



Writ Petition No.24452 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.24452 of 2024
WMP Nos.26750 and 26751 of 2024

P.Annakkodi

.. Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Fort St.George, Chennai
2. The Teachers Recruitment Board,
Represented by its Member Secretary,
DPI Campus, Chennai 600 006
3. The Director of School Education,
DPI Campus, College Road,
Chennai 600 006

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorairfied Mandamus to call for the records of the 2nd respondent board dated 25.07.2024 (published on the website of the second respondent) board and quash the same insofar as the



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petitioner is concerned holding the petitioner as ineligible as PSTM candidate is concerned and consequently, direct the respondents to select and appoint the petitioner to the post of BT Assistant (History) by holding the petitioner as a person who studied in Tamil Medium under the Notification No.3 of 2023 dated 25.10.2023 with all consequential monetary and service benefits from the date when the other candidates are appointed.

For Petitioner : Mrs.S.Dhakshayani Reddy
Senior Counsel
for M/s.S.Suneetha
For Respondents : Mr..S.Rajarajeshwari
Government Advocate for
R1 and R3
Mr.K.Sathish Kumar
for R2

ORDER

This writ petition has been filed challenging the ineligible list published by the 2nd respondent dated 25.07.2204 holding that the petitioner is ineligible to be considered as PSTM candidate and for a consequential direction to the respondents to select and appoint the petitioner to the post of B.T.Assistant History under the PSTM category.



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2. The case of the petitioner is that she belongs to the Scheduled Caste (Arundhadhiyar) community. She has also cleared TET and has undergone her entire education from 1st Standard till her Under graduation in Tamil Medium and she has also completed B.Ed in Tamil Medium. The further case of the petitioner is that the 2nd respondent issued a notification dated 25.10.2023, calling for applications from eligible candidates for appointment to the post of graduate teachers. The petitioner applied under the PSTM category. The petitioner also uploaded all the documents to show that she studied in Tamil medium. According to the petitioner, for +2, the petitioner did not attend the regular school and she wrote the examination privately in tamil language. A certificate to that effect was also given by the Member Secretary of State Board of School Examination.

3. The petitioner obtained 61.50 marks and was also called for certificate verification. The grievance of the petitioner is that the petitioner was found to be ineligible under the PSTM category and list of ineligible candidates was released by the 2nd respondent on 25.07.2024 and the same has been put to challenge insofar as holding the petitioner to be ineligible under the PSTM category.



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4. The learned Standing counsel appearing on behalf of the 2nd respondent has produced the written instructions from the 2nd respondent. The specific stand that has been taken by the 2nd respondent is that the petitioner has not produced PSTM certificate for her 11th standard. That apart, the certificate for 12th Standard was not in the prescribed format. In view of the same, since the relevant certificate for 11th standard was not uploaded at the time of submitting the application and the 12th Standard was not in the prescribed format, the candidature of the petitioner was rejected under the PSTM category. It has been further stated that while considering the petitioner under the General Turn, she did not fall within the zone of consideration since the petitioner had secured only 61.50 marks. Accordingly, the 2nd respondent has sought for the dismissal of the writ petition.

5. Heard Mrs.S.Dhakshayani Reddy, learned Senior Counsel for M/s.S.Suneetha, learned counsel for the petitioner and Mr..S.Rajarajeshwari, learned Government Advocate for respondents 1 and 3 and Mr.K.Sathish Kumar, learned Standing counsel for 2nd respondent.



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6. The entire controversy hovers around the medium of study in the 11th and 12th Standard. Insofar as the 11th Standard is concerned, the specific case of the petitioner is that the PSTM certificate issued by the Head Master of the concerned school was uploaded along with the application and the said certificate was also pointed out at Page No.103 of the typed set of papers. Insofar as 12th Standard is concerned, the petitioner wrote the examination as a private candidate. The Member Secretary of the State Board of School Examination has given a certificate to the effect that the petitioner wrote the examination in Tamil. This certificate does not specifically state that the petitioner underwent 12th Standard in Tamil medium.

