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WA No. 148 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.148 of 2024
and
CMP. No. 831 of 2024

The Teachers Recruitment Board
represented by its Secretary
DPI Campus
Chennai - 600 006

.. Appellant

Versus

1. T. Sumithra
Regn. No.21PG0804160211
D/o. Thiruppathy
268/2, Samiyapuram
Pappireddipatti
Pattukonampatti Taluk
Dharmapuri - 636 905
2. Director of School Education
DPI Campus
Chennai
3. Kalaeswari
Regn. No. 21PG0808169267
through Teachers Recruitment Board
DPI Campus
Chennai - 600 006



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4. Kumaravel S
Regn. No. 21PG0828209540
through Teachers Recruitment Board
DPI Campus
Chennai - 600 006

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 01.12.2022 passed by the learned Judge in WP No. 26648 of 2022.

For Appellant : Mr. R. Neelakandan, Additional Advocate General
for Mr. K. Sathishkumar

For Respondents : Mrs. Dakshayini Reddy, Senior Advocate
for Mrs. S. Suneetha for R1

JUDGMENT

[Judgment of the Court was delivered by **R.MAHADEVAN, J.**]

The appellant viz., Teachers Recruitment Board, has filed this writ appeal assailing the validity and/or correctness of the order dated 01.12.2022 passed by the learned Judge in WP No. 26648 of 2022.

2. The aforesaid Writ Petition was filed by the first respondent herein praying to issue a Writ of Certiorarified Mandamus to call for the provisional select list dated 16.09.2022 issued by the appellant Board for the post of PG Assistant (Mathematics) as far as the non-inclusion of her name and inclusion of the names of the third and fourth respondents are concerned, quash the same, and consequently, direct the appellant Board to include the



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name of the first respondent in the select list by accepting her Scheduled Caste Community Certificate and accordingly, appoint her to the post of P.G. Assistant (Mathematics) on the date on which her batchmates are appointed under the Notification No.1/2021 dated 09.09.2021 with all service and monetary benefits.

3. For disposal of this writ appeal, certain facts are necessary to be taken note of and they are briefly set out hereunder.

4. The appellant issued a notification No.1/2021 dated 09.09.2021 calling for applications for the post of P.G. Assistants / Physical Education Directors Grade-I / Computer Instructor Grade I in the School Education and other Departments for the year 2020-2021. Subsequently, an amended notification dated 03.08.2022 was issued. Pursuant to the same, the first respondent applied for the post of P.G. Assistant (Mathematics). The notification dated 09.09.2021 provides for communal reservation as well as horizontal reservation for women, persons who studied in Tamil Medium (PSTM) and Physically disabled candidates.

5. It was projected by the first respondent before the writ court that she passed X Standard, XII Standard, B.Sc. (Mathematics), B.Ed. (Integrated



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Course) and M.Sc. (Mathematics) and therefore, she is fully qualified for the post. It was further stated that she belongs to Scheduled Caste - Kuruvan Community and her husband also belongs to the same community. Her father had obtained a community certificate as early as in the year 1988 and based on the same, community certificate was issued to her. The first respondent relied on the transfer certificate issued by the School as well as her employment exchange registration, which indicate that she belongs to Scheduled Caste Community. However, the first respondent obtained a community certificate only after her marriage and therefore, in the certificate, the name of her husband was indicated. Therefore, while applying for the post of P.G. Assistant (Mathematics), she uploaded the community certificate obtained with the name of her husband. On scrutiny of her application, the appellant permitted the first respondent to write the competitive examination. However, the first respondent was directed to produce a community certificate with the name of her father and the community certificate produced by her with the name of her husband was not accepted. Immediately, the first respondent obtained the community certificate on 07.03.2022 and submitted it to the appellant during the certificate verification on 03.09.2022. Yet, when the provisional select list was published by the appellant, her name was not included. On enquiry, the first respondent was informed that at the time of



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applying, she did not upload the community certificate obtained with her father's name and hence, the community certificate with the name of her husband was not accepted. Feeling aggrieved, the first respondent has filed the writ petition for the relief as stated *supra*.

