



W.P.(MD).No.22109 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.22109 of 2018

and

W.M.P(MD)No.20051 of 2018

P.Varatharajan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
School Education Department,
St.George Fort, Chennai – 600 009.

2.The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Maaligai,
College Road, Chennai – 600 006.

3.The Additional Secretary to the
Director of Government Examinations,
Chennai – 600 006.

4.The Commissioner of Technical Education,
The Director of Technical Education,
Guindy, Chennai – 600 025.

... Respondents

(R-3 and R-4 are suo motu impleaded vide Court Order dated 12.04.2023 in W.P.(MD).No.22109 of 2018).

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to



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consider the petitioner's name under persons studied in Tamil Medium (BCGT) category for appointment to the post of Drawing Teacher in the Tamil Nadu Educational Subordinate Service in accordance with his marks obtained in the selection of Direct Recruitment of Special Teachers (Physical Education, Drawing, Music, Sewing) in respect of posts mentioned in Notification No.5/2017 dated 26.07.2017 issued by the second respondent.

For Petitioner : Mr.M.Saravana Kumar

For R-1, R-3
and R-4 : Mr.V.Om Prakash
Government Advocate

For R-2 : Mr.V.R.Shanmuganathan

Assisted by : Mr.T.R.Dhandapani,
Deputy Director of Government
Examination.

ORDER

This Writ Petition is filed for Mandamus directing the respondents to consider the petitioner's name under PSTM quota to appoint in the post of Drawing Teacher in the Tamil Nadu Educational Subordinate Service in accordance with his marks obtained in the selection of Direct Recruitment of Special Teachers (Physical Education, Drawing, Music, Sewing) in respect of posts mentioned in Notification No.5/2017 dated 26.07.2017 issued by the second respondent.



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2. The petitioner has completed SSLC in the year 1997 and H.S.C in the year 1999 and Technical Teachers Certificate in Drawing (T.T.C) in the year 2003. The above courses were completed in Tamil Medium. Thereafter, the petitioner participated in the recruitment process under Notification No.5/2017 dated 26.07.2017 for recruitment to the post of 1325 posts of Special Teachers. The petitioner has secured 56 marks in the written examination. After adding 5 marks for the seniority in the employment exchange, his total marks is 61. The petitioner is coming within the zone of consideration as per the marks. The respondents have declined the petitioner's candidature, since for Free and Outline Model Art, the petitioner has not produced the certificate that he has done the course in the Tamil medium. The TRB is of the considered opinion that since the petitioner has not produced the PSTM certificate, he is not coming under the said quota. Hence, he cannot be considered for the post. However, the contention of the petitioner is that for drawing especially for the outline drawing, the medium of instruction is not necessary. This plea of the petitioner was vehemently opposed by the respondents by relying on the judgment of the Hon'ble Court in W.A.Nos.404 of 2020 etc., batch dated 16.03.2020, wherein, it has been held as under:



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36. *There is an another argument on behalf of the appellant that the respondents/petitioners could not have turned around after having appeared in the examination and acquiesced to the procedure prescribed under the notification. To this, the answer of learned counsel for the respondents/petitioners is that there cannot be a medium of instruction in respect of the Higher Grade technical qualification of Sewing, Music, Drawing and Physical Education. We cannot accept this argument of the respondents/petitioners, inasmuch as no educational course can be normally imparted without a medium of instruction. Even the Deaf and Dumb schools have a medium of visual reading and lip movement and the school for the Blind have a Braille medium. The subjects of Special Teachers are not only practical, but also contain some part of theory. The argument of the respondents/petitioners that there is no medium at all to study the subjects is simply preposterous. Whether it is Drawing or whether it is Sewing or Music or Physical Education, the course has to be imparted even if orally, through an instruction, which has to have a medium. Thus, the argument that there is no medium as urged by the respondents/petitioners has to be rejected outright. A script has to be studied and translated either by signs or by any other medium or by any other linguistic medium. We can only advise the writ petitioners and the learned counsel to read an authority on the subject viz., “The Loom of Language” by Frederic Bodmer.*

The Hon'ble Division Bench has held that a script has to be studied and translated either by signs or by any other medium or by any other linguistic medium. Even for drawing, the medium of instruction ought to be there in Tamil. Therefore, this Court is of the considered opinion that even for drawing medium of instruction is necessary and the same ought to be considered.



