



W.P.No.38234 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.No.38234 of 2015

T.Anbalagan

.. Petitioner

Vs

1.The Government of Tamil Nadu,
rep. by its Principal Secretary,
School Education Department,
Fort St. George, Chennai-600 009.

2.The Member Secretary,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Compound, College Road,
Chennai-600 006.

3.The Director of School Education,
DPI Compound, College Road,
Chennai-600 006.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents to confer the post of P.G. Assistant in Commerce to the petitioner in the existing vacancies.

For the Petitioner	: Mr.R.S.Anandan for Mr.D.Balachandran
For the Respondents	: Mrs.R.Anitha Spl. Government Pleader for respondents 1 and 3
	: Mr.R.Neelakandan Addl. Advocate General assisted by Mr.K.Sathishkumar for respondent No.2

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

We have heard Mr.R.S.Anandan, learned counsel for the petitioner; Mrs.R.Anitha, learned Special Government Pleader for respondents 1 and 3 and, Mr.R.Neelakandan, learned Additional Advocate General, assisted by Mr.K.Sathishkumar, learned counsel for the second respondent.



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2. The petitioner is seeking a direction on the respondents to confer the post of P.G. Assistant in Commerce to the petitioner in the existing vacancies.

3. The petitioner has participated in the selection process for the post of P.G. Assistant in Commerce in the year 2012. The petitioner claimed that he should be considered in the preferential category having studied in Tamil medium. As per the Tamil Nadu Appointment on preferential basis in the Services under the State of Persons Studied in Tamil Medium Act, 2010, 20% of the vacancies are required to be filled on preferential basis from the persons who studied in Tamil medium. The petitioner has studied in Tamil medium from first standard, however, he was denied appointment. The respondents gave preference to the candidates who have studied the PG course and B.Ed. alone in Tamil medium. The same is not in consonance with the letter and spirit of the Act of 2010.

4. Learned counsel for the petitioner submits that Section 3 of the Act of 2010 is clear and does not admit of any other



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interpretation. According to learned counsel for the petitioner, if the interpretation as made by the respondents is accepted, then that would defeat the very purpose of giving preference to the persons who have studied throughout in Tamil medium. According to learned counsel, subsequently in the year 2020, an amendment was made and that amendment is declaratory/clarificatory in nature and explains the true import of Section 3 of the Act of 2010. The 20% of 275 vacancies that were to be filled in comes to 55. The petitioner ought to have been considered for appointment against the said 55 vacancies in exclusion of the candidates who have studied only B.Ed. and PG course in Tamil medium.

5. Learned Additional Advocate General appearing for the second respondent relies upon a judgment of this Court in W.A.(MD) No.186 of 2014, dated 23.04.2014 [*A.Akila and others v. P.Mariammal and others*] to contend that those who have completed B.Ed. and PG course in Tamil medium are also entitled to be considered for preferential category of 20%. According to learned Additional Advocate General, the 2020 amendment would



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not have a retrospective operation and the same is prospective.

6. The selection process is of the year 2012. The provisional selection list was released on 03.02.2014. The name of the petitioner did not find place in the list of the candidates either from the preferential category or otherwise. The gamut of the contention of learned counsel for the petitioner is that the persons who have not studied in Tamil medium throughout are also considered in the preferential category only on the basis that B.Ed. and PG course are passed by those candidates in Tamil language.

7. Section 3 of the Act of 2010 was the subject-matter of interpretation before the Division Bench of this Court in the case of *A.Akila and others* (supra). The interpretation made by the respondents was upheld by the Division Bench of this Court.

8. The law as it then stood by the dictum of the Division Bench of this Court in the case of *A.Akila and others* (supra) holds the field in respect of recruitments made till 07.12.2020 when the



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Act of 2010, substituting Section 2(d) of the Tamil Nadu Appointment on preferential basis in the Services under the State of Persons Studied in Tamil Medium (Amendment) Act, 2020, came into force.

9. In the light of the judgment of the Division Bench of this Court, as referred to supra, a view has already been taken. Assuming the contention of the petitioner that 2020 amendment is clarificatory, it shall relate back to the year 2010, however the same cannot be applied to the selection process of the year 2012, which has culminated and has become final and the persons appointed are not parties to the petition.

10. It is also not disputed that the petitioner had participated in the subsequent selection process of the year 2021, but was not selected. He has challenged the same and writ petition is filed by him and the same is pending. The petitioner may prosecute the same.



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11. In the light of the above, no relief can be granted to the petitioner. The writ petition is dismissed. There will be no order as to costs.

(S.V.G., CJ.)

(P.D.A., J.)

28.06.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

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