



W.A.No.232 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.06.2024

DELIVERED ON : 08.08.2024

CORAM:

**THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR
ACTING CHIEF JUSTICE**

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

**W.A.No.232 of 2022
and CMP.No.1693 of 2022**

- 1.The State of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Fort St.George, Chennai-600 009.
 - 2.The Director of School Education,
DPI Campus, College Road,
Nungambakkam, Chennai-600 006.
 - 3.Joint Registrar (Personnel),
DPI Campus, Chennai-600 006.
 - 4.The Chief Educational Officer,
Erode District.
 - 5.The Additional Chief Educational Officer,
Samagra Shiksha Block Resource Centre,
Erode District.
- ... Appellants

-VS-



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M.Shanmuga Rajulu

... Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 24.09.2021 made in W.P.No.18900 of 2021.

For Appellant : Mr.J.C.Durairaj
Additional Government Pleader

For Respondents : M/s.Dhakshayani Reddy, Senior Counsel
assisted by
Ms.Suneetha

JUDGEMENT

KRISHNAKUMAR, ACJ.

The official respondents in the writ petition are the appellants herein. This Intra Court appeal has been filed as against the order of the Writ Court dated 24.09.2021 made in W.P.No.18900 of 2021, in and by which the challenge made by the respondent/writ petitioner to the impugned show cause notice dated 12.08.202 issued by the fourth appellant came to be allowed.

2. Brief facts necessary for the disposal of this writ appeal are as follows:

2.1. Teachers Recruitment Board [in short “TRB”] has called for applications for appointment to the post of Block Resource Teacher Educator under the Sarva Shiksha Abhiyan Scheme during the year 2009-2010. The



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respondent / writ petitioner applied for the said post and secured 1st rank and attended the Certificate Verification held on 24.05.2010. According to the writ petitioner, after proper verification of his education and other eligibility certificates, he was granted with the letter of appointment, vide proceedings of the TRB dated 13.10.2010.

2.2. According to the writ petitioner, he joined in the said post on 15.10.2010 and his probation period was also declared satisfactory on 06.03.2013 and till date, he has been discharging his duties with devotion, care and caution.

2.3. The writ petitioner has averred that on coming to know that there were various allegations of malpractices in Erode District in certain schools by mass copying in collusion with the officials of Education Department had increased, he conducted a surprise check as a part of the flyig squad and visited Sarada Higher Secondary School, Gobichettipalayam on 16.03.2016 and found that a candidate was confined separately in an isolated hall on the top floor and found that Invigilator was helping the said candidate. The said candidate is none other than



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the driver of the Chief Educational Officer and the writ petitioner, without being dissuaded has given a report against the said candidate, with lead to lot of bias and grudge against the respondent/writ petitioner.

2.4. Thereafter the petitioner was put to harassment by the educational authorities, against which he filed a writ petition in W.P.No.25542 of 2016 and the same is pending. To his shock and surprise, a notice dated 12.02.2021 was issued by the fifth appellant alleging that the writ petitioner has not completed +2 and hence, he was directed to produce on what basis, the petitioner obtained admission into the Under Graduate Programme.

2.5. According to the writ petitioner, he completed 10th standard in the year 1991, appeared +2 in the year 1993 but completed the 5 arrear papers in the year 1999, B.Sc., Geography in the year 2002 and B.Ed. in the year 2007. The writ petitioner also brought to the notice of the respondent that as per the University Grants Commission Regulation, 1985, he secured admission in the Under Graduate Programme, based on the entrance test conducted by the Madras



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University. Without considering same, vide notice dated 19.04.2021 issued by the fifth appellant, the respondent/writ petitioner was directed to produce all the certificates for which he produced all the certificates. However, the fourth appellant has issued a show cause notice dated 12.08.2021, directing that he was not qualified to hold the post of Block Resource Teacher Educator on the ground that his qualification of BSc., Geography and B.Ed., are not valid.

2.6. Challenging the notice dated 12.08.2021 issued by the fourth appellant, the writ petition has been filed, which came to be allowed, against which the present writ appeal is filed.

3. Mr.J.C.Durairaj, learned Additional Government Pleader appearing for the appellants has made the following contentions:

(i) To ensure quality of education and prescribing minimum educational qualification for the purpose of recruiting teachers, the Government has passed G.O.No.107, Personnel and Administrative Department dated 18.08.2009, which clearly prescribed that for appointment and promotion, candidates must possess the degree in the pattern of 10+2+3. However, in the case on hand, the respondent/writ



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petitioner had completed +2 in the year 2009, only after completing his Under Graduation in the year 2002 and B.Ed., course in the year 2007, contrary to the aforesaid G.O.No.107, P&AR Department dated 18.08.2009.