6. When the writ petition was taken up for admission, the learned Judge granted an order of interim direction, directing the appellant to reserve one post of P.G. Assistant (Mathematics) for the first respondent. Subsequently, by order dated 01.12.2022, the learned Judge allowed the writ petition by directing the appellant to issue an order of appointment to the first respondent forthwith. While so, it was observed that the first respondent is fully qualified and she had complied with all the essential conditions as per the notification dated 09.09.2021, except for not uploading the community certificate containing the name of her father; and the first respondent also submitted her community certificate indicating her father's name at the time of certificate verification. That apart, following the order passed by the Honourable Supreme Court in ***Food Corporation of India vs. Rimjhim [(2019) 5 SCC 793]***, the learned Judge held that the non-inclusion of the name of the first respondent in the provisional select list is unjust.



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7. Aggrieved by the order dated 01.12.2022 passed in the writ petition, the appellant is before this Court with the present writ appeal.

8. (i) Mr. Neelakandan, learned Additional Advocate General appearing for the appellant would vehemently contend that as per the notification dated 09.09.2021, the first respondent ought to have produced the community certificate along with the application and not subsequently. It was specifically indicated in clause 13 of the notification dated 09.09.2021 that a candidate who wishes to avail the respective communal reservation, must possess the community certificate with the name of the father and in the absence of the same, the candidate will be considered for selection under the General Turn, by default. Hence, the first respondent cannot be permitted to produce the community certificate containing the name of her husband.

(ii) The learned Additional Advocate General appearing for the appellant also submitted that as per Clause 14 of the notification under the heading "general information", it was explicitly stated that the Board will not entertain any subsequent claim made after the submission of online application. Furthermore, as per the conditions of the notification dated 09.09.2021, any incorrect particulars relating to category or reservation, basic



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qualification, communal category and other criteria will be summarily rejected.

In this case, the first respondent had opted to say "Yes" to the specific column as to whether the community certificate is in her parent's name. Having opted so, the first respondent is legally estopped from producing the community certificate with her father's name, subsequently i.e., during the certificate verification.

(iii) The learned Additional Advocate General appearing for the appellant placed reliance on the following decision of this Court in *the Secretary vs. R.Vijayalakshmi [W.A. No. 404 of 2020 dated 16.03.2020]* wherein, the Division Bench of this Court, referring to the clauses contained in the selection notification, held that the certificates obtained and submitted after the submission of the application for appointment cannot be entertained. Further, reference was made to the order dated 12.06.2006 passed in *WP No. 32383 of 2005 etc., batch, in Dr. M. Vennila vs. Tamil Nadu Public Service Commission (TNPSC)*, wherein it was held that there must be strict adherence to the terms and conditions of the procedure issued by the recruiting agency and the same cannot be relaxed at the instance of the Court. Following the said order dated 12.06.2006, this Court passed an order dated 16.12.2022 in *WP (MD) No. 22890 of 2022 [Subha vs. the Teachers Recruitment Board]* holding that the terms and conditions of the notification for appointment



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cannot be altered or relaxed to accommodate a candidate. Therefore, according to the learned Additional Advocate General, the learned Judge is not correct in holding that the procedure adopted by the appellant to reject the candidature of the first respondent is too technical.

(iv) The learned Additional Advocate General appearing for the appellant further submitted that the first respondent, having accepted the terms and conditions of the notification, cannot be permitted to state that she had inadvertently produced the community certificate with the name of her husband at the time of applying and to seek to direct the appellant to entertain the community certificate submitted by her, with the name of her father, at the time of certificate verification. The instructions given to the candidates must be scrupulously adhered to and any deviation thereof cannot be condoned by the appellant. In such circumstances, the provisional select list published by the appellant by treating the first respondent under the General Category on the ground of non-possession of proper community certificate, ought not to have been interfered with by the learned Judge. The learned Additional Advocate General, therefore, prayed for allowing this appeal by setting aside the order of the learned Judge passed in the writ petition.



