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WP No.27792 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.07.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP No.27792 of 2017

And

W.M.P.Nos. 29778 & 29779 of 2017

S.Geetha

... Petitioner

-Vs-

1. The Secretary to the Government
School Education Department
Secretariate, Chennai -9.
2. The Chairman
Teachers Recruitment Board,
College Road, Chennai – 6.
3. The Member Secretary
Teachers Recruitment Board,
College Road, Chennai-6.
4. The Director of School Education
Chennai – 6.

... Respondents



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PRAYER: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the entire records of the third respondent's impugned proceedings vide RC No. 848/L2/2016 dated 23.06.2016 quash the same and consequently directing the respondents to appoint the petitioner in the post of P.G. Assistant (Telugu) Teacher in any one of the School under the 4th respondent.

For Petitioner	:	Mr. S.T.Moorthy Senior Advocate for M/s. R.Govindasamy
For RR 2 & 3	:	Mr.R.Neelakandan Additional Advocate General Mr.C.Kathiravan Standing Counsel
For RR 1 & 4	:	Mr.V.Nanmaran Additional Government Pleader

ORDER

Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records relating to the impugned proceedings of the third respondent, the Member Secretary, Teachers Recruitment Board, College Road, Chennai -6, in R.C.No. 848/L2/2016 dated 23.06.2016 and quash the



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same and direct the respondents to appoint the petitioner to the post of PG Assistant Teacher (Telugu) in any one of the school under the fourth respondent.

2. The petitioner in her affidavit had stated that she is residing at No. 484, 16th Cross Street, T.P.Chathiram, Chennai-30. She had however further stated that she was from Palasamudram Village, Chittoor District, Andhra Pradesh. She had studied in Telugu Medium. She had passed 10th std, Plus 2, B.A., (Telugu) and also Post Graduate Degree (Telugu) in the academic year 2006-2007 at Sri Venkateswara Univerity and B.Ed (Telugu Social) completed in the year 2011. She had also registered herself with the Employment Office at Chennai.

3. The second respondent had called for applications in a notification in Advertisement No. 2/2013 dated 09.05.2013 for two Telugu P.G. (Assistant) teachers, one under the General Turn (G) and another for SC (G).



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4. The petitioner belongs to SC category. She had applied for the same. At the time of application, the first prerequisite was that she should uploaded all the requisite certificates relating to her Educational qualification and also her community certificate. She did the same. She had written her examination and was then called for producing the certificates in original. The certificates in original were also produced.

5. She claims that she was provisionally selected but that her name was not included in the selection list under the SC category. She had given representations and then she had filed W.P.No. 12140 of 2016 seeking a Mandamus against the respondents directing hem to appoint her as P.G Assistant (Telugu) on the basis of the selection process. A learned Single Judge of this Court had directed that the representation given by the petitioner on 22.05.2015 should be examined on merits and orders passed. The order passed by the third respondent/ the Member Secretary, Teachers Recruitment Board, College Road, Chennai-6, on 23.06.2016 is impugned in the present Writ Petition.



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6. The entire facts surrounds the eligibility of the petitioner herein to qualify herself as SC category candidate within the State of Tamilnadu or under the notification issued by the respondents. There is no doubt raised by the respondents that she belongs to SC Category.

7. However, it must be also noted that she is bound by the terms in the notification and she cannot claim any further privilege. The notification is clear and straight forward. Under the notification in Advertisement No. 2/2013 dated 09.05.2013, it had been very specifically stated under Clause 11, in the sub paragraph relating to community certificate as follows:-

*“11. **Certificate Verification:** Candidates short-listed as above shall bring the original and attested copies of all Certificates as stated in the call letter for Certificate Verification. All Certificates should have been issued prior to the last date for submission of filled-in Applications. Certificates issued after the cud-off date will not be*



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considered. Teaching experience certificate issued by Headmaster/ Principal of the School should be countersigned by the Inspecting Officer concerned. (Annexure- III of Prospectus).

Community Certificate: *Permanent Community Card Certificate obtained from the under mentioned authorities on or before the last date for submission of filled-in applications, is necessary for candidates claiming reservation category.*

i. ST-Revenue Divisional Officer dated after 11.11.1989”

ii. SC – Tahsildar of native taluk of the candidate

iii BC/MBC/DNC – Headquarters Deputy Tahsildar or Special Deputy Tahsildar

Note:

i. Community Certificate of married women issued in father's name (Not in Husband's Name) alone shall be accepted.



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*ii. Other State and UT Community Certificate
will not be considered. They will be treated as GT.”*

8. It had been very specifically pointed out in the notification, on a reading of which the petitioner had applied, that her community certificates will not be considered and she would be treated only under the General Turn. This particular clause if it violates the petitioner's right should have been questioned by the petitioner. She had abided by the term and had accepted to such terms. It is only on the basis of the acceptance of the terms of the notification that she had actually applied for selection. The notification is only an offer for prospective candidates to examine whether they conformed to the guidelines prescribed therein and if they do so, to apply for the post. The petitioner had uploaded along with application form her community certificate issued by the Government of Andhra Pradesh. This fact is not controverted by the petitioner herein.



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9. This particular clause very specifically states that whatever be the caste of the candidate, if the certificate is produced from any other State or from Union Territory, then that candidate would be only treated as one applying under General Turn. It is not in dispute that the petitioner herein had obtained lesser marks, than the candidates, who actually applied under the General Turn.

