



W.P.No.330 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.330 of 2024

and

W.M.P.Nos.395 and 396 of 2024

C.Sudhadevi

...Petitioner

-Vs-

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

2.The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.

3.The Secretary,
Teachers Recruitment Board,
Puratchi Thalaivar Dr.MGR Centenary Building,
3rd and 4th Floor, College Road,
Nungambakkam,
Chennai – 600 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondents to permit the petitioner to participate in the selection by direct recruitment to the post of Graduate Teacher/B.T.Assistant (Science) as per Notification No.03/2023 dated



W.P.No.330 of 2024

25.10.2023 and the Addendum Notification No.03A/2023 dated 15.11.2023 issued by the 3rd respondent Teachers Recruitment Board (TRB), by considering B.Sc (Bio-Chemistry) Degree obtained by the petitioner and consequently to consider the petitioner for selection and appointment to the post of B.T.Assistant (Science) based on merit in selection.

For Petitioner : Mr.G.Sankaran
Senior Counsel
for Mr.S.Nedunchezhiyan

For R1 and R2 : Mr.S.Arumugam
Government Advocate

For R3 : Mr.R.Neelakandan
Additional Advocate General
assisted by
Mr.C.Kathiravan
Standing Counsel

ORDER

This Writ Petition has been filed for direction directing the respondents to permit the petitioner to participate in the selection by direct recruitment to the post of Graduate Teacher/B.T.Assistant (Science) as per Notification No.03/2023 dated 25.10.2023 and the Addendum Notification No.03A/2023 dated 15.11.2023 issued by the 3rd respondent Teachers Recruitment Board (TRB), by considering B.Sc (Bio-Chemistry) Degree obtained by the petitioner and consequently, to consider the petitioner for selection and appointment to the post of B.T.Assistant (Science) based on merit in selection.



W.P.No.330 of 2024

WEB COPY

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner, after completion of his +2, had completed B.Sc. (Bio-Chemistry) from Thiruvalluvar University in the year 2007. Thereafter, he has also completed B.Ed in the year 2008. He was allowed to write Teacher Eligibility Test in the year 2013 and he had passed TET-II. Thus, he is qualified to be appointed to the post of Graduate Teacher/B.T.Assistant in School Education Department. While being so, the third respondent issued a notification dated 25.10.2023, inviting application for direct recruitment to the post of Graduate Teacher/BRTE in school education. By the Addendum another notification dated 15.11.2023 was issued, thereby additional vacancies to the post of Graduate Teacher/BRTE for different departments was notified. The last date for submission of application was extended upto 07.12.2023. When the petitioner submitted an application through on-line, it was not accepted in the web portal for the reason that the “Roll number” is not eligible as the candidate has not qualified in TNTET Exam. He had scored 82 marks in TET Paper-II conducted on 18.08.2013 and declared qualified for certificate verification. In fact, his certificates were verified on 06.05.2014. Therefore, the petitioner had



W.P.No.330 of 2024

approached the third respondent and it was informed that the qualification of B.Sc (Bio-Chemistry) is not equivalent to B.Sc (Chemistry) as per G.O.Ms.No.72, Higher Education Department dated 30.04.2013. Therefore, his application was not accepted by the website portal.

4. The learned Senior Counsel appearing for the petitioner would submit that originally he had joined B.Sc (Bio-Chemistry) course in Islamia College for Women, Vaniyambadi, Tirupattur District, affiliated to Madras University at the time of her admission. During the middle of academic session 2003-2004, Thiruvalluvar University was established and the Islamia College for Women has been re-affiliated to newly formed Thiruvalluvar University. She had successfully completed her degree and it is equivalent to B.Sc. (Chemistry) as per various Government Orders in force. Accordingly, she was also permitted to get admission to B.Ed degree course in the year 2007-2008. She had also qualified in the TET. Based on the revised syllabus for the degree courses, the Government issued orders in G.O.Ms.No.72 dated 30.04.2013, declaring B.Sc (Bio-Chemistry) is not equal to B.Sc. (Chemistry). Previously it was duly accepted and declared as equivalent to B.Sc (Chemistry).

