



Writ Petition No.16941 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.16941 of 2024

and

W.M.P.Nos.18654 & 18656 of 2024

B.Shelshia

D/o.V.Balasubramanian

... Petitioner

Vs.

1.Tamil Nadu Public Service Commission,
represented by its Secretary,
TNPSC Road, V.O.C. Nagar,
Broadway, Chennai - 600 003.

2.The Chairman of Equivalence Committee
cum the Secretary to Government,
Higher Education Department,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai - 600 009.

3.Tamil Nadu State Council for Higher Education,
represented by its Secretary,
Lady Willingdon College Campus,
Kamarajar Salai, Chennai - 600 005.

4.Bharathiar University,
represented by its Registrar,
Marudhamalai Road,
Coimbatore - 641 046.

... Respondents



Writ Petition No.16941 of 2024

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus forbearing the first respondent from rejecting the petitioner's candidature for the post of Junior Co-operative Auditor under MBC/DC General category, called for vide Notification No.03/2022 dated 23.02.2022 for Combined Civil Services Examination-II (Interview Posts and Non-Interview Posts) in Group-II and IIA Services, in view of the pendency of her application and representations dated 07.06.2024 and 18.06.2024 made to respondents 2 and 3 seeking issuance of Equivalence Certificate in respect of her graduation in B.Com (Accounting & Finance) from the fourth respondent University as Equivalent to B.Com., and to consequently direct the first respondent to appoint the petitioner in the said post of Junior Co-operative Auditor as per the Rank List, in the event of the petitioner obtaining the said Equivalence Certificate from respondents 2 and 3 and submitting the same to the first respondent.

For Petitioner : Mr.Arun Anbumani
for Mr.P.Rajkumar Pandian

For Respondents : Mrs.G.Hema [R1]
Mr.K.Surendran
Additional Government Pleader
[R2 & R3]

ORDER

This writ petition has been filed to forbear the first respondent from rejecting the candidature of the petitioner for the post of Junior Co-operative Auditor under MBC/DC General category pursuant to the



notification dated 23.02.2022 issued by the first respondent.

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2. When the writ petition came up for hearing on 27.06.2024, this Court passed the following order:

"The learned counsel for the petitioner would submit that the essential qualification for the post of Junior Co-operative Auditor is B.Com. The petitioner's degree is also B.Com., but, an additional is made as B.Com., (Accounting & Finance).

2. According to the learned counsel for the petitioner, that does not make any difference in the subject of her course as well as the regular course of B.Com., are one and the same. But, the first respondent/Tamil Nadu Public Service Commission is not treating the same as equivalence and directing the petitioner to obtain equivalence certificate.

3. Mrs.Hema, learned counsel takes notice for the first respondent and Mr.R.Kumaravel, learned Additional Government Pleader takes notice for the second and third respondents.

4. Now, considering the circumstances of the case and the stage of the recruitment, in which, it is stated that there are 30 posts which are still vacant to be filled up, Notice of motion returnable by 25.07.2024.

5. In the meanwhile, the second respondent is directed to consider the applications of the petitioner dated 07.06.2024 as well as 18.06.2024 by constituting the appropriate Equivalent Committee and shall pass orders on equivalence by then and the matter shall be reported back before this Court on the said date.

6. List this case on 25.07.2024 for filing counter."

3. The matter was thereafter listed on 03.09.2024 and the



following order was passed by this Court:

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"This writ petition was directed to be listed today on the ground that the issue involved in this writ petition is covered by the earlier order passed by this Court in a batch of writ petitions on a similar issue.

2. When the matter was taken up for hearing, the learned counsel for the petitioner submitted that the petitioner completed B.Com., (Accounting and Finance) from PSG College of Arts and Science, Coimbatore which is affiliated to Bharathiyar University. When the matter came up for hearing on 27.06.2024, this Court directed the 2nd respondent to consider the applications submitted by the petitioner for constituting an Equivalence Committee and for passing orders on the equivalence of the degree, sought for by the petitioner.

3. Pursuant to the above order, G.O.Ms.No.130, dated 24.07.2024 has been issued. At Serial No.20, it has been mentioned that B.Com., (Accounting and Finance) offered by PSG College of Arts and Science, Coimbatore, affiliated to Bharathiyar University is equivalent to B.Com.

4. In view of the above, the learned counsel for the petitioner submitted that the petitioner has fulfilled the qualification as prescribed in the notification, since the degree obtained by the petitioner is equivalent to B.Com.,

5. The learned counsel for the petitioner has made out a case for issuing further directions in this case. The order passed in earlier batch of writ petitions will not have any bearing to the facts of the present case. Hence, post this case at the end of the motion list on 06.09.2024."

4. When the case was taken up for hearing today, learned Standing Counsel appearing on behalf of the Tamil Nadu Public Service Commission filed the Position Note. The relevant portions are extracted hereunder:



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"6. It is submitted that the Note (ii) of para. 5B of the Notification No.3/2022, dated 23.02.2022 read as follows:-

"Applicants claiming equivalence of qualification to the prescribed qualification should upload and submit evidence for equivalence of qualification in the form of Government Order issued on or before the date of this notification and produce, it when called for, failing which, their application will be summarily rejected after due process. The Government Orders regarding equivalence of qualification issued after the date of this notification will not be accepted."

