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W.P.Nos.19622 of 2020

& 169, 170, 3398, 25424 & 3402 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.03.2024

Pronounced on : 29.04.2024

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

W.P.Nos.19622 of 2020 & 169, 170, 3398, 25424 & 3402 of 2021

and

W.MP.Nos.24249 of 2020, 3880, 3884, 225, 3886, 233 of 2021

WP.No.19622 of 2020:

S.Nirmal Kumar

... Petitioner

Vs.

1. State Bank of India,
Rep.by its Chief General Manager,
(Appellate Authority) Appeals &
Review Department,
Local Head Office,
Circle Top House, IV Floor,
16, College Lane,
Nungambakkam,
Chennai - 600 006.

2. The General Manager (NW-I) &
Appointing Authority,
State Bank of India,
G.M.Network - I office,



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Local Head Office,
Circletop House,
7th Floor, 16,
College Lane,
Chennai – 600 006.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of CERTIORARIFIED MANDAMUS to call for the records from the 1st Respondent relating to the order dt. 16.03.2020 bearing Reference No. A & R/261 read with the order of the 2nd Respondent dt. 2.8.2019 bearing reference No. VIG/ESR/152, and quash the same as illegal, arbitrary, perverse, without jurisdiction and to consequently direct the Respondent Bank to reinstate the Petitioner back in service together with back wages including increments, revisions, promotion etc., which the Petitioner would have got had he not been dismissed from service with interest.

WP.No.169 of 2021:

S.Nirmal Kumar

... Petitioner

Vs.

1. State of Tamilnadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai - 600 009.



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2. The State of Tamilnadu,
Rep. by its Principal Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, Fort St.George,
Chennai-600 006.

3. The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.

4. The Secretary,
Tamilnadu Public Service Commission,
TNPSC Road, VOC.Nagar,
Park Town, Chennai-600 003.

5. Prince Arockiyaraj

6. S.P.Karthikeyan

7. R.Soundarrajan

8. Punitha Anthoniammal

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of MANDAMUS, to direct the Respondents 1 to 4 to proceed with publication of selection list in respect of regular 18 vacancies relating to the post of District Educational Officer notified in Notification No.37/2018 by the 4th respondent dated 10.12.2018 based on merit in the selection as per the rank list published on 02.12.2020, following Rule of Reservation, without any priority for fixation of Roster



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Points to teacher category candidates in violation in selection/rank list and thereby consider the Petitioner (Registration No.280005219) for selection to the post of District Educational Officer as per the merit in the selection under BC(G) category, with all consequential and other attendant benefits.

In all WPs:

For Petitioner : Mr.G.Sankaran, Senior counsel
for Mr.S.Neduchezhiyan

For Respondents 1 to 3 : Mr.P.Gurunathan, AGP
For Respondent No.4 : Mr.I Abrar Mohamed Abdullah
standing counsel for TNPSC

For Respondents 5 to 8
in WP.No.19622/2020,
3398/21, 3402/21 : No appearance

For Respondents 5 to 7
in WP.No.169 & 170/21 : No appearance

For Respondents 5 to 10
12,14 to 20, 22 to 24
in WP.No.25424/2021 : No appearance

COMMON ORDER

Heard Mr.G.Sankaran, learned senior counsel for the petitioners
and Mr.P.Gurunathan, learned Additional Government Pleader, Mr. I



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Abrar Mohamed Abdullah, learned standing counsel for TNPSC, for the 4th respondent and there is no appearance for respondents 5 to 8 in WP.Nos.19622/2020, 3398/21, 3402/21 and for respondents 5 to 7 in W.P.Nos.169 & 170 of 2021 and for respondents 5 to 10,12,14 to 20, 22 to 24 in WP.No.25424/2021 and perused the materials available on records.

2. Having been aggrieved due to the failure on the part of the 4th respondent to publish the provisional selection list in respect of the recruitment carried out as per the notification of the 4th respondent bearing No.37/2018 dated November 10, 2018, these petitioners have filed these writ petitions seeking direction from the respondents 1 to 4 to publish the selection list for the 18 vacancies for the post of District Education Officer notified in the above notification based on merit and as per the rank list published on December 2, 2020 and following the rules of reservation.