5. He further submitted that this Court, by an order dated 21.02.2013 in



W.P.No.330 of 2024

W.P.Nos.35061 of 2013 and batch, held as follows:-

WEB COPY

*“18. Once the prospectus issued by the TRB state that the person should possess a particular degree or equivalent means, it is not the exact degree that is required and there may be cases, where any equivalent degree can also be considered by the appropriate authorities. The word 'equivalent' must be given a reasonable meaning. In this context, in an identical circumstances, the Supreme Court, in **Chandrakala Trivedi vs, State of Rajasthan and others**, reported in (2012) 3 SCC 129, in paragraphs 8 and 9, had observed as follows:-*

"B. The word 'equivalent' must be given a reasonable meaning. By using the expression “equivalent” one means that there are some degrees of flexibility or adjustment which do not lower the stated requirement. There has to be some difference between what is equivalent and what is exact. Apart from that, after a person is provisionally selected, a certain degree of reasonable expectation of the selection being continued also comes into existence.

9. Considering there aspects of the matter, we are of the view that the appellant should be considered reasonably and the provisional appointment which was given to her should not be cancelled. We order accordingly. However, we make it clear that we are passing this order taking in our view the special facts and circumstances of the case.

19. In the light of the same, a direction is hereby issued to the Secretary to the Government, School Education Department, State of Tamil Nadu, Secretariat 600 009 (first respondent in W.P.Nos.35061 and 35062 of 2012) to obtain an opinion of the Equivalence Committee, on the basis of the letters furnished by the Bharathidasan University as well as the University of Madras, referred to above, (which



W.P.No.330 of 2024

WEB COPY

Universities already given opinions) and take a decision and while doing so, the State Government will also consider the decision of the Supreme Court, referred to above, in Chandrakala Trivedi's case, and arrive at a decision, within a period of two weeks from the date of receipt of a copy of this order. If the result of such decision is in favour of the petitioners, then appropriate orders of appointment should be given to petitioners, who are not been issued with the order of appointment and in case, the petitioners, who are already having appointment orders, they must be given posting orders, within a period of two weeks, thereafter.”

6. This Court also held that as per both the prospectus for Graduate Assistant and for P.G.Assistant, the question of equivalence cannot be decided by this Court and requires an order of the Government, accepting the recommendation of the Equivalence Committee. But on that score, this Court is not inclined to dismiss the writ petition, since the issue involved in this writ petition is vitally concerning the petitioners and their future, a solution has to be found.

7. He also relied upon the Judgment of this Court in ***W.P.No.32799 of 2019*** dated ***05.12.2019***, in which this Court held as follows:-

“10. In the considered view of this Court, the B.Ed degree obtained by the petitioner from Kerala University is valid for all purposes. Since it is seen that the petitioner also possess all requisite qualifications to be considered for selection and promotion to the post of P.G.Assistant, the third respondent is directed to entertain the application of the



W.P.No.330 of 2024

petitioner and consider the same strictly in accordance with the Rules, subject to the petitioner fulfilling all the other criteria.”

8. This Court in **W.P.No.32799 of 2019** dated **05.12.2019**, also relied upon the order passed in W.P.No.28755 of 2017 dated 30.11.2017, wherein it was held as follows:-

“ 4.In that case, the issue that involved was, obtaining a B.Ed.Degree from Vinayaka Missions University, which was earlier considered to be equivalent and later found to be not equivalent by virtue of the very same G.O. viz., G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, can be given effect retrospectively. The learned counsel has submitted that this Court, in the said case, has categorically held that G.O.Ms.No.3, dated 05.01.2016, will have only prospective effect from the academic year 2015-2016. The relevant portions of the said order are brought to the notice of this Court and the said portions are extracted hereunder:-

"2. The petitioner joined Vinayaka Missions University's Annapoorna College of Education for B.Ed course, which is a one year course between 2006-2007 and she had successfully completed the course. However, the Government issued G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, stating that B.Ed degree awarded by Vinayaka Missions University and three other Universities are not equivalent to B.Ed Degree of Tamil Nadu Teachers Education University. The petitioner who had obtained the degree before the date of issuance of G.O.Ms.No.3, Higher Education (K2) Department would contend that the said G.O., is not applicable to the candidates who had joined and passed the course before the date of issuance of the said Government Order. The G.O. could only be prospective and not retrospective. The necessity to approach this Court at this juncture is that the



WEB COPY



W.P.No.330 of 2024

Teachers Recruitment Board had notified for receiving applications from eligible candidates for the post of PG Assistants in Government Higher Secondary Schools for the year 2016-17. However, in view of G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, the petitioner apprehend that she will not be considered for appointment.