10. Once this fact stares on the face of the petitioner herein, she could not by any stretch of imagination sidestep this particular fact.

11. However, she took advantage of a small window which was opened by the respondents. The respondents had issued a notification on 28.10.2013 subsequent to the date on which they had verified the certificates. By such notification, they had stated that during the verification held on 23.10.2023, a few candidates were absent for certificate verification and some candidates did not produce the required certificates.



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12. This notification does not give liberty for a candidate to go over to any other Tahsildar Office and produce a certificate afresh quite contrary to what had been uploaded in the application form. This would mean taking advantage of a notification which was meant for genuine candidates, who had not been present during the certificate verification or who had not produced the certificates. Any candidates, who produces the original certificate for verification, must produce the certificates which was originally uploaded along with the application form. They cannot bring about a second set of certificates and therefore claim a right to be appointed. The respondents on the other hand have a right to reject such certificates by claiming that it is different to be certificates uploaded.

13. The issue of appointment will have be examined with a strict view in mind. If one candidate is given undue advantage to produce two alternate certificates, to be selected, then a genuine candidate, who had actually produced a certificate from the State categorising him or her as SC candidate would suffer.



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14. That is not the object behind any selection process. It is to provide a leveling playing field for all the candidates. They must upload the certificates which they rely on along with the application form. Those certificates must be in conformity with the qualification required and in accordance with the eligibility conditions as stated in the notification.

15. Reliance was placed by the petitioner on the Judgment of the Hon'ble Supreme Court reported in **2005(9) SCC 779 [Dolly Chhanda Vs. Chairman, JEE & Ors]**. That was a case where applications were called and priority was given for daughters/widow of Ex serviceman. The petitioner therein had produced a certificate. Her father fell under the category of disabled / killed in war hostility. While issued that certificate, unfortunately, the Army Board had used the words 'not eligible'. As a fact this is a mistake. Therefore, the Hon'ble Supreme Court did not give any additional privilege but corrected a wrong fact stated in certificate.



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16. They stated in Paragraph No. 7 as follows:-

“7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or marksheets. Similarly, in order to avail of the benefit of reservation or weightage etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement for benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not



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be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature. ”

17. In the instant case, the petitioner's case is certainly distinguishable. When she applied for the post, she had produced a certificate issued by the Andhra Pradesh categorising her to be a SC candidate. If she produces a certificate from a State which is other than Tamilnadu, then whatever be the community, she will be categorised only under the General Turn. That is the term of the notification which she applied. Therefore, the facts in this Judgment are distinguishable.

18. Reliance had also been placed in ***W.P.No. 2316 of 2019 [A.K.anand Vs. the Registrar General and Another]***. A Division Bench was examining the selection of candidates for the post of Civil Judge of Tamilnadu State Judicial Service for the years 2014-2015 and 2016-2017. The petitioner therein, while producing the certificates during the course of



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verification, had produced a certificate issued by the Union Territory of Puducherry categorising him as belonging to SC community. However, the permanent address of that particular candidate was subsequently determined to be in Tamilnadu, Villupuram. Therefore, the certificate issued by the Union Territory of Puducherry was rejected. The candidate then produced a certificate issued by the State of Tamilnadu.

19. It must be pointed out that there was no such guideline during the selection of Civil Judges, that if a community certificate is produced from any other State, that particular candidate would be treated only under General Category. This particular eligibility condition has been stipulated for the post for which the petitioner had applied. She is bound by that particular clause. She could have produced another certificate prior to her application. Once, she applies, all the application forms will have to be viewed with the same standard and if one of the certificates in her application is not proper, then an opportunity cannot be given to her. This would mean rejecting a bona fide candidate. There would be a swing of the



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pendulum in favour of the petitioner to the disadvantage of other eligible candidates.

20. The fact that there were no other candidates to seeking admission does not advance the case of the petitioner. She has a right to seek admission provided she is eligible in accordance with the terms of the notification issued by the respondent herein.

21. Attention has been also drawn to the Judgment of a Division Bench of this Court in *W.P.No. 14054 of 2012 [D.Thriveni Vs. The State of Tamil Nadu and Another]*. The petitioner sought a Mandamus that she was qualified for the viva voce by including her under the BC/OBC category by accepting both or the community certificate issued by the competent authorities. She had failed to enclose the community certificate in her application and the community certificate produced by her was from the Deputy Tahsildar, Thirunallar, Government of Puducherry. That certificate could not be used for the purpose of treating her as a BC candidate under the State of Tamilnadu. The facts again are distinguishable.



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22. It is also brought to the notice of this Court that a post is still vacant. This Court cannot thrust a candidate on the respondents. I would leave it to the respondents to take a decision about filling of the post but that should be an independent decision taken and certainly not on the directions of this Court.

23. So far as the facts of this case are concerned, as pointed out by the learned Additional Advocate General, the petitioner had applied abiding by the regulations as stipulated in the notification. The petitioner cannot claim any right and she can not claim any different privilege. The notification prevails so long as set aside or questioned.

24. I am afraid, I am not able to grant the relief sought for by the petitioner.



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25. Accordingly, the Writ Petition stands dismissed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

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Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

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