



W.P.(MD)Nos.6990 & 11320 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.5075 & 12474 of 2019

and

W.M.P(MD)Nos. 9302, 9998 of 2019

G. Sasikala ... Petitioner in both the petitions

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary,
Department of Education,
Fort Saint George,
Secretariat,
Chennai – 600 009.

2. The Teachers Recruitment Board,
Represented by its Member Secretary,
4th Floor, EVK Sampath Maligai,
DPI Compound,
College Road,
Chennai.

... Respondents in both the Petitions

PRAYER in W.P.(MD)No. 5075 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Mandamus*, directing the respondents to permit the petitioner to participate in the interview or selection to



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the post of Assistant Professor in Law (Criminal Law) within the time stipulated by this Court.

PRAYER in W.P.(MD)No.12474 of 2019 : Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Mandamus*, directing the respondent No.2 to publish the results of the petitioner (Roll.No.18LC06009) and to select and appoint the petitioner in the post of Assistant Professor in Law (Criminal Law), if found securing more than the cut-off marks .

In Both the petitions:

For Petitioner	: M/s.G.Prabhu Rajadurai and K.Vinoharan
For R-1	: Mr.V.Om Prakash, Government Advocate
For R-2	: Mr.V.R.Shanmuganathan, Standing Counsel

COMMON ORDER

Since the issue involved in both the Writ Petitions are similar in nature both the writ petitions are taken up together and disposed of by a common order.



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2(i). W.P.(MD)No.5075 of 2019 is filed seeking direction to the respondents to permit the petitioner to participate in the interview or selection to the post of Assistant Professor in Law (Criminal Law).

2(ii). W.P.(MD)No.12474 of 2019 is filed seeking direction to the 2nd respondent to publish the results of the petitioner (Roll.No.18LC06009) and to select and appoint the petitioner in the post of Assistant Professor in Law (Criminal Law), if found securing more than the cut-off marks .

3. The petitioner has participated in the recruitment process based on the Notification No.2/2018, dated 18.07.2018. The petitioner has secured 140 marks out of 175 marks. In the Criminal law subject out of 29 participants the petitioner has scored first mark. But the petitioner was not allowed to participate in the interview, for the reason that the petitioner has completed M.L. Degree under Private Study from the University of Madras.

4. The learned counsel appearing for the petitioner relied on the notification of the respondents, wherein the notification has excluded the persons



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who have studied in correspondent course. The notification has not excluded the persons who had studied through “Private study”. The relevant portion is extracted hereunder:

“Note: *Candidates who have obtained their Post Graduate Degree in Law through Correspondence Course are not eligible to apply for the post of Assistant Professor (Pre-Law) in view of the Orders dated 23.02.2012 and 21.03.2012 of the Hon'ble High Court, Madras in Writ Petition Nos.19396 of 2011 and 5014 of 2012”.*

Since the respondents have not excluded the persons who have studied the Post-Graduation in “Private Study”, then the petitioner is entitled to be considered. When the private study is not excluded, then at this juncture the respondents cannot claim that the “private study” cannot be considered, since the rules of selection cannot be changed once the selection process is on. Based on this principle the petitioner is entitled to be selected.

5. The petitioner has scored above the cutoff marks the petitioner. At the time of admission, this Court has issued directions to the respondents to allow



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the petitioner to attend the interview. In the interview also the petitioner has obtained higher marks. Therefore, based on this ground also the petitioner is entitled to be considered for the appointment to the post of Assistant Professor in Law (Criminal Law).

6. Therefore, the 2nd respondent is directed to include the name of the petitioner in the selection list and communicate the same to the 1st respondent within one week from the date of receipt of the copy of order. Thereafter, the 1st respondent is directed to issue an appointment order to the petitioner within a period of 3 weeks thereafter.

7. With these observations and directions, these Writ Petitions are allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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28.06.2023

Note : Issue a copy of order on 04.07.2023



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To

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S.SRIMATHY, J

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**Common Order made in
W.P.(MD)Nos.5075 & 12474 of 2019**

28.06.2023