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9. (i) Per contra, Mrs. Dakshayani Reddy, learned Senior Counsel appearing for the first respondent would submit that the rejection of the candidature of the first respondent on the premise that she did not produce proper community certificate at the time of making application, is too harsh and onerous. The fact remains that the first respondent had produced the required community certificate to prove her communal status; and there is no cloud or doubt that the first respondent belongs to Scheduled Caste Community and she is entitled to avail the benefits of reservation as per the notification issued by the appellant. Merely because the first respondent uploaded the community certificate issued with the name of her husband along with the application, her candidature cannot be rejected. Even before the conclusion of the selection process, the first respondent obtained the communicate certificate with the name of her father and produced it to the appellant. While so, the appellant Board ought to have accepted the same and selected the first respondent to the post of P.G. Assistant (Mathematics).

(ii) The learned Senior Counsel appearing for the first respondent also submitted that the intention behind production of the certificate is only to show that the first respondent belongs to a particular community and to avail the benefits of reservation. At the time of applying to the post in question, she



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produced the community certificate with the name of her husband, but she submitted the community certificate with the name of her father at the time of certificate verification, which cannot alter her communal status. Therefore, the appellant Board ought to have appointed the first respondent to the post of P.G. Assistant (Mathematics). On the other hand, the appellant Board selected and appointed the respondents 3 and 4 in this appeal, who have secured lesser marks, on the ground that the first respondent did not produce the proper community certificate at the time of making application. Thus, according to the learned counsel, the non-selection of the first respondent to the post of P.G. Assistant (Mathematics) treating her as a general turn candidate, is arbitrary and unreasonable. The learned Judge, on appreciation of the entire facts and circumstances of the case, has rightly held that the exclusion of the candidature of the first respondent on the ground that she did not produce proper community certificate at the time of submitting her application, is too technical and such a conclusion arrived at by the learned Judge does not require any interference by this Court.

10. We have heard the learned Additional Advocate General for the appellant as well as the learned Senior Counsel appearing for the contesting first respondent and also perused the materials placed on record.



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11. There is no dispute that in the notification dated 09.09.2021, it was specifically mentioned that the community certificate of married women issued in father's name alone (not in the husband's name) shall be accepted. It is also not disputed that the first respondent has opted 'yes' in her online application for the question “Do you have community certificate issued by the Tamil Nadu Government and is the community certificate issued in parent's name?”. However, the first respondent submitted the community certificate issued with the name of her husband at the time of making application and she submitted the community certificate issued with the name of her father only at the time of certificate verification. In the considered opinion of this court, that, by itself, will not dis-entitle her to get appointment to the post in question.

12. Concededly, the first respondent belongs to Scheduled Caste community and she uploaded the community certificate with the name of her husband along with the application and she also produced the community certificate with the name of her father at the time of certificate verification. It is important to mention, at this juncture, that the appellant had not disputed either the veracity or authenticity of the certificate produced by the first respondent and their objection was only to the limited extent of submission of such certificate not along with the application, as stipulated in the notification



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and due to the same, the candidature of the first respondent was not considered, but the candidature of the respondents 3 and 4 who secured lesser marks than the first respondent, was considered in the select list for the post in question. This court is of the view that such objection has no legs to stand, for, the first respondent has not acquired the particular caste only from the date of issuance of such certificate, and such certificate merely recognised the status of the first respondent already acquired by birth.

13. It is indeed true that the terms and conditions of the selection notification have to be scrupulously adhered to by the candidates. It is also settled law that in exercise of power under Article 226 of the Constitution of India, the writ court cannot re-write, modify or vary the terms and conditions imposed by the selection authority. But, in this case, the learned Judge did not impose any condition other than the one imposed by the appellant in the selection notification. The learned Judge, after having found that the first respondent, though not uploaded along with the application, produced the community certificate with the name of her parent at the time of certificate verification, held that merely on technicalities, a candidate, who is otherwise eligible and qualified for appointment, cannot be ousted from the purview of selection. Accordingly, the learned Judge rightly allowed the writ petition, by



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directing the appellant to take steps for issuance of appointment order to the first respondent.