7. However, the candidates have not produced the evidence for equivalence of qualification during Physical Certificate Verification and Counselling. Hence, they are not allowed to participate in the Counselling to select the post of Junior Co-operative Auditor and the petitioner candidate was informed the said fact.

8. In the circumstances, the petitioner candidate belongs to MBC. At the end of Phase-I of Physical Certificate Verification and Counselling there are 30 vacancies for the post of Junior Co-operative Auditor in the MBC category. The said 30 vacancies were filled in Phase-II counseling which was held on 16.07.2024. There is no vacancy in the eligible category as on date.

9. It is submitted that the Hon'ble Madras High Court has passed interim orders dated 27.06.2024 in W.P.No.16941 of 2024 filed by Tmt./Selvi.B.Shelshia is as follows:-

"... 5. In the meanwhile, the second respondent is directed to consider the applications of the petitioner dated 07.06.2024 as well as 18.06.2024 by constituting the appropriate Equivalent Committee and shall pass orders on equivalence by then and the matter shall be reported back before this Court on the said date...."

10. The G.O.(Ms) No.130, Higher Education (K1) Department, dated 24.07.2024 has been issued after the date of Notification as well as Counselling and all the vacancies had been filled in the said recruitment. Hence, the petitioner candidate cannot be considered for the post of Junior Co-operative Auditor."

5. Heard Mr.Arun Anbumani, learned counsel for petitioner and



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Mrs.G.Hema, learned counsel for first respondent and Mr.K.Surendran, learned Additional Government Pleader appearing for respondents 2 and 3.

6. Learned Standing Counsel appearing on behalf of Tamil Nadu Public Service Commission submitted that 30 vacancies for the post of Junior Co-operative Auditor in the MBC category were filled up in the Phase-II counselling held on 16.07.2024 and therefore, no vacancies are available.

7. The other ground urged by learned Standing Counsel is that the equivalence Government Order produced by the petitioner cannot be acted upon since the notification makes it clear that the Government Order regarding equivalence of qualification issued after the date of notification will not be accepted.

8. This Court has carefully considered the submissions made on either side and the materials available on record.

9. In the case in hand, the candidature of the petitioner was not



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considered mainly on the ground that the essential qualification was not fulfilled by the petitioner. The petitioner possessed B.Com (Accounting and Finance) and this degree was granted by Bharathiar University, Coimbatore and the same was not considered to be equivalent to B.Com as prescribed under the notification.

10. This Court had taken into consideration the grievance of the petitioner and also the fact that there were 30 vacancies available as on 27.06.2024. Hence, a direction was issued to the equivalence committee to pass orders within a time frame. Pursuant to this order, G.O.Ms.No.130, dated 24.07.2024 has been issued and the degree obtained by the petitioner has been declared to be equivalent to B.Com. In view of the same, the essential qualification of the petitioner stands fulfilled.

11. The Tamil Nadu Public Service Commission cannot be permitted to take a stand that in spite of the Government order that has now been issued, the same will not be acted upon since the Government Order has been produced after the notification. This prohibition



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prescribed in the notification cannot stand in the way of an order passed by this Court. This Court was aware of such a prohibition available in the Government Order. In spite of the same, a direction was issued to the equivalence committee to consider the UG degree obtained by the petitioner and the same was considered by the committee and G.O.Ms.No.130, dated 24.07.2024 has been issued. Hence, this Government Order has to be necessarily acted upon and it cannot be disregarded by Tamil Nadu Public Service Commission by pointing out to the notification.

12. When the order was passed by this Court on 27.06.2024, this Court was aware of the fact that there were 30 vacancies. A direction was issued by this Court to the equivalence committee to see if the petitioner possesses the essential qualification and can be accommodated in the unfilled vacancies. In view of the same, the Tamil Nadu Public Service Commission should have kept one vacancy in tact since the petitioner cannot be left high and dry, if, in case, the petitioner is able to produce the equivalence Government Order. Therefore, just because a provisional selection list has been prepared by filling up the 30 vacancies, that cannot be put against the petitioner and the petitioner has to be



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necessarily accommodated, if he is otherwise qualified. The Tamil Nadu Public Service Commission cannot prevent the petitioner from participating in a selection adopting fait accompli.

13. In the light of the above discussion, there shall be a direction to the first respondent to consider the candidature of the petitioner for the post of Junior Co-operative Auditor under MBC/DC General category, if the petitioner is otherwise qualified. This process shall be completed by the first respondent within a period of two(2) weeks from the date of receipt of a copy of this order.

This writ petition is disposed of with the above direction. No costs.

06.09.2024

Issue order on 10.09.2024

Neutral Citation: Yes/No
Index: yes/no
Speaking Order/Non-Speaking Order
gm

N.ANAND VENKATESH, J

gm

To

1. The Secretary,
Tamil Nadu Public Service Commission,



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- TNPSC Road, V.O.C. Nagar,
Broadway, Chennai - 600 003.
- 2.The Chairman of Equivalence Committee
cum the Secretary to Government,
Higher Education Department,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai - 600 009.
- 3.The Secretary,
Tamil Nadu State Council for Higher Education,
Lady Willingdon College Campus,
Kamarajar Salai, Chennai - 600 005.
- 4.The Registrar,
Bharathiar University,
Marudhamalai Road,
Coimbatore - 641 046.

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