petition.

5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

6. The grievance of the petitioner is that even though the application has been submitted before the concerned School authorities in the Kerala District, the petitioner is yet to be given admission as they are insisting for a grade certificate or mark sheet, failing which the petitioner will not be allotted in any group. While being so, the Government has issued G.O.(2D) No.15 dated 26.07.2021 and as per the said GO, the Certificates were issued to all students declaring them as 'Pass'. Further, this Court is of the opinion that the petitioner without participated in any written examinations, seeking this Court to issue direction to the respondents to assess the marks / grade in respect of the petitioner, is not sustainable and furthermore, it is a policy decision of the Government and the same cannot be interfered by this Court under Article 226 of the Constitution of India and it is the discretion vested with the experts in the particular field and hence the prayer sought for by the petitioner cannot be considered.

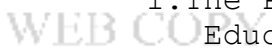
7. For the reasons aforesaid, this Writ Petition is closed. However if the policy decision is taken by the Government to award marks, a liberty is granted to the petitioner to approach the appropriate authority for such relief. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar



To

- W.P.No.20204 of 2021

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