



W.P.No.14850 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.07.2024

CORAM
THE HON'BLE MR.JUSTICE G.K. ILANTHIRAIYAN.

W.P.No.14850 of 2024

Umadevi .. Petitioner
Vs.

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

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

3. Teachers Recruitment Board (TRB)
4th Floor, DPI Campus
College Road, Chennai – 600 006.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a writ of declaration, to declare that the petitioner is eligible to be appointed as Graduate Teachers/Block Resource Teacher Educator (BRTE) pursuant to the notification dated 25.10.2023 issued by the third respondent.



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For Petitioner : Ms.N.Kavitha Rameshwar

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader
for R1 and R2

Mr.R.Neelakandan
Additional Advocate General
assisted by Mr.C.Kathiravan
Special Government Pleader
for R3

ORDER

The writ petition has been filed seeking declaration, to declare that the petitioner is eligible to be appointed as Graduate Teachers/Block Resource Teacher Educator (BRTE) pursuant to the notification dated 25.10.2023 issued by the third respondent.

2. The petitioner is qualified with Graduation by securing 44.10%. While being so, the third respondent issued notification dated 22.05.2013, inviting applications for Teachers Eligibility Test, as prescribed by the NCTE, who is appointed by the Union of India, prescribing minimum qualification for being appointed as a Teacher for teaching classes I to V [Secondary Grade Teachers in Tamil Nadu] and classes VI to VIII [BT Assistants in Tamil Nadu] and also prescribed Teachers Eligibility Test as the minimum qualification for



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the said teachers post.

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3. In pursuant to the same, the State of Tamil Nadu framed Rules and appointed the Teachers Recruitment Board, the third respondent herein, as the nodal agency to conduct Teachers Eligibility Test. Accordingly, the third respondent issued notification dated 22.05.2013, inviting applications for Teachers Eligibility Test for Paper I [Classes 1 to 5] and Paper II [Classes 6 to 8] for the year 2013. The eligibility criteria to write the Teachers Eligibility Test is that the candidate should have passed secondary course [10+2 pattern] and Diploma in Teacher Education/Diploma in Elementary Education (regarding other State D.T.Ed. Certificate, evaluation certificate is necessary) in a Recognized Teacher Training 3 Institute / DIET. However, the candidate should have passed Bachelor Degree with Tamil, English, Mathematics, Physics, Chemistry, Botany, Zoology, History and Geography or a Degree with any one of the equivalent subjects under the pattern of 10+2+3 and a Bachelor Degree in Education.

4. The petitioner had applied for the same and qualified the



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Teachers Eligibility Test in the year 2013. The third respondent also verified the certificate of the petitioner. While being so, the third respondent issued notification dated 25.10.2023 for direct recruitment of Graduate Teachers/Block Resource Teacher Educators [BRTE] – 2023 and prescribed educational qualification as follows:

"B.EDUCATIONAL QUALIFICATIONS (AS ON THE DATE OF NOTIFICATION):

No person shall be eligible for appointment to the post of Graduate Teachers/Block Resource Teacher Educators (BRTE), unless he/she possesses the minimum educational qualifications as follows:

- (i) Graduation and 2-year Diploma in Elementary Education (by whatever name known); or*
- (ii) Graduation with at least 50% marks and Bachelor in Education (B.Ed.); or*
- (iii) Graduation with at least 45% marks and Bachelor in Education (B.Ed.), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard; or*
- (iv) Higher Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor in Elementary Education (B.El.Ed.); or*
- (v) Higher Secondary (or its equivalent) with at least 50% marks and 4-year B.A./B.Sc.Ed. or*



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B.A.Ed./ B.Sc.Ed.; or

(vi) Graduation with at least 50% marks and B.Ed., (Special Education); and

Must have obtained a degree or its equivalent with such Subjects or Languages in respect of which recruitment is made; and

Pass in Tamil Nadu Teacher Eligibility Test (TNTET) Paper - II with relevant optional subject for direct recruitment:

Provided that the candidates possessing the educational qualifications prescribed in (1), (iv) and (vi) above shall be eligible for appointment as Graduate Teacher (Tamil, English, Mathematics, Physics, Chemistry, Botany, Zoology, History and Geography) to Classes VI to VIII:"

5. Though the petitioner is qualified with Teachers Eligibility Test, she could not able to apply for the Graduate Teachers/Block Resource Teacher Educators [BRTE] for the reason that the petitioner had secured 44.10% in graduation. But, as per the notification, the Graduation with at least 45% is the eligible educational qualification.

