



W.P(MD)No.9278 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9278 of 2022

and

W.M.P.(MD)Nos.6659 & 6661 of 2022

S.J.Subashini

... Petitioner

Vs.

1.The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C.Nagar,
Park Town,
Chennai-600 003.

2.The Controller of Examination,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C.Nagar,
Park Town,
Chennai-600 003.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned order uploaded by the second respondent dated Nil and quash the same as illegal.

For Petitioner : Mr.M.Subash Babu

For Respondents : Mr.J.Ravindran
Additional Advocate General
assisted by Mr.V.Pannerselvam
Standing Counsel



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ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Advocate General assisted by the learned Standing Counsel appearing for TNPSC.

2. TNPSC issued notification dated 25.08.2021 calling for applications from eligible candidates for direct recruitment to the post of Assistant Public Prosecutor-Grade II in Prosecution Department. The petitioner was one of the candidates who applied in response thereto. She wrote the preliminary examination. However, she was not allowed to write the main examination. That led to filing of this writ petition.

3. Vide order dated 05.05.2022, the petitioner was permitted to write the main written examination held on 07.05.2022. Her results have not been declared. In the mean while, the oral test is to be held on 01.12.2022 and 02.12.2022.

4. The learned counsel appearing for the petitioner took me through the averments set out in the affidavit filed in support of this writ petition and called upon this Court to quash the impugned order insofar as the writ petitioner is concerned and allow the writ petition as prayed for.



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5. The respondents have filed a detailed counter affidavit and the learned Additional Advocate General took me through its contents.

6. The stand of the respondents is very clear. The petitioner had produced the community certificate, in which, her husband's name has been mentioned. Para 14-F(i) of “Instructions to Applicants” dated 10.08.2021 reads as follows:-

“xxx Production of a community certificate citing name of spouse, shall result in rejection of candidature after due process. xxx”

Therefore, the respondents rightly rejected the petitioner's application. The learned Additional Advocate General added that instructions issued to the applicants is binding on them and that they cannot wriggle out of the consequences flowing therefrom. He pressed for dismissal of the writ petition.

7. I carefully considered the rival contentions and went through the materials on record.

8. The petitioner claims that she belongs to Hindu Maruthuvar Community. This community comes under MBC category. The petitioner's counsel has produced copy of the certificate issued by the Special Deputy



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Tahsildar, Mannargudi in the year 1997 certifying that the petitioner belongs to the said category. When this certificate was issued, the petitioner was not married. In that certificate, her father's name was mentioned. The petitioner got subsequently married. When she applied in the year 2013, the Zonal Deputy Tahsildar, Mannargudi Taluk issued community certificate mentioning her husband's name.

9. The only question that calls for consideration is whether on this ground, the petitioner's application is liable to be rejected. No doubt, “Instructions to Applicants” reads that production of a community certificate citing name of spouse would result in rejection of candidature after due process. The expression “after due process” cannot be ignored. It only means that if the candidate had taken advantage of the status of the spouse and obtained certificate on that basis, the application is liable to be rejected. In other words, such a certificate is subject to a verification process at the threshold. The candidate will have to sustain the claim at the time of certificate verification by producing antecedent certificates.

10. It is well settled that caste or community status is determined by one's birth. Marriage will not lead to changing the community status. I have come



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across cases where a woman after marriage claims the status of the husband's community and even manage to obtain certificate. In order to ensure that such unfair advantage is not taken, there is a clause that if the community certificate cites the name of spouse, it shall be rejected after due process. Unless this clause is considered in the aforesaid fashion, the ends of social justice will be defeated. A person will be denied the benefits of reservation to which he or she is otherwise entitled to. The petitioner had produced before me the copy of the certificate issued in her favour way back in the year 1997 in which her father's name has been mentioned. One must take note of the social reality. Once a woman gets married, even her initial undergoes change. Invariably, in all the official records, the name of the husband is mentioned. The name of the father is no longer mentioned. The Zonal Deputy Tahsildar while issuing the community certificate, ought to have mentioned the community as well as the father's name of the applicant. One cannot take advantage of the one's own wrong. Here, wrong if at all was committed by Government official. For this, the candidate could not suffer. TNPSC will declare the petitioner's result in the main examination. If she is found to have passed, she will be permitted to take part in the oral test.



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11. In this view of the matter, the order impugned in the writ petition is set aside. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

30.11.2022

Index : Yes / No
Internet : Yes/ No
rmi

Issue order today

To

1.The Secretary,
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Chennai-600 003.

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G.R.SWAMINATHAN, J.

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