14. At this juncture, it will be apropos to advert to the judgment in ***Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board and another [(2016) 4 SCC 754]***, wherein, the Hon'ble Supreme Court answered the question, as to whether a candidate who appears in an examination under the OBC category and submits the certificate after the last date mentioned in the advertisement, is eligible for selection to the post under the OBC category, in affirmative and allowed the appeal. While so, it was observed that the Division Bench of the Delhi High Court erred in not considering the decision rendered in ***Pushpa v. Government (NCT of Delhi) [2009 SCC Online Del 281]***. In that case, the Single Judge had correctly examined the entire situation not in a pedantic manner, but in the backdrop of the object of reservation made to the reserved categories, and keeping in view the law laid down by a Constitution Bench of the Supreme Court in ***Indra Sawhney v. Union of India [1992 Supp (3) SCC 217]*** as well as ***Valsamma Paul v. Cochin University [(1996) 3 SCC 545]***, and had rightly held that the petitioners therein were entitled to submit the OBC certificate before the provisional selection list was published to claim the benefit of the reservation of OBC category. The



observation of the Delhi High Court in *Pushpa's case* is usefully extracted

below:

"11 . The issue is also no more res integra as in the case of Tej Pal Singh and others v. Govt. of NCT of Delhi, reported in 120 (2005) DLT 117 this Court has already taken a view that the candidates who belong to 'SC' and 'ST' categories but could not file certificate in proof of the same could not have been rejected simply on account of the late submission of the certificates and submission of such certificates cannot be made a pre-condition for accepting the application forms. The relevant para of the said judgment is reproduced as under:

'17.The matter can be looked into from another angle also. As per the advertisement dated 11th June, 1999 issued by the Board, vacancies are reserved for various categories including 'SC' category. Thus in order to be considered for the post reserved for 'SC' category, the requirement is that a person should belong to 'SC' category. If a person is SC his is so by birth and not by acquisition of this category because of any other event happening at a later stage. A certificate issued by competent authority to this effect is only an affirmation of fact which is already in existence. The purpose of such certificate is to enable the authorities to believe in the assertion of the candidate that he belongs to 'SC' category and act thereon by giving the benefit to such candidate for his belonging to 'SC' category. It is not that petitioners did not belong to 'SC' category prior to 30th June, 1998 or that acquired the status of being 'SC' only on the date of issuance of the certificate. In view of this position, necessitating upon a certificate dated prior to 30th June, 1998 would be clearly arbitrary and it has no rationale objective sought to be achieved.

18.While taking a particular view in such matters one has to keep in mind the objectives behind the post of SC and ST categories as per constitutional mandate prescribed in Articles 15(4) and 16(4) which are enabling provisions authorising the Government to make special provisions for the persons of SC and ST categories. Articles 14(4) and 16(4), therefore, intend to remove social and economic inequality to make equal opportunities available in reality. Social and economic justice is a right enshrined for protection of society. The right in social and economic justice envisaged in the Preamble and elongated in the Fundamental Rights and Directive Principles of the Constitution, in particular Arts. 14, 15, 16, 21, 38, 39 and 46 are to make the quality of the life of the poor, disadvantaged and disabled citizens of the society meaningful.' "



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Thus, it is lucid from the above judgment that the rationale behind the issuance of community certificate should be borne in mind and the candidature of the applicants cannot be rejected by sheer technicalities.

15. Viewing from any angle, the order of the learned Judge is well merited and does not call for any interference by this court.

16. In fine, the writ appeal filed by the appellant deserves to be dismissed and is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.]

[M.S.Q., J.]

01.04.2024

Index : Yes / No

Internet : Yes / No

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To

1. The Secretary,
Teachers Recruitment Board
DPI Campus
Chennai - 600 006

2. The Director of School Education
DPI Campus
Chennai

<https://www.mhc.tn.gov.in/judis>



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