



W.A.(MD)No.237 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.A.(MD)No.237 of 2023

and

C.M.P.(MD)No.2834 of 2023

The Chairman,
Teachers Recruitment Board,
Chennai-600 006.

... Appellant / Respondent

Vs.

T.Dhanalakshmi

... Respondent / Writ Petitioner

PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 21.12.2018 made in W.P.(MD)No.20938 of 2017 on the file of this Court.

For Appellant : Mr.VR.Shanmuganathan,
Standing Counsel

For Respondent : Mr.M.Jothi Basu



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JUDGMENT

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(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This Writ Appeal is directed against the order passed by the Writ Court dated 21.12.2018 made in W.P.(MD)No.20983 of 2017.

2.The respondent herein was a candidate, who wrote Teachers Eligibility Test, where one of the questions ie., Question No.122 was that

“In which language the song “Vande Matharam” was written first?, the suggested answers are

A).Bengali B).Urdu C).Marathi D).Sanskrit.”

3.The respondent had answered the question as A.Bengali. However, the appellant denied one mark for the said question for the said answer written by the respondent on the pretext that the correct answer was “D”. As against which the respondent preferred the said Writ Petition, which was considered and ordered by the learned Single Judge through the impugned order dated 21.12.2018, where the learned Single Judge, after having referred to a decision of the learned Single Judge of this Court in the matter of **K.Veeramani Vs. The Chairman, Teachers Recruitment Board,**



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Chennai reported in **2017 (4) CTC 574** and another judgment, had allowed the Writ Petition, directing the respondent therein, who is the appellant herein to award one mark to the respondent / writ petitioner and accordingly, issue a certificate of completion of Teachers Eligibility Test, as she completed the same.

4.In this case, it is the contention of the learned Standing Counsel appearing for the appellant that if at all the respondent / writ petitioner was eligible to get one mark, assuming the answer “Bengali” was correct, that would not entail the respondent / writ petitioner to get any appointment and since the Mandamus had been issued through the impugned order by the learned Single Judge to issue a certificate of completion of Teachers Eligibility Test to the respondent / writ petitioner, she may seek any job or appointment from the appellant. Therefore, that was the main concern of the appellant to prefer this Intra-Court appeal.

5.We have considered the said submissions made by the learned counsel on both sides.



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6.The issue as to whether the answer written by the respondent / writ petitioner was correct or not, is no more *res integra*, as in a number of judgments, the very same issue had been answered by this Court and the Division Bench order of this Court dated 03.02.2020 made in W.A.No.167 of 2020 in the matter of **Chairman, Teachers Recruitment Board, College Road, Chennai-600 006 and another Vs. S.Padmavathy**, where the Division Bench has stated as follows:-

7. We have considered the submissions made. We find it necessary to answer the issue viz., with regard to the correctness or otherwise of the answer opted by the respondent/writ petitioner. The Division Bench in the case of The Chairman, Teachers Recruitment Board, College Road, Chennai-6 v. K.Veeramani, decided on 12.10.2017 (W.A.No.1040 of 2017), categorically recorded, and with which we also agree, that the song “Vande Matharam” was first penned and recorded in Bengali viz., by Bongkim Chondro Chottoapadhyay. The song was later on translated into Sanskrit. The question posed in the question paper was, as to in which language the song “Vande Matharam” was written first? It is, therefore, no longer in doubt that the song was written in Bengali first and therefore, option “A” was the correct answer.



8. Surprisingly, the Division Bench while proceeding to record its findings, abruptly held that both the answers viz., Bengali and Sanskrit, are correct. We cannot agree to any such conclusion drawn and the appropriate course for us in such circumstances would be to refer the matter to a Larger Bench in order to maintain judicial propriety, but on the facts of the present case, we find that the reference may not be necessary, inasmuch as much water has flown thereafter which renders this exercise purely academic.

9. The mode of appointment as existed when the examinations were held in 2013 was automatic absorption of a candidate as a teacher after having passed the Teacher Eligibility Test. The said situation has changed and now with the introduction of G.O.Ms.No.149, School Education Department, dated 20.07.2018, the candidate has to necessarily pass another examination in order to be engaged as a teacher. In these circumstances, a mandamus cannot be issued for the appointment of the respondent/writ petitioner and therefore, to that extent, the appeal has to be allowed.”

7.Both the issues have been answered by the Division Bench of this Court in the aforesaid judgment, where the answer “Bengali” written by the respondent / writ petitioner is to be considered as correct answer. Therefore, she is entitled to get one more mark. As stated by the learned



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counsel for both the parties, since the respondent / writ petitioner had already obtained 89 marks, if one mark is added, she will reach 90 marks, which is pass mark for getting the certificate of completion of Teachers Eligibility Test. Therefore, the respondent / writ petitioner would be eligible to get the said certificate.

8.Merely because such certificate is issued to the respondent / writ petitioner, that would not entail the respondent to seek for any appointment, as this position is clarified in Paragraph No.9 as extracted herein above, where the prevailing position was that merely on the basis of the certificate, appointment would be given, however, subsequently, in the year 2018, the State Government has issued G.O.Ms.No.149, School Education Department, dated 20.07.2018, under which subsequent examination would be conducted by the authorities concerned and based on such performance made by the candidates concerned, appointment would be considered. Therefore, that apprehension expressed as one of the grounds to prefer this appeal on the part of the appellant is also not available. Therefore, in view of all these reasons discussed herein above, we do not find any infirmity in the order impugned herein. Hence, it does not warrant any interference.



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Accordingly, this Writ Appeal fails, hence, it is dismissed. As a result, the appellant is hereby directed to award one mark to the respondent / writ petitioner for the said Question No.122 and consequently, issue the certificate of completion of Teachers Eligibility Test, since she reaches 90 marks. The needful as indicated above shall be undertaken by the appellant, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) & (K.K.R.K, J.)

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NCC : Yes / No
Index : Yes / No
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