



W.P.(MD)No.9077 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:27.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.9077 of 2018

All Districts Special B.Ed., Graduate Association,
Rep.by its State President P.Vadivel Murugan,
4/357, Vathuvarpatty Post,
Chettikurichi Via,
Aruppukkottai Taluk,
Virudhunagar District-626 134.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep.by its Secretary,
School Education Department,
Fort St.George,
Chennai-9.

2.The Project Director,
Inclusive Education of the Disabled at Secondary Stage (IEDSS),
DPI Campus, College Road,
Nungambakkam,
Chennai-600 006.

3.The Member Secretary,
Teachers Recruitment Board,
DPI Campus, College Road,
Nungambakkam,
Chennai-600 006.



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4.The Equivalence Committee,
Tamil Nadu State Higher Education Council,
Rep.by its Vice Chairman,
Lady Wellington College Campus,
Kamarajar Salai, Triplicane,
Chennai-600 005.

5.S.Seenivasan

6.T.Raja

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring the appointment of the respondents 5 and 6 as B.T.Assistants (Special Education) in the posts created for the Special B.Ed., Degree holders in the first respondent Department as null and void in the light of the G.O(Nilai).No.28, School Education (Pa.Ka.5(2)) Department dated 30.01.2015 and consequently direct the official respondents to appoint the Special B.Ed., Degree Holders as B.T.Assistant (Special Education) to teach the disabled students in the inclusive Education of Disabled at Secondary Stage (IEDSS) Scheme as per the said Government Order.



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For Petitioner : Mr.G.Thalaimutharasu
For Respondents : Mr.T.Amjad Khan
Government Advocate
for R1, R2 and R4
Mr.V.R.Shanmuganathan
for R3
Mr.D.Pandiarajan
for R5 and R6

ORDER

This Writ Petition has been filed seeking for a writ of Declaration to declare the appointment of the respondents 5 and 6 as B.T.Assistants (Special Education) in the posts created for the Special B.Ed., Degree holders in the first respondent Department as null and void, in the light of G.O.(Nilai).No.28, School Education (Pa.Ka.5(2)) Department, dated 30.01.2015 and direct the official respondents to appoint the Special B.Ed., Degree Holders as B.T.Assistant (Special Education) to teach the disabled students in the inclusive Education of Disabled at Secondary Stage (IEDSS) Scheme as per the said Government Order.



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2. The learned counsel appearing for the petitioner would submit that the third respondent has appointed the respondents 5 and 6, who are Senior Diploma (Special Education) Holders as B.T.Assistants (Special Education) which are created for the Special B.Ed., Degree holders, without getting approval from the fourth respondent and it is in violation of the Government Order issued in G.O.Ms.No.28, School Education (Pa.Ka.5(2)), Department dated 30.01.2015. Hence, the present writ petition has been filed.

3. The learned Government Advocate appearing for the respondents 1, 2 and 4 would submit that the Teachers Recruitment Board has issued a Notification dated 07.03.2017 for TNTET Paper II, Data Verification and Updation of Certificates to fill up the 286 current vacancies and 623 backlog vacancies for the Department of School Education including 202 posts of Special B.Ed., for IEDSS, RMSA among all the previous TNTET qualified candidates. The qualification for the Special B.Ed., Teachers has been stated in O.Mu.No.1192/AA2/2017 dated 20.10.2017 of the Teacher Recruitment



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Board, as per the reference No.7-91/RCI-2011 dated 11.01.2012 of the Rehabilitation Council of India. The selection process was conducted as per the norms prescribed in Letter dated 20.10.2017 and the fifth respondent has possessed all the required qualification to the post of Special Education Teacher. Therefore, he was appointed to the said post and there is no infirmity in the appointment of the fifth respondent. Hence, he prays for dismissal of the writ petition.

4. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1, 2 and 4, the learned counsel appearing for the third respondent and the learned counsel appearing for the respondents 5 and 6.

5. In the case on hand, it is the stand of the petitioners that unqualified persons have been appointed in the post of B.T. Assistants (Special Education). However, it is disputed by the respondents by stating that respondents 5 and 6, who have been appointed are qualified and satisfy all the qualification required for the said post. To that effect,



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the official respondents have filed a counter.

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6. A perusal of the counter reveals that while the qualifications of the 5th respondent have been given in detail, which show that the 5th respondent is qualified to hold the aforesaid post, the fact remains that insofar as the 6th respondent is concerned, there are no details in the counter to show the qualifications possessed of by the 6th respondent. Such being the position, this Court cannot come to a conclusion as to the 6th respondent qualifying herself for the said post. However, it is to be stated that merely because the details have not been given in the counter cannot be taken to mean that the 6th respondent is not qualified to hold the said post.

7. In the aforesaid circumstances, in the interest of justice, suffice to direct the official respondents to forward the details of the qualification relating to respondents 5 and 6 to the petitioner Association within a time frame stipulated by this Court and upon receipt of which the petitioner Association could decide the future course of action, if any.



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8. Accordingly, this writ petition is disposed of with a direction to the official respondents to forward the details of the qualification of respondents 5 and 6 to the petitioner Association within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the same, it is open to the petitioner Association to proceed in accordance with law, if so advised as to the qualification of respondents 5 and 6. There shall be no order as to costs.

27.02.2023

ssb
NCC:Yes/No
Index:Yes/No
Internet:Yes/No



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M.DHANDAPANI,J.

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