



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2022

CORAM:

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THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P. (MD) .No.143 of 2022

R.Palaniappan

... Petitioner/Petitioner

Vs.

1. The Secretary,
Law Department,
Secretariat, Fort St.George,
Chennai-09.

2.The Secretary,
Ministry of Backward Classes,
Most Backward Classes to Minorities,
Social Welfare Department,
Fort St.George, Chennai-600 009.

3.The Registrar,
The Tamil Nadu Dr.Ambedkar Law University,
No.5, Greenways Road,
Chennai-600 028.

... Respondents/Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned Notification dated 26.12.2021 issued by the third respondent and quash the same and consequently, direct the third respondent to issue fresh notification notifying the vacancies and the respective reservation for the teaching posts and non-teaching posts in accordance with the Tamil Nadu Government Special Reservation of Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in Services under the State) Act, 1993 (Act 45 of 1994) .

For Petitioner : Mr.S.Sankar

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader
for RR1 & 2
Mr.K.P.Krishnados for R3

**ORDER**

This Writ Petition has been filed challenging the notification dated 26.12.2021 issued by the third respondent University and to direct the third respondent to issue a fresh notification notifying the vacancies and the reservation for teaching and non-teaching posts, in accordance with the Tamil Nadu Government Special Reservation for Backward Classes, Scheduled Castes and Scheduled Tribes [Reservation of Seats in Educational Institutions].

2. By the impugned notification, the third respondent has called for application for appointment of Professors, Associate Professors, Assistant Professors and Assistant Director of Physical Education and notified MBC(V) as a clause of reservation. The Government of Tamil Nadu has passed a Bill on 26.02.2021 providing internal reservation of 10.5% to Vanniyar Community under the category of Most Backward Classes and an Act i.e., the Tamil Nadu Special Reservation of Seats in Educational Institutions including Private Educational Institutions and appointments or posts in the Services under the State within the Reservation for the Most Backward Classes and De-notified Communities Act, 2021, was enacted in Act 8 of 2021 which provided the internal reservation of 10.5% quota to Most Backward Classes (Vanniyar).

3. The said Act was challenged in W.P.No.15679 of 2021 etc., batch and the petitioner was also a party to one of the writ petitions i.e., W.P.No.19064 of 2021 in the batch. All those writ petitions were disposed of by the Hon'ble Division Bench of this Court on 01.11.2021 holding that Act 8 of 2021 is ultra vires of the Constitution of India and the same was quashed.

4. As against that order in W.P.No.15679 of 2021 etc., batch, the Government has preferred an appeal before the Hon'ble Supreme Court in S.L.A.No.19574 of 2021. While entertaining the above Special Leave Petition, the Hon'ble Supreme Court has passed the following interim order:

"We make it clear that the admissions and appointments that are already made shall not be disturbed till the matter is heard finally. No further admissions, appointments shall be made till 15.02.2022".

5. In this background, the impugned notification is issued by the respondent University on 26.12.2021 inviting application for appointment of Professors, Assistant Professors, Associate Professors etc., by providing reservation to MBC (Vanniars). However, it is mentioned in the notification that the reservations provided to MBC Vanniyakula Kshatriya Community, will be decided depending on the outcome of S.L.A.No.19574 of 2021 which is pending on the file of the Hon'ble Supreme Court of India. As against the above notification, the petitioner, who is also a party in the above



batch of writ petitions as mentioned above, has filed this writ petition on the ground that the impugned notification is in violation of the orders of this Court and the orders of the Hon'ble Supreme Court and it would create confusion among the other MBC and DNC candidates.

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6. As per Section 5 of Tamil Nadu Government Special Reservation for Backward Classes, Scheduled Castes and Scheduled Tribes [Reservation of Seats in Educational Institutions], the reservation shall be 69% as follows:

- | | |
|--|-------|
| a) Backward Classes | - 30% |
| b) Most Backward Classes and
Denotified Communities | - 20% |
| c) Scheduled Castes and
Scheduled Tribes | - 18% |

7. By Act 8 of 2021, an internal reservation of 10.5% was provided to MBC (Vanniars). The said Act was challenged before this Court and declared as ultra vires of the constitution of India and was quashed by order dated 01.11.2021. As on date, the Act is not in existence. Though the Special Leave Petitions were entertained by the Hon'ble Supreme Court of India, the Hon'ble Supreme Court has not stayed the orders of this Court in W.P.No.15679 of 2021 etc., batch, however, granted an order that there shall not be any further admissions or appointments providing this reservation till 15.12.2021. This notification is issued on 26.12.2021 and on that day, there is no provision available under any Statute providing reservation to Most Backward Classes (Vanniars).

8. MrK.P.Krishnados, learned Standing Counsel, who took notice for the third respondent, filed the counter affidavit today.

9. The third respondent in his counter affidavit states that there is a necessity for filling up the post immediately and therefore, this notification was issued. The respondent further claims that though a reservation was provided to MBC (Vanniars), it is clearly mentioned in the notification dated 26.12.2021 that the reservation for MBC (Vanniyar) would be decided depending upon the outcome of S.L.A.No.19754 of 2021 pending before the Hon'ble Supreme Court.

10. The learned Standing Counsel has also justified the notification by referring the counter affidavit filed by the third respondent that the University Grants Commission and the Bar Council of India have also issued certain ultimatum to fill up the faculty and the notification was issued, as per the decision of the Syndicate dated 11.09.2021. The relevant paragraph of the counter affidavit is extracted hereunder:

As per the decision of the Syndicate in its 176th meeting held on 11.09.2021, a Monitoring Committee has

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



been constituted to recruit teachers and non-teaching staff under whose able guidance all the process of the recruitment are going on.

11. The respondent University has issued the impugned notification on 26.12.2021 and they are expected to appoint the faculty, as per the Rule of reservation which is in existence as on date. The reservation which was provided to MBC [vanniyar] has been declared as ultra vires by this Court. In the appeal preferred by the Government, as against the order of this Court passed in W.P (MD).No.15679 of 2021, etc., batch, the Hon'ble Supreme Court of India has observed that no further admissions and appointments shall be made till 15.02.2022. However the orders of the Division Bench of this Court has not been stayed by the Hon'ble Supreme Court. In the absence of any orders, the notification issued by the respondent University is against the Act 45 of 1994 and this would create confusion among the candidates who have applied for the said posts.

12. Accordingly, this Writ Petition is allowed and the impugned notification dated 26.12.2021 issued by the third respondent is quashed. It is left open to the University to issue a fresh notification after 15.02.2022, depending on the outcome of the petitions pending before the Hon'ble Supreme Court. No costs.

Sd/-

Assistant Registrar (CS III)

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/ /2022

Sub Assistant Registrar(CS)

ssb

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary,
Law Department,
Secretariat, Fort St.George,
Chennai-09.

2.The Secretary,
Ministry of Backward Classes,
Most Backward Classes to Minorities,
Social Welfare Department,
Fort St. George, Chennai-600 009.



3.The Registrar,
The Tamil Nadu Dr.Ambedkar Law University,
No.5, Greenways Road,
Chennai-600 028.

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+1 CC to M/s.S.SANKAR, Advocate (SR-1952[F] dated 20/01/2022)

+1 CC to M/s.K.P.KRISHNADOSS, Advocate(SR-1841[F] dated 20/01/2022)

+1 CC to M/s.SPL GP (SR-1916[F] dated 20/01/2022)

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MGJ(03.02.2022) 5P 7C