



W.P.No.15168 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.15168 of 2024
and W.M.P.No.16487 of 2024

T.Kaleeswari

... **Petitioner**

Vs.

1.Teachers Recruitment Board
Rep.by its Secretary
3rd and 4th Floor, Puratchi Thalaivar
Dr.MGR Centenary Building
Perasiriyar Anbazhagan Kalvi Valagam
College Road, Nungambakkam
Chennai – 600 006.

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

... **Respondents**

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the 1st respondent to call for the petitioner for certificate verification pursuant to Notification No.03/2023 dated 25.10.2023 to enable the petitioner to prove that she belongs to SC



W.P.No.15168 of 2024

Arunthathiyar community and eligible to be appointed as BT Assistant in Tamil and consequently direct the 1st respondent to select the petitioner as BT Assistant in Tamil under the SC Arunthathiyar community based on the 83.50 marks secured by the petitioner in the written examination held on 04.02.2024 pursuant to Notification No.03/2023 dated 25.10.2023.

For the Petitioner : Mrs.Nalini Chidambaram
Senior Counsel
for Ms.C.Uma

For the Respondents : Mr.R.Neelakandan
Additional Advocate General
Assisted by
Mr.C.Kathiravan for R1
Mrs.Mythreye Chandru
Special Government Pleader
for R2

ORDER

This Writ Petition has been filed to call the petitioner for certificate verification, pursuant to Notification No.03/2023 dated 25.10.2023, to enable her to prove that she belongs to SC (Arunthathiyar) community and eligible to be appointed as BT Assistant in Tamil and consequently direct the 1st respondent to select the petitioner as BT Assistant in Tamil under the SC



W.P.No.15168 of 2024

(Arunthathiyar) community, based on the 83.50 marks secured by the petitioner in the written examination held on 04.02.2024.

2. The petitioner possesses B.A., degree in Tamil and completed her B.Ed., degree also. Thereafter, the petitioner cleared Teacher Eligibility Test, as such she was fully qualified to be appointed as BT Assistant under the respondents.

3. While so, by a notification dated 25.10.2023 applications were called for, for the post of Graduate Teachers / Block Resource Teacher Educators (BRTE) from the eligible candidates. The petitioner belongs to SC (xxxx) community, that comes within the SC (Arunthathiyar) community, entitled for horizontal reservation, even within the SC community. The petitioner is so backward and she did not notice about the horizontal reservation for her community, while filling up the online application. This is the mistake of the petitioner.

4. However, when the candidates were called for certificate



W.P.No.15168 of 2024

verification, the petitioner's name was left out. The petitioner had scored 83.50 marks. The petitioner does not come within the zone of consideration for SC (General), but, if she was considered under the SC (Arunthathiyar) category, she comes very well within the zone of consideration, as such the respondents ought to have called her for the certification verification.

5. *Mrs.Nalini Chidambaram*, learned Senior Counsel appearing on behalf of the petitioner would point out that the original community certificate dated 18.09.2003 was issued by the appropriate authority, in which the community of the petitioner has clearly been mentioned. There is no doubt whatsoever with reference to the community of the petitioner. Even the recent community certificate which was issued for production of the same before the authorities dated 30.05.2024, her community has correctly been mentioned. Therefore, when the petitioner belongs to SC (Arunthathiyar) category, only because of her backwardness and ignorance, she did not properly select the concerned field in the online application, for that her entire career should not be put to jeopardy and this Court should



W.P.No.15168 of 2024

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come to the rescue of the petitioner.

6. *Mr.R.Neelakandan*, the learned Additional Advocate General would submit that it has been categorically mentioned in the instructions to the candidates that if the candidates claiming reservation in the particular category, they should select that particular category and only as per their selection, they will be considered for reservation in that particular category. That apart, they should also upload the certificate in support of their respective community. In this case, both were not done within time. At the time of filling up the online application, the petitioner did not choose the SC (Arunthathiyar) category. In fact, she obtained the community certificate belatedly i.e., on 30.05.2024, which itself clearly shows that the petitioner did not upload the appropriate community certificate within time. Therefore, she has been rightly considered only as regards the SC (General) category and therefore, since she did not come within the zone of consideration, in respect of that category, she was not called for certificate verification.



W.P.No.15168 of 2024

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7. I have considered the rival submissions made on either side and perused the material records of the case.

8. The sub-category of reservation itself is provided only considering the grave un-representation even among the SC community by considering the extreme backwardness of the persons. Hailing from that background, if the petitioner commits a mistake, it would be a fit case where the court should come to the rescue of the candidate. If the candidate makes a procedural mistake, which does not involve any question as to substantive qualification as on the date of notification, then as per the dictum laid down by the Hon'ble Supreme Court of India in ***Dolly Chhanda Vs. Chairman, JEE & Others***¹ the Court can come to the rescue. Relevant paragraph Nos.7, 8 and 9 of the above Judgment is extracted hereunder:-

“7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established

¹ (2015) 9 SCC 779



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W.P.No.15168 of 2024

by producing the necessary certificates, degrees or marksheets. Similarly, in order to avail of the benefit of reservation or weightage, etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement to benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature.