11. One more interesting point is that Tamil Nadu Teachers Education University itself has been established only in the year 2008, whereas Vinayaka Missions University got approval from NCTE in the year 2007 itself and they have been admitting students from the year 2007 onwards. Subsequent regulation or G.O., cannot disqualify validly obtained degrees granted by an NCTE approved institution. Moreover, as rightly pointed out by the learned Senior counsel, the Hon'ble Supreme Court in Suresh Pal and others Vs. State of Haryana and others reported in (1987) 2 Supreme Court Cases 445, has held that based on the subsequent order, the recognition of the institution would not affect the students, who have been admitted in the college, when the recognition was in force. Similarly, the petitioner had obtained valid degrees before G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, and the new NCTE regulation came into force. In view of the above, this Court holds that G.O.Ms.No.3, Higher Education (K2) Department dated 05.01.2016, which declares that B.Ed degree awarded by Vinayaka Mission University as not equivalent to B.Ed conferred by Tamil Nadu Teachers Education University would be applicable only from the year 2015-2016 and not before that, especially in respect of the petitioner.

13. Since this Court holds that G.O.Ms.No.3, Higher Education (K2) Department dated 05.01.2016 is not applicable to the degrees obtained from Vinayaka Missions University and the petitioner is



W.P.No.330 of 2024

WEB COPY

said to have obtained valid degrees, she is qualified to be appointed. In view of the above reasons, the petitioner is entitled to be appointed, whenever the other selected students are appointed, as the petitioner possess valid degrees and she has also qualified in the Teachers Eligibility Test and her name find place in the select list of candidates."

9. Thus, it is clear that the recognition of the institution would not affect the students, who have been admitted in the college, when the recognition was in force. Any subsequent order cannot disqualify the validly obtained degrees granted by approved institution.

10. The learned Additional Advocate General appearing for the third respondent would submit that they have nothing to do with the notification, since as decided by the Equivalence Committee, the Government passed an order and the same or is strictly valid for recruitment to the post of B.Sc. (Chemistry) as per G.O.Ms.No.72, Higher Education Department dated 30.04.2013. The petitioner is not qualified to apply to the post of BT Assistant (Science). Therefore, the petitioner ought to have challenged the G.O.Ms.No.72, Higher Education Department dated 30.04.2013 and without challenging the said Government Order, the application of the petitioner cannot be considered.

11. As rightly pointed out by the learned Senior Counsel for the



W.P.No.330 of 2024

petitioner and held by this Court in both the writ petitions as referred supra, any subsequent order cannot disqualify the degree which was validly obtained by the petitioner. In fact, as per the notification, with regard B.Sc Chemistry, G.O. Details etc., were annexed. Accordingly, as per G.O.Ms.No.254, dated 22.10.1998, B.Sc (Bio Chemistry) is equivalent to B.Sc (Chemistry). Thereafter, as per letter No.38561/M/2008-3 of the year 2010, B.Sc (Bio-Chemistry) obtained from all Universities is equivalent to B.Sc Chemistry. Thereafter, as per G.O.Ms.No.24, Personnel and Administrative Reforms (M) Department, dated 04.02.2011, B.Sc (Bio-Chemistry) is equivalent to B.Sc (Chemistry) obtained from all State Universities recognized by UGC. Only on the basis of the G.O.(Ms).No.72, Higher Education (K2) Department, dated 30.04.2013, B.Sc (Bio-Chemistry) from any University is not equivalent to B.Sc (Chemistry).

12. Admittedly, the petitioner had completed her B.Sc (Bio-Chemistry) in the year 2007. Therefore, as per the letter No.38561/M/2008-3 of the year 2010, the degree in B.Sc (Bio-Chemistry) obtained from all Universities is equivalent to B.Sc Chemistry.

13. In view of the above, the third respondent is directed to accept the application submitted by the petitioner, applying to the post of BT Assistant



W.P.No.330 of 2024

(Science), since the petitioner possess the requisite qualification to apply to the said post and consider the same strictly on merits and in accordance with law, subject to the petitioner's possession of other requisite eligibility, forthwith.

14. With the above directions, this writ petition is disposed of. Consequently, connected Miscellaneous petitions are closed. There shall be no order as to costs.

09.01.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
mn



WEB COPY



W.P.No.330 of 2024

G.K.ILANTHIRAIYAN. J.

mn

To

- 1.The Principal Secretary to Government,
School Education Department,
Fort St.George, Secretariat,
Chennai – 600 009.
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.
- 3.The Secretary,
Teachers Recruitment Board,
Puratchi Thalaivar Dr.MGR Centenary Building,
3rd and 4th Floor, College Road,
Nungambakkam,
Chennai – 600 006

W.P.No.330 of 2024

and

W.M.P.Nos.395 and 396 of 2024

09.01.2024