(ii) As per University Grants Commission Regulations 1985, no student shall be eligible for admission to Degree Course through nonformal / distance education unless he has successfully completed 12 years schooling through an examination conducted by a Board / University. In case there is no previous academic record, he shall be eligible for admission, if he has passed an entrance test conducted by the University provided that he is not below the age of 21 years on July 1st of the year of admission. Since the respondent has discontinued from School in 12th standard and thereafter, he wrote the entrance exam conducted by the Madras University and joined the UG course, which was against the UGC regulations 1985.

(iii) The degrees offered in the Open Universities without following the regular pattern of qualification is only to enable those who have thirst for knowledge to learn more without an intention of securing a job. Following the above Government Order, which was issued only to protect the standards in public service, strict sensu, is to protect the standards of education by employing dedicated teachers,



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which is a sine qua non for its improvement.

(iv) The issue of recognition of a degree is different from a qualification fixed in service matters. An eligibility criteria fixed cannot be said to be an indirect way of derecognising a degree or diploma. To put it differently, such a degree cannot be termed as an eligible qualification for a particular post.

(v) Reliance has been placed upon the decision in ***The Chairman, Teachers Recruitment Board v. V.Kanimozhi [(2014) 8 MLJ 344]*** in which it has been held that unless and until a candidate satisfy the requirement as envisaged in G.O.(Ms.) No.107, Personnel & Administrative Reforms (M) Department dated 18.08.2009, he or she cannot be considered for the post.

(vi) The decision in ***Chairman, TRB v. A.Valarmathi and Others [Manu/TN/4887/2018]*** has been relied upon for the proposition that reverse qualification is held to be invalid and prays for allowing of this writ appeal and set aside the order of the Writ Court.

4. The learned Senior Counsel appearing for the respondent/writ petitioner



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contended that the impugned proceedings initiated by the appellants was arbitrary and intended to harass the respondent / writ petitioner in as much as the petitioner had the requisite qualification for being appointed as Block Resource Teacher Educator in 2010. It is further contended that the respondent was granted with an order of appointment after producing each and every educational qualification before the Selection Committee and the respondent had not passed +2 but had subsequently passed the same in the year 2009 and as per the UGC regulation, the respondent was admitted into UG programme based on the entrance test conducted by the Madras University and therefore, the respondent's qualification can never be said to be invalid. It is further contended that after a period of 11 years, the respondent cannot be disturbed and impugned order of the respondents deserves to be quashed and the writ Court has rightly held in favour of the respondent/writ petitioner and prays for dismissal of this writ appeal.

5. Heard the learned counsel for the parties and also perused the materials on record.



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6. It is not in dispute that the respondent was selected as Block Resource Teacher Educator in the year 2010, pursuant to the notification issued by the Teachers Recruitment Board dated 13.11.2009 and he is working in the said capacity till date. His appointment was challenged by issuance of Show Cause Notice dated 12.08.2021 issued by the fourth appellant/ Chief Educational Officer, Erode District on the ground that he did not acquire the requisite qualification for the post under 10+2+3 pattern. It is relevant to extract the contents of the said impugned proceedings / show cause notice of the fourth appellant:

1. Interim reply was contradict to the norms and the explanations are not related it is known that to the note order.

2. Hereby the petitioner Interim reply was not sent to the higher official through proper channel ad the petitioner not followed the protocol of he office in drafting the letters. This shows the petittioer disobedience towards the higher official.

3. The following is the educational qualification defined for direct recruitment of appointing BRTE in the year 2009-2010 through TRB by the notification number 3 dated 13.11.2009 and related prospectus general qualification fixed for direct recruitent of appointing BRTE:

4. General qualification: The candidate applied should possess a minimum general qualification as defined in schedule to the General Rule for the Tamil Nadu State and Subordinate Service and a pass B.A/B.Sc./B.Lit./Pulavar in relevant subject



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obtained from a recognized University in regular stream under 10+2+3 system. 10+2+3 system has been concealed by the petitioner and got appointment and he is working from 20.10.2010 for which explanation issued as per reference no 5 and he has given irrelevant explanation (Reference No.6) and the petition has been rejected as it is contradictory.

5. The petition has been rejected as the petitioner is wasting the time of the officials by giving unnecessary information which is contradict to the rules.

In ref(6) of the explanation letter, the Petitioner has asked for the copies of the letter number 1 to 4. The copies of reference 1, 2 and 3 have been enclosed with it. As per the reference number 5, the petitioner has all evidence of the show cause notice, it is informed to give the written explanation within 7 days.

Mr. Shanmuga Rajalu, BRTE if he fails to give explanation within stipulated time it will be considered as there is nothing to explain from his side and the actions will be taken against him according to the rules.”