7. It is now too well settled that where a candidate fails to upload the relevant documents at the time of submission of the on-line application, the same will result in the rejection of the candidature.

8. Before going into the facts of this case, it will be relevant to take note of the order passed in WP No.10629 of 2024 dated 30.04.2024.



That was a case where the petitioner therein had studied the 11th and 12th Standard by way of private study and appeared for the examination. As far as 11th and 12th Standards are concerned, the uploaded certificate merely stated that the petitioner had written the examination in Tamil. This Court considering the same has held as follows :-

10. Thus, the original certificate only reads that the petitioner had written her examination in Tamil. As a matter of fact, the petitioner has produced the Higher Secondary Certificate, which clearly mentions that the medium of instruction is Tamil. When the petitioner has read the courses in Tamil, certainly her medium of instruction was also in Tamil. Had the petitioner undergone the 11th and 12th standards in any school, the school authorities would have granted the certificate to that effect. But, since this is a case of self-study, the petitioner has approached the Directorate of Examination, Government of Tamil Nadu, who has issued the aforesaid certificate.



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11. It can be seen that the Hon'ble Supreme Court in paragraph No.10 of the Judgment in S.Shriram's case (cited supra) has clearly stated that the objective of the Act is to provide for reservation to those who have pursued their education in Tamil medium would be entitled to compete for the 20 % of the posts. Therefore, the Act has to be seen purposively and if the stand of the respondent that there is no certificate from any authority to hold that the petitioner had undergone 11th and 12th standards in Tamil medium is accepted, the same would be a pedantic approach defeating the very purpose of the Act. In that background, when the matter came up for hearing before this Court on 26.04.2024, this Court had passed for the following interim order, which reads as follows:

“Part-heard.

2. It is seen from the documents uploaded by the petitioner that as far as XII standard is concerned, the authority, who issued the certificate, namely, the Member Secretary, State Board of School Examinations, had stated that the petitioner had written examination in Tamil whereas the form of certificate which is required is that the petitioner's medium of instruction in XI and XII standard was Tamil. Learned counsel for the petitioner has also produced the Higher Secondary mark sheet of the petitioner



in which it is clearly stated that the medium of instruction is Tamil. Therefore, there should not be any difficulty for the petitioner to get a certificate to the effect that the medium of instruction of the petitioner in XI and XII standard was Tamil.

3. Since it is a mistake committed by the authority concerned in appropriately wording the certificate, the petitioner should not be deprived of an opportunity.

4. In that view of the matter, call this matter on 30.04.2024. 5. In the meanwhile, it is open to the petitioner to approach the authority concerned, namely, the Member Secretary, State Board of School Examinations, on 29.04.2024, along with a copy of this order and request him to issue the required certificate in the appropriate format.”

12. Thereafter, the authority has given the following certificate, which reads as follows:-

“தமிழ்மொழி வழியில் தேர்வெழுதியதற்கான சான்றிதழ்
திரு/திருமதி/செல்வி VANITHA C பதிவெண் 913980
பருவம்/ வருடம் MAR/2012 ஆகிய விவரங்களின்படி
ஆவணங்களுடன் ஒப்பிட்டுப் பார்த்ததில் அன்னார் தனித்தேர்வராக
தமிழ்மொழி வழியில் தேர்வெழுதியுள்ளார் என சான்றளிக்கப்படுகிறது”

13. Therefore, it can be seen that the petitioner has undergone the examination on self study and has read the course and written the examination only in Tamil. Thus the petitioner categorically satisfies the definition as contained in Section 2 (d) and also the purpose of the Act to provide reservation for the persons who have completed their entire



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education only in Tamil medium. It defies any logic even to contend that the petitioner would have instructed herself in any other medium except Tamil as far as 11th and 12th standards are concerned.