3. The 4th respondent issued a notification on 10.12.2018 calling



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for applications to fill up 18 regular vacancies for the post of District Education Officer. Out of the 18 vacancies, 14 were allowed for the open market and 4 opened for the teachers employed in the recognized aided secondary schools and higher secondary schools. The apportionment of the vacancies in accordance with the communal roster is given as follows:

GT(G)	3
GT(G) PSTM	1
GT(W)	2
GT(G)(DAP)(VI/LV)	1
BC(OBCM)(G)	3
BC(OBCM)(W)	2
MBC/DC(G)	2
MBC/DC(W)	1
SC(G) PSTM	1
SC(W)	1
SC(A)(PSTM)	1
Total	18

4. Mr.G.Sankaran, learned senior counsel for the petitioners submitted that the four posts reserved for Aided School teachers category have been accommodated out of the reservation made for the BC[OBCM] category. The petitioners further submitted that in the proposal for appointing the selected list of candidates, all the posts reserved under the BC category have been given to department candidates and the



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petitioners, like others, have no vacancy to be given despite they have a better merit than the department candidates.

5. It is submitted by Mr.G.Sankaran that the total proposal has been sent for 20 vacancies, which is inclusive of 2 carried-over vacancies for the open market. It is further submitted that if 4 vacancies are earmarked for the aided teacher category, 14 candidates ought to have been earmarked for the open market. But all four candidates in the teacher category have been placed under the BC category and hence the petitioners opposed for the above method of selection. So the crux of the submission of the petitioners is that the appointment of the vacancies has been made without following the rules of reservation.

6. Mr.P.Gurunathan, learned Additional Government Pleader submitted that the petitioners have participated in the selection process and accepted the rules of recruitment, and hence cannot go back and challenge just because they have become unsuccessful. It is further claimed that the rules of reservation have been strictly followed and there



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are no discrepancies as submitted by the petitioners.

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7. The impugned notification has been issued calling for 18 posts. Out of 18 posts, 4 are meant for persons from the aided school teachers category. The petitioners have no quarrel over these facts. But the petitioners have a grievance that all the seats allocated as against the BC (G) and BC(W) categories have been filled up by aided school teacher category and hence the petitioners could not secure any appointments despite having got higher marks than the cut off mark set for the BC category.

8. I feel there is a fundamental mistake in understanding the scheme of reserving certain seats for the post of District Education Officer for the teachers category. The notification itself ought to have been given as showing 14 vacancies separately in accordance with the rules of reservation and 4 vacancies directly for the teacher category subject to the communal reservation, if adopted for the said category also. The recruitment appears to have been made in a confusing manner by



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appointing all the four teacher category persons against the BC quota.

This would naturally deprive those candidates who have secured higher marks in the BC quota and they would have got expelled from the selection list despite having more marks than the cut off mark for 'BC' quota.

9. Mr.I.Abrar Mohamed Abdullah, standing counsel for TNPSC submitted that one of the four teachers is placed under BC(W) category and three others are placed under the BC category. In the notification itself, only 3 vacancies have been earmarked for BC (OBCM)(G) and 2 have been earmarked for BC (OBCM)(W) vacancies. All the four were given to the teacher category irrespective of their marks, but by giving priority to the fact that they are teachers. So, I afraid that there is a thorough misunderstanding about the rule of reservation.

10. Allocation of some seats for in-department candidates are to ensure that appointments are also through transfer. No doubt all the candidates who are coming under the teacher category have to compete in



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the selection process. But, that should not deprive the chances of appointment for open market candidates and prevent them from getting placed against their respective communal reservation, if they secure marks more than the cut-off marks fixed for the above category.

11. It is to be noted that those in-service candidates had already undergone the selection process during their original appointment subject to communal reservation. So, they cannot be allowed to get the same benefit once again. The recruitment for teacher category candidates is at the best a separate section, however, by meeting out the same qualification requirement for the post of District Education Officer.

12. If the notification had been given as below, that would have avoided the confusion caused in the recruitment:



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Name of the post	Source	Communal Reservation Categories										Total
		GT (G)	GT (G) PS T M	GT (W)	GT (G)(DA P) (VI/LV)	BC (O BC M) (G)	BC (O BC M)(W)	MB C/DC (G)	MB C/DC (W)	S C(G) P S T M	SC (W)	
District Education Officer	Open Market (14)											14
	Carried forward vacancy (2)					1				1		2
	Teacher category (4)											4
Total												(18+2)

13. Though all the candidates who are called for the post of District Education Officer need to enter through one gate, after entering the gate, they get diverted and walk through two different doors. (i) One door for open market candidates, wherein it will be ensured that 14 of them will get the appointment. (ii) Other door will ensure that four of the teacher category candidates will be appointed.

