



W.P(MD).No.26597 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 29.11.2023

ORDER PRONOUNCED ON : 05.12.2023

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.26597 of 2023
and W.M.P(MD).Nos.22889 &22890 of 2023**

C.S.Supriya

....Petitioner

Vs

1.The Director of Technical Education
Guindy, Chennai

2.The Principal
Sankar Polytechnic College
Sankar Nagar
Tuticorin District 627 357

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the impugned Notification dated 04.07.2023 pertaining to recruitment process to the post of Lecturer (English) and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For R1 : Mr.V.Om Prakash
Government Advocate

For R2 : Mr.Raguvaran Gopalan



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ORDER

The present writ petition has been filed by an aspirant to the post of Lecturer (English) challenging the recruitment notification issued by the second respondent Polytechnic College.

2. According to the writ petitioner, the second respondent college has issued a Recruitment Notification on 04.07.2023 by way of newspaper publication. She had applied for the same and she received a call letter in the first week of August 2023 instructing her to appear for the written examination/interview to be conducted on 08.08.2023.

3. The petitioner contends that there was no reference about the written examination or the mode of selection in the said advertisement. It is the further contention of the writ petitioner that she was provided with a question paper and an OMR sheet and she was instructed to shade in the OMR sheet in pencil. After completion of the examination she was not permitted to take the question paper and not permitted to attest the OMR sheet.

4. The second respondent college has not published the selection list and therefore, it has created huge apprehension in her mind that the selection process is suspicious right from the inception. Hence, she had prayed for quashing of the Notification.



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5.The second respondent College has filed a counter contended that before publication of the recruitment Notification, it was placed before the Directorate of Technical Education (DOTE) and only after obtaining approval, the same was published in the newspaper. Since 2836 candidates had applied for 23 vacancies, they had decided to conduct a screening test to short list the candidates in the ratio of 1:5 for each vacancy by conducting a written examination.

6.The learned counsel had further contended that the entire selection process was done by Staff Selection Committee comprising of one Directorate of Technical Education (DOTE) nominee, two subject experts and one SC nominee, one management representative and the principal of the College. Therefore, out of six members of the selection committee, four were appointed by DOTE and the management was represented only by two. Therefore, the allegation that the selection was made for extraneous reason is not correct.

7.The learned counsel for the second respondent had further contended the management had received potential question papers for each of the subjects in a sealed cover and the same was opened by the Selection Committee headed by DOTE nominee. Therefore, the allegations of the petitioner are baseless.



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8.The learned counsel had further contended that after the written examination, the selection list was published in the notice board and the interview was conducted for the selected candidates by the Selection Committee. The list of selected candidates has been forwarded to DOTE and the approval is pending.

9.He had further contended that in the OMR sheet, it has been specifically pointed out that the candidates have shade only in ink and therefore, the contention of the petitioner that she was asked to shade in the pencil is not correct. The learned counsel had further contended that the petitioner had participated in the selection process and thereafter, having not selected, is not entitled to challenge the Recruitment Notification.

10.I have considered the submissions made on either side and perused the material records.

11.The Recruitment Notification relating to appointment of 23 candidates in 8 departments of the second respondent Polytechnic College has been published in the newspaper on 04.07.2023. The petitioner had applied for English Lecturer post advertised in the said Notification. Admittedly, the petitioner has received a call letter indicating about the written examination in the first week of August 2023 informing that the said examination would be conducted on 08.08.2023. Before the examination, the petitioner has not chosen to challenge the Notification or power of the



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Polytechnic College to conduct the written examination.

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12.A perusal of the typed set of papers filed by the respondent indicates that the Notification under challenge was drafted by the College and placed before DOTE for its approval on 14.06.2023. By communication dated 03.07.2023, the draft advertisement has been approved by DOTE. A perusal of the impugned Notification discloses that what has been approved by DOTE has been advertised.

13.A perusal of the communication of DOTE dated 05.08.2023 to the second respondent College indicates that the subject experts and the DOTE nominee has been selected by DOTE and informed to the College. Out of six members of the Selection Committee, four were nominated by DOTE and two of them were the member of the management representative. Therefore, it is clear that the DOTE nominees were in majority in the Selection Committee.

14.For 23 candidates more than 2836 applications have been received and therefore, it may not be possible to conduct interview for all of them. For short listing the candidates in the ratio of 1:5, the College had decided to conduct a written examination. This cannot be found fault with. The candidates selected in the ratio of 1:5 have been interviewed by the Selection Committee. Therefore, this Court is of the view that the Selection Committee appointed by DOTE had approved the manner of conduct of the written examination.



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15.The petitioner has alleged that he was instructed to shade the answers in pencil instead of pen and she was not permitted to take question papers. Though the written examination was conducted on 08.08.2023, till filing of writ petition on 02.11.2023, no complaint has been lodged by the writ petitioner either to college management or to DOTE alleging non-transparency in conduct of examination or the selection process. Therefore, this Court is not in a position to agree with the allegation made on the side of the writ petitioner which has been raised for the first time in the writ petition. Along with the typed set of papers, the second respondent College has produced the question paper.

16.The Selection Committee has forwarded their names to DOTE for their approval and the same is pending. Therefore, it is clear that the entire selection process right from the advertisement has been monitored, supervised and conducted by DOTE and its nominees.

17.The petitioner has not chosen to challenge the selection process in the writ petition and the petitioner has challenged only the Recruitment Notification dated 04.07.2023. It is settled position of law that having participated in the selection process and failed and thereafter, the candidate cannot turn around and challenge the Recruitment Notification.



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18. The Hon'ble Supreme Court in a judgment reported in **(1995) 3 SCC 486 (Madan Lal Vs. State of Jammu & Kashmir and others)** was pleased to hold that if a candidate takes a calculated chance and appears at the interview, then, only because of the interview is not palatable to him, he cannot turn around and subsequently contend that the process of interview was unfair and the Selection Committee was not properly constituted. The Hon'ble Supreme Court in a judgment reported in **(2010) 12 SCC 576 (Manish Kumar Shahi Vs. State of Bihar)** was pleased to hold that a candidate is not entitled to challenge the criteria or process of selection after having taken part in the said process of selection. If a candidate invokes a jurisdiction of the High Court under Article 226 of the Constitution of India only after he found that his name does not figure in the merit list, the said conduct disentitle him from questioning the selection.

19. In view of the above said deliberation, there are no merits in the writ petition. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

05.12.2023

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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