



WEB COPY



W.P. No.30364 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. No.30364 of 2022

and

WMP Nos.29803, 29804 and 29807 of 2022

1. S. Bharath
2. R. Mohan
3. S.K. Selvaraj
4. R. Rajesh
5. V. Sivakumar
6. K. Madhavan
7. M.Saravanan
8. A. Sarath Kumar

... Petitioners

VS.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Fort St. George,
Chennai – 600 009.

2. The Director of Medical Education,
Kilpauk,
Chennai – 10.

3. The Member Secretary,
Medical Services Recruitment Board (MRB),
359, Anna Salai,
DMS Compund,
Teynampet,
Chennai - 600 018.

... Respondents



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Prayer : Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned Provisional Selection List issued by the 3rd respondent in PSL No.08/MRB/2022, dated 04.11.2022 and to quash the same and consequently direct the respondents to include the name of the petitioners in the selection list for appointment to the post of Dark Room Assistant, based on the marks secured by the petitioners in the selection by recokoning CRA candidates with or without Science in Higher Secondary Course as single

For petitioner	: Mr.G. Sankaran for Mr.S.Nedunchezhiyan
For respondents	: Mr.T.Chezhiyan, Addl. Government Pleader for R1 & R2 Mr.M.Loganathan, Standing Counsel for R3

ORDER

By consent of both the parties, this writ petition has been taken up for final disposal at the admission stage itself.

2. Mr.T.Chezhiyan, learned Additional Government Pleader accepts notice for the 1st and 2nd respondents and Mr.M.Loganathan, learned Standing counsel accepts notice for the 3rd respondent.

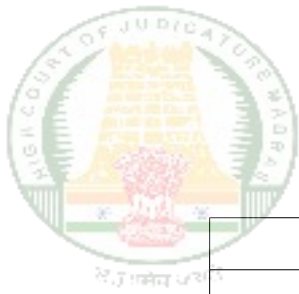
3. This writ petition has been filed challenging the impugned provisional selection list issued by the 3rd respondent dated 04.11.2022.



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The petitioners have applied for the post of Dark Room Assistant, pursuant to the Notification issued by the 3rd respondent. The 3rd respondent has issued the impugned selection list dated 04.11.2022, in which the petitioners names have been excluded from the said selection list. The petitioners claim that arbitrarily and illegally the impugned selection list has been published as according to them, they are eligible to be appointed to the post on par with CRA candidates with Science subjects in the Higher Secondary Course. The educational qualification criteria as stipulated under the Notification inviting aspirants to the said post reads as follows:-

<i>Sl.No.</i>	<i>Name of the post</i>	<i>Qualification</i>
1.	Dark Room Assistant	1. A pass in Higher Secondary Course with Science Subjects a) Physics, Chemistry, Botany and Zoology; (or) (b) Physics, Chemistry, Biology and any one of the related subjects (viz) Mathematics or Computer Science; and ii. Certificate of having successfully completed the training course for Dark Room Assistant of any Institution recognised by the State Government (or) Government of India. Provided that if candidates



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<i>Sl.No.</i>	<i>Name of the post</i>	<i>Qualification</i>
		with the certificates of Dark Room Assistant are not available, then candidates with Certificate of Radiological Assistant of any institution recognised by the State Government or Government of India with or without science in Higher Secondary Course shall be appointed. Provided also that if candidate with the certificate of Radiological Assistant are also not available then candidates with Diploma in Radio Diagnosis or Diploma in Radio Therapy of any Institution recognised by the State Government or Government of India shall be appointed.

4. According to the petitioners, as seen from the proviso, it is clear that both Science and non-Science candidates in the Higher Secondary Course will have to be treated on par. But, according to them under the impugned selection list, candidates, who were studied Science in the Higher Secondary Course were given priority and they were placed ahead of non-Science candidates in the Higher Secondary Course. According to the petitioners, only based on merit, the selection list ought



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to have been published without discriminating between the candidates, who have studied Science in the Higher Secondary Course and the candidates who have studied non-Science in the Higher Secondary Course.

5. Heard Mr.G.Sankaran, learned counsel for the petitioners and Mr.T.Chezhiyan, learned Additional Government Pleader for the 1st and 2nd respondents and Mr.M.Loganathan, learned Standing counsel for the 3rd respondent.

6. The learned Senior counsel for the petitioners drew the attention of this Court to the impugned selection list and in particular, he referred to candidates, who have been selected based on studying Science subjects in the Higher Secondary Course. He would submit that as per the impugned selection list, candidates, who have studied Science subjects in the Higher Secondary Course were given priority and the candidates, who did not study Science, i.e., non-Science candidates, in the Higher Secondary Course were ranked below them, which according to him is not in accordance with the recruitment Notification and not in accordance with the Rules, dated 27.08.2021 issued in G.O. Ms.No.385, Health and Family Welfare (C2) Department.

7. The learned counsel for the petitioners would submit that even



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though a positive direction has been sought for in this writ petition, the petitioners will be satisfied, if they are allowed to give a representation requesting the respondents to issue / publish a new selection list which includes the names of the petitioners instead of the impugned selection list and a direction is issued to the respondents to consider the said representation, within a time frame to be fixed by this Court.

8. The learned counsel for the petitioners would also submit that till final orders are passed on the petitioners representation, an interim direction may be issued to the respondents not to issue appointment orders to the selected candidates as per the impugned selection list dated 04.11.2022. Since a prima facie case has been made out by the petitioners, no prejudice would be caused to the respondents, if the petitioners are allowed to give a representation as stated supra and the respondents are directed to pass final orders on merits and in accordance with law, within a time frame to be fixed by this Court. This Court is therefore inclined to issue a direction to the respondents to keep the impugned selection list dated 04.11.2022 in abeyance till final orders are passed on the petitioners' representation.

9. For the foregoing reasons, this Court directs the petitioners to submit a representation to the respondents requesting for publishing a



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fresh selection list which includes the names of the petitioners instead of the impugned selection list, dated 04.11.2022, within a period of three days from the date of receipt of a copy of this order. On receipt of the said representation, the 2nd respondent is directed to pass final orders on merits and in accordance with law, within a period of two weeks thereafter.

10. Till final orders are passed by the 2nd respondent, the impugned selection list dated 04.11.2022 shall be kept in abeyance by the respondents. However in case, the 2nd respondent comes to the conclusion that the petitioners are not entitled for the reliefs they have sought for in their representation, the 2nd respondent can go ahead and process the impugned selection list but it goes without saying, necessarily, the respondents will have to follow the existing statutory rules before issuing appointment orders to the selected candidates.

11. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

15.11.2022

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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ABDUL QUDDHOSE, J.

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To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat,
Fort St. George,
Chennai – 600 009.

2. The Director of Medical Education,
Kilpauk,
Chennai – 10.

3. The Member Secretary,
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