14. Out of the above 14, the number of vacancies available in accordance with the communal roster should be mentioned, as shown in



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the above chart against the respective boxes. Out of the 4 teacher category seats, if the government wishes to keep the communal roster alive irrespective of the fact that they had already been subjected to the reservation system during their initial appointment, then the reservation made as against each category for the 4 posts should also be mentioned in the boxes as against the teacher row.

15. Had it been done in the above fashion, there would not be any clash between the open market candidates and the teacher category candidates and each would get their chances of appointment depending on the merit marks fixed as against each category. If the government deems fit that the 4 posts allocated for the teacher category need not once again be subjected to the rules of communal reservation, then all those 4 slots can be filled up as per merit from and among the teachers pool.

16. It appears that the recruitment exercise has been done by ignoring the above rule but by placing all the teacher candidates in the



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BC categories by considering them as candidates coming under the teacher category have got two reservation benefit, one by virtue of their very category and two by virtue of their community. This can not be the object of separate allocation for open market and teacher category. In fact, two selection lists ought to have been issued, one for the open category and another for the teacher category.

17. The claim of the petitioner in WP.No.19622/2020 is that he falls under the BC category and he secured 615.75 marks and stood in rank 6. However, the teacher category candidates who obtained 469.75 marks, 464.25 marks, 448.50 marks, and 426 marks have been given the appointment though they stood in ranks below the petitioner. The petitioners and other persons who secured high marks and stood in ranks 6, 8, and 13 have lost their opportunity.

18. The claim of the petitioner in WP.No.169 of 2021 is also as similar as that of the petitioner in WP.No.19622 of 2020.



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19. The petitioner in WP.No.3398/2021 claims that the selection to the post of District Education Officer would commenced from 18th turn in Schedule-III of G.O.Ms.No.55 dated 08.04.2010. But the respondent has proceeded to allot all the four vacancies from the BC category, without following the rule of roster.

20. The petitioner in WP.No.3402 of 2021 claims that so far as the two (2) carried forward vacancies are concerned, they are against the reserved categories of BC (G) and SC (G), respectively. It is understood that these two categories are from the open market, and hence there will not be any confusion.

21. The petitioner in WP.No.170 of 2021 claims that she has got higher marks in the BC (W) category than the candidates who are selected and accommodated under the teacher category.

22. The information furnished to the court would show that the petitioner in W.P.No.19622 of 2020-S.Nirmalkumar stood in rank 6 by



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obtaining 615.75 marks, one Z.Suzai Mariyanathan stood in rank 8 by obtaining 605 marks, and one Amutha is in rank 13 by securing 595 marks, but they were eliminated. The whole selection exercise has not been done by properly understanding the recruitment against each.

23. Had the notification and the recruitment process been done in the pattern shown in paragraph No.12, there would not have been any overlapping between the two categories from which the appointment to the post of District Education Officer is done by following the communal reservation adopted for the direct recruitment. So, the distribution of the vacancies ought to have been done as per the above-mentioned table. Further, a person who belongs to the BC category and who has obtained the highest marks among the BC candidates would not have lost his/her chance of appointment by leaving it to the teacher category. At the same time, a candidate belonging to the teacher category who obtained higher marks in any of the communities, his/her opportunity would have lost if the vacancies be filled by the BC category teachers alone. Since the recruitment has been done in a hap-hazard manner without following the



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rules of reservation and category wise allotment, the selection list is liable to be quashed.

24. In the result,

(i) W.P.No.25424 of 2021 is **allowed** and the impugned government order issued by the 1st respondent in G.O.(3D) No.3 School Education [SE(1)] Department, dated 13.07.2021 is quashed and the respondents 1 to 4 are directed to re-do the exercise by rightly issuing two separate selection lists one for the open category and another for the teacher category by following the communal reservation in accordance with the vacancies earmarked as against each community or priority and complete the exercise and issue the revised selection list within a period of four weeks from the date of receipt of a copy of this order.

(ii) W.P.Nos.19622 of 2020 and 169, 170, 3398,



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and 3402 of 2021 are also **disposed** with the above direction.

(iii) No Costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking
Neutral Citation : Yes/No
jrs



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To

1. The Principal Secretary to Government,
State of Tamilnadu,
School Education Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2. The Principal Secretary to Government,
State of Tamilnadu,
Personnel and Administrative Reforms Department,
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