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3. However, it could not be ascertained the medium of instruction for the said course which the petitioner had undergone. Hence, the learned Government Pleader was directed to take instructions from the Additional Secretary to the Director of Government Examination, whether the instructions would be granted under Tamil medium or English medium. Today, the Deputy Director of Government Examination appeared before this Court in order to assist the Court and had stated that the medium would be granted both in English and Tamil by the concerned Institution. The subject will be both in Tamil and English. The candidates can choose to study either in Tamil or in English. Even he can write the exam either in English or in Tamil and the course has both languages, Tamil and English

4. Simultaneously, the learned counsel appearing for the petitioner was also directed to contact the concerned Institution and take instructions. The learned counsel appearing for the petitioner produced the certificate issued by the concerned Institution namely, Chitra Drawing and Training School, Kanyakumari District, Tamil Nadu wherein it has been stated as under:



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CHITRA DRAWING & TAILORING SCHOOL

Recognised by Govt.

Under No : 8068

Vettumimadam P.O., Nagercoil - 629 003, Kanyakumari Dist, Tamil Nadu.

தமிழ் வழியில் படித்தற்கான சான்றிதழ்

திரு/திருமதி/செல்வி.....பெயர்.....வாது.....என்பவர்
ஆவணம் மற்றும் மாநில இலாபகரணங்களைப் பின்பற்றி
.....மாப்பிரிவில் வருபவர்2021.....முதல்
.....2022.....வரை தமிழ் வழியில் படித்தார் என்று
சான்றளிக்கப்படுகிறது. இந்த சான்றிதழ் பாடப்பொருள் / மதிப்பெண் பட்டியல் /
மாற்றுச்சான்றிதழ் ஆகியவற்றை சரிபார்த்த பின்னரே வழங்கப்படுகிறது.



PRINCIPAL
Dr. K.N.P. KRISHNA KUMAR
CHITRA DRAWING SCHOOL,
NAGERCOIL - 629 003.

- இடம்: எப்படி தீர்மானிக்கவேண்டும் என்று நினைவகத்தின்
தாள் : 21-01-2023 அனுமதி முத்திரை

பதிவாளர், முதல்வர்
கல்வி நிறுவனத்தின்
இயக்குனர்



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5. The Institution has categorically stated that the petitioner has studied the same in Tamil medium only. But the Learned Government Pleader raised a doubt about the certificate. But this Court is rejecting the plea for the reason that the Deputy Director of Government Examination also confirmed that the medium would be granted both in English and Tamil, the subject will be both in Tamil and English and the candidates can choose to study either in Tamil or in English and even can write the exam either in English or in Tamil and the institution has confirmed the petitioner has studied in Tamil. Therefore, this Court is of the considered opinion that the petitioner's candidature ought to be considered by the second respondent.

6. The learned counsel appearing for the second respondent submitted that all vacant post which was prescribed under the notification is filled up and there is no vacancy. Therefore, the first respondent is directed to appoint the petitioner in any one of the available vacant post and the said exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order.



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7. In view of the above, this Writ Petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

- 1.The District Educational Officer,
O/o.The District Educational Officer,
Thirumangalam District,
Madurai District.
- 2.The Block Educational Officer,
Kallikudi Union,
Kallikudi, Thirumangalam, Educational District,
Madurai District.
- 3.The Head Master,
Panchayat Union Middle School,
M.Pudupatti,
Kallikudi Union,
Madurai District.



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S.SRIMATHY, J.

Nsr

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