8. This principle was explained and applied in *Charles K. Skaria v. Dr. C. Mathew* [(1980) 2 SCC 752 : 1980 SCC (L&S) 305]. The controversy here related to admission to a postgraduate course in medicine. The relevant rule provided for addition of 10% marks if a candidate possessed a diploma in the relevant subject or subspecialty and this benefit could be given only if the candidate's success in the diploma course was brought to the knowledge of the Selection Committee before completion of selection in an authentic or acceptable manner. The prospectus provided that the attested copies of statement of marks and other documents should be attached with every application. Three such candidates were given admission who had not attached the certificate of having passed the diploma along with their applications. Their admission to postgraduate course was set aside by the High Court on the ground that their applications, wherein they claimed the benefit of diploma, were liable to be rejected as the requisite certificates had not been attached. This Court speaking through Krishna Iyer, J. reversed the judgment of the High Court and held that the admission to the candidates had rightly been given as they had in fact passed the diploma before the date fixed. The relevant parts of paras 20 and 24 of the judgment, where this principle was highlighted are being reproduced below: (SCC pp. 762 & 763)

“20. There is nothing unreasonable or



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W.P.No.15168 of 2024

arbitrary in adding 10 marks for holders of a diploma. But to earn these extra 10 marks, the diploma must be obtained at least on or before the last date for application, not later. Proof of having obtained a diploma is different from the factum of having got it. Has the candidate, *in fact*, secured a diploma before the final date of application for admission to the degree course? That is the primary question. It is prudent to produce evidence of the diploma along with the application, but that is secondary. Relaxation of the date on the first is illegal, not so on the second. Academic excellence, through a diploma for which extra mark is granted, cannot be denuded because proof is produced only later, *yet before the date of actual selection*. The emphasis is on the diploma; the proof thereof subserves the factum of possession of the diploma and is not an independent factor. ... Mode of proof is geared to the goal of the qualification in question. It is subversive of sound interpretation and realistic decoding of the prescription to telescope the two and make both mandatory in point of time. What is essential is the possession of a diploma before the given date; what is ancillary is the safe mode of proof of the qualification. To confuse between a fact and its proof is blurred perspicacity. To make mandatory the date of acquiring the additional qualification before the last date for application makes sense. But if it is unshakeably shown that the qualification has been acquired before the relevant date, as is the case here, to invalidate this merit factor because proof, though indubitable, was adduced a few days later but before the selection or in a manner not mentioned in the prospectus, but still above board, is to make procedure not the handmaid but the mistress



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W.P.No.15168 of 2024

and form not as subservient to substance but as superior to the essence.

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24. It is notorious that this formalistic, ritualistic approach is unrealistic and is unwittingly traumatic, unjust and subversive of the purpose of the exercise. This way of viewing problems dehumanises the administrative, judicial and even legislative processes in the wider perspective of law for man and not man for law. Much of hardship and harassment in administration flows from overemphasis on the external rather than the essential. We think the Government and the Selection Committee rightly treated as directory (not mandatory) the mode of proving the holding of diplomas and as mandatory the actual possession of the diploma. In actual life, we know how exasperatingly dilatory it is to get copies of degrees, decrees and deeds, not to speak of other authenticated documents like marklists from universities, why, even bail orders from courts and government orders from public offices.”

9. The appellant undoubtedly belonged to reserved MI category. She comes from a very humble background, her father was only a Naik in the armed forces. He may not have noticed the mistake which had been committed by the Zilla Sainik Board while issuing the first certificate dated 29-6-2003. But it does not mean that the appellant should be denied her due when she produced a correct certificate at the stage of second counselling. Those who secured rank lower than the appellant have already been admitted. The view taken by the authorities in denying admission to the appellant is wholly unjust and illegal.”



W.P.No.15168 of 2024

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This Court also in its earlier Judgments considered all the relevant Judgments and this Court has been taking a consistent approach, that it is only a procedural error committed by the petitioner.

9. Now taking into consideration the fact that the certificate verification alone completed, but the select list is yet to be published, at this stage, no prejudice will be caused to the respondents if the petitioner is also be included in the SC (Arunthathiyar) category, subject to their verification of the community certificate and ascertaining the truth or otherwise of the certificate, which is done in respect of other candidates.

10. In view thereof, the Writ Petition is disposed of on the following terms:-

(i) The petitioner is directed to report before the respondents on 03.07.2024 along with the original certificates. Upon such reporting, the respondents are entitled to fix a date for certificate verification of the petitioner, depending on their



W.P.No.15168 of 2024

convenience;

(ii) The petitioner shall be treated as validly applied for the post of BT Assistant in Tamil under the category of SC (Arunthathiyar) and accordingly her community certificate can be verified and if she comes within the zone of consideration, while preparing the select list, her name also be included in the SC (Arunthathiyar) category, on merits and in accordance with law.

(iii) No costs. Consequently connected miscellaneous petition is closed.

24.06.2024

Neutral Citation : Yes

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Note:Registry is directed to issue order copy on 26.06.2024

To
1.The Secretary

Page 11 of 13



W.P.No.15168 of 2024

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W.P.No.15168 of 2024

D.BHARATHA CHAKRAVARTHY, J.

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W.P.No.15168 of 2024

24.06.2024