7. A perusal of the aforesaid impugned notice dated 12.08.2021 would disclose that the explanation earlier submitted by the respondent / writ petitioner was found to be irrelevant / contradictory and therefore, rejected the same and also directed to give his written explanation within 7 days from the date of such notice. While such being the position, the respondent / writ petitioner ought to



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have submitted his explanation to the show cause notice and if at all any adverse orders are passed as against the respondent/ writ petitioner, then it would be appropriate for the respondent to approach the Court. However, the respondent / writ petitioner without submitting his explanation, has challenged the said notice by filing writ petition. Even before the Writ Court, the learned Government Advocate for the official respondents have taken such a stand by stating that the claim of the writ petitioner is premature.

8. It is the contention of the writ petitioner / respondent that at the time of his appointment as Block Resource Teacher Educator in the year 2010, the UGC regulations 1985 was in force, which stipulates that where there is no previous academic record of a student having successfully completed 12 years schooling through examination conducted by the Board / University, if such a student had passed an entrance test conducted by the University at the time of admission provided that he is not below the age of 21 years on July 1st of the year of admission. Thus, at the time of appointment, the respondent was not required to have completed +2 for pursuing UG course. However, there are no records to



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show that the respondent had satisfied the above requirement of UGC Regulations, 1985. To that extent, the writ Court has already directed the respondents to verify whether the writ petitioner had satisfied the requirements of the UGC Regulations, 1985.

9. The appellants department challenges the appointment of the respondent / writ petitioner mainly on the ground that he did not obtain the qualification under 10+2+3 pattern and relied upon the decisions of this Court in *The Chairman, Teachers Recruitment Board v. V.Kanimozhi [(2014) 8 MLJ 344]*, *Chairman, TRB v. A.Valarmathi and Others [Manu/TN/4887/2018]* and the *Joint Director of School Education (Secondary) v. J.Joseph Irudaryaraj in the order dated 10.12.2021 in W.A.No.2168 of 2018*. It is not the case that the respondent / petitioner has undergone Graduate course without appearing in +2. The writ petitioner has appeared +2 in the year 1993, but he could not complete and in the interregnum, he acquired BSC., Geography in the year 2002 and B.Ed., in the year 2007 and before applying for the post of Block Resource Teacher Educator in the year 2010, he completed the 5 arrears papers of +2 in the year



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2009. Thus, according to the respondent / writ petitioner, as on the date of submitting the application, the respondent/writ petitioner possessed the requisite qualification for the said post.

10. If at all the validity of the degree obtained by the respondent/writ petitioner is under question, the appellants should have questioned the same at the time of submitting the application by the writ petitioner. It is also an admitted fact that there is no suppression of facts by the respondent / writ petitioner as to the acquisition of his qualification at the time of giving appointment and there is no controverting materials placed before this Court by the appellants that the respondent/writ petitioner has suppressed his educational qualification. On satisfying the eligibility criteria and certificate verification, the respondent/ writ petitioner was appointed in the year 2010 and his probation was also declared successfully in the year 2013 and he was allowed to work for almost till the year 2011 and all of a sudden, the respondent questioning the validity of obtaining the qualification after 11 years. It appears from the affidavit filed in support of the writ petition that the impugned show cause notice dated 12.08.2021 has been



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issued as a counter blast to the action taken by the writ petitioner as against the malpractice done by the Driver of the Chief Educational Officer, Erode, while the respondent conducted flying inspection in a school at Erode.

11. Be that as it may, it is to be reiterated that the impugned notice is nothing but a show cause notice and it is for the respondent/writ petitioner to submit his explanation. Without resorting to submit the explanation to the show cause notice, filing of writ petition is pre-mature. Therefore, it is open to the respondent/writ petitioner to submit his explanation by producing all the documents before the authorities and only after passing of any orders, the question of going into the merits and demerits of the contention of the writ petitioner would arise.

12. In the light of the above discussions, this Writ Appeal stands allowed and the order of the Writ Court dated 24.09.2021 made in W.P.No.18900 of 2021 is set aside. It is open to the respondent / writ petitioner to agitate/raise all his contentions by way of explanation to the show cause notice dated 12.08.2021



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issued by the fourth appellant and on such explanation being filed, the appellants department shall consider the same and pass appropriate orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order, without being influenced by any of the observations made by this Court. No costs. Consequently, connected miscellaneous petition is also closed.

[D.K.K., ACJ.] [K.B., J.]
08.08.2024

Index : Yes / No
Internet : Yes / No
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D.KRISHNAKUMAR, ACJ.



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and
K.KUMARESH BABU, J.

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Judgment in
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