6. This issue has already been dealt with by the Hon'ble Division Bench of this Court in a batch of writ appeals in



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W.A.Nos.3366 of 2023 and etc. batch by order dated 17.05.2024. The relevant portion of the order is extracted hereunder:

"13 In the present case, having allowed those, who possessed less than 45% marks in Graduation to write TET, they cannot now be denied the chance to be considered for the post of BT Assistant by stipulating a minimum of 45 % in Graduation. The expectation of the appellants is certainly founded in law as the past practice adopted had its source in the power given to the State to relax the qualifying marks by 5%. Further, there is no change in the policy or the Regulations applicable, meaning thereby that there is no overbearing public interest which justifies the taking away of the rights of the appellants to apply for and be considered for the post of teachers, especially when they have qualified themselves for B.Ed. as well as TET on the express promise made by the State on their eligibility to be admitted to B.Ed. as well as to participate in TET, both of which are essential



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eligibility criteria for being appointed as a Graduate teacher/ B.T. Assistant. Thus, this is a classic case attracting the doctrine of legitimate expectation in favour of the appellants. During the pendency of these appeals, this Court finding a prima facie case in favour of the appellants, had passed interim orders permitting the appellants to apply for the post of Graduate Teachers/Block Resource Teacher Educator(BRTE) pursuant to the notification dated 25.10.2023. The appellants have appeared for the competitive examinations pursuant to the interim orders.

*14. In this regard, reference is also made to the judgment of the Supreme Court in **Vikas Sankhala v. Vikas Kumar Agarwal** [(2017) 1 SCC 350] wherein the Supreme Court observed as follows:*

"29. While reiterating the mandate of a pass in TET to be a norm of eligibility, rationale therefore was enumerated as under: (i) it would bring national standards and benchmark of teacher quality in the



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recruitment process; (ii) it would induce teacher education institutions and students from these institutions to further improve their performance standards; (iii) it would send a positive signal to all stakeholders that the Government lays special emphasis on teacher quality.

30. Conspicuously, thus, the essence of TET was to infuse a qualitative content in the recruitment process and thus, set a national benchmark for the sake of uniformity in the level of elementary education in the country. It prescribed 60% or more marks in TET as pass marks with liberty granted to the Governments to give concessions to persons belonging to SC/ST, OBC, differentlyabled persons, etc. in accordance with extant reservation policy.

31. The High Court, then, pointed out that none of the parties had challenged the competence of NCTE either to issue Guidelines dated 11-2-2011 to conduct TET or to vest a discretion in the State Government to grant relaxation as contemplated



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therein i.e. in accordance with the "extant" reservation policy. The High Court, thereafter, discussed the Letter dated 23-3-2011 issued by the State Government giving concession to the extent of 10%/15%/20% to different reserved categories but without disclosing any reference to the extant reservation policy of the Government. The High Court ultimately found, as already pointed out above, that the State Government could not deduce any such reservation policy and, thus, held that in the absence of such a policy, the State Government could not have granted the concession, as was done vide Letter dated 23-3-2011.

32. Coming to the Notification dated 29-7-2011 which was issued by NCTE in exercise of its power under Section 23(1) of the RTE Act, amending its earlier Notification dated 23-8-2010, the High Court proceeded to discuss as to whether relaxation up to 5% in qualifying marks contained therein was relatable to TET. This question had arisen for



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consideration because of the reason that the writ petitioners belonging to general category had argued that vide the said Notification dated 29-7-2011, Para 3 of the principal Notification dated 23-8-2010 was substituted and the context of the said Para 3 was totally different. After juxtaposing unamended Para 3 and amended Para 3, the High Court pointed out that Para 3 of the Notification dated 23-8-2010 dealt exclusively with the aspect of NCTE recognised six months' special programme in elementary education by way of training of persons with qualifications mentioned therein after appointment. Thus, there was neither any comprehension nor any provision for reservation or relaxation of marks. Only academic qualifications with minimum percentage of marks was referred to. Therefore, concession of 5% in the qualifying marks pertained to the percentage of marks in the qualifying examination of Senior Secondary/graduation, etc. and had no nexus with



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the pass marks in TET.

33. The High Court further pointed out that in terms of Letter dated 23-3-2011 issued by the State Government (which was passed on NCTE Notification dated 29-3-2011 for giving relaxation qua academic qualifications) reserved category candidates availed second relaxation qua their academic qualifications. In this manner, they stood doubly advantaged and the impact of such relaxation had bearing on ultimate assessment on merit.”

15 In the light of the above findings, the order under challenge is set aside and these writ appeals are allowed with a direction to the respondents to consider the case of appellants for appointment to the post of Graduate Teachers/B.T. Assistants if they are otherwise eligible. No costs. Connected miscellaneous petitions are closed.”

7. In view of the above, the petitioner is eligible to apply for



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the post of Graduate Teachers/Block Resource Teacher Educators [BRTE] in pursuant to the interim order passed in the similarly placed writ petitions. The petitioner was allowed to write written examination and she failed to secure the minimum cut-off marks and as such, the petitioner was not selected to the said post. However, in future, the petitioner is eligible to apply for the post of Graduate Teachers/Block Resource Teacher Educators [BRTE].

8. In view of the above directions, the writ petition stands disposed of. There shall be no order as to costs. Consequently, W.M.P.No.16104 of 2024 is closed.

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Neutral Citation : Yes/No

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G.K. ILANTHIRAIYAN, J.

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