14. This Court had also considered a similar issue, where under a person who has made a self-study in 1st standard was denied not to be treated in PSTM quota and it is essential to quote the relevant paragraph Nos.13,14 and 15 of the judgment made in W.P.No.29056 of 2022 dated 16.04.2024,

“13. When the law is enacted, the draftsmen of the legislation/the legislature will not be able to foresee every conceivable situation which may arise in the course of the implementation of the law. In these situations, the law has to be interpreted purposefully. The purpose of the very reservation itself is to consider the cases of the students who underwent their entire education in Tamil medium. Obviously, the petitioner has undergone all her education up to the essential qualification only in Tamil medium. Under no stretch of imagination, it can be said that the petitioner would have undergone Standard - I in non-formal education in any other language. Admittedly, the petitioner's mother tongue is Tamil. Therefore, insisting upon a proof that she studied the Standard - I also in Tamil would only operate to take away the benefit which is otherwise conferred by the *Act*. In this regard, useful reference can be made to the judgment of the Hon'ble Supreme Court of India in *Vijay*



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*Madanal Choudary Vs. Union of India*¹ to paragraph No.274, which reads as under :

"274. We may profitably advert to the judgment in *Seaford Court Estates Ltd.* [1949] 2 K.B. 481, which states:

“The question for decision in this case is whether we are at liberty to extend the ordinary meaning of “burden” so as to include a contingent burden of the kind I have described. Now this court has already held that this sub-section is to be liberally construed so as to give effect to the governing principles embodied in the legislation (Winchester Court *Ld.v.Miller* [1944] K.B. 734); and I think we should do the same. **Whenever a statute comes up for consideration it must be remembered that it is not within human powers to foresee the manifold sets of facts which may arise, and, even if it were, it is not possible to provide for them in terms free from all ambiguity.** The English language is not an instrument of mathematical precision. Our literature would be much the poorer if it were. This is where the draftsmen of Acts of Parliament have often been unfairly criticized. A judge, believing himself to be fettered by the supposed rule that he must look to the language and nothing else, laments that the draftsmen have not provided for this or that, or have been guilty of some or other ambiguity. It would certainly save the judges trouble if Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, when a defect appears a judge cannot simply fold his hands and blame the draftsman. **He must set to work on**

¹ 2022 SCC OnLine 929



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the constructive task of finding the intention of Parliament, and he must do this not only from the language of the statute, but also from a consideration of the social conditions which gave rise to it, and of the mischief which it was passed to remedy, and then he must supplement the written word so as to give “force and life” to the intention of the legislature. That was clearly laid down by the resolution of the judges in Heydon's case (1584) 3 Co. Rep. 7a, and it is the safest guide today. Good practical advice on the subject was given about the same time by Plowden in his second volume *Eyston v. Studd (1574) 2 Plowden 465*. Put into homely metaphor it is this : A judge should ask himself the question : If the makers of the Act had themselves come across this ruck in the texture of it, how would they have straightened it out? He must then do as they would have done. A judge must not alter the material of which it is woven, but he can and should iron out the creases.”

(emphasis supplied)

14. The *Act* does not expressly specify from ‘Standard - I’. It only states 'up to the educational qualification prescribed'. Obviously, it would mean all the formal education from Standard - I. But, if any person did not have formal education of Standard - I, then, literally applying the clarifying Government Order would render violence to the Statute itself. The Government Order does not deal with the fact situation as the one. It is issued only with the purpose of weeding out persons, who undergo their education in English Medium etc., and only partly studied in Tamil Medium.

15. As a matter of fact, even in the earlier order of



this Court in W.P.No.4129 of 2022, referred above, it is directed that the cases can be treated as special cases and this Court had permitted the petitioner to participate in the selection as the *PSTM* candidate. In view of the above reasonings, I hold that the petitioner falls with the definition of *PSTM* candidate as per Section 2(d) of the *Act*, on a correct reading of the provisions of the *Act* and the Government Order issued thereunder.”

15. Therefore, the Writ Petition deserves to be allowed and accordingly allowed on the following terms:

(i) The impugned Memorandum dated 10.04.2024 is quashed;

(ii) The respondent shall treat the petitioner as a Person Studied in Tamil Medium and consider her in appropriate merit position with reference to the selection under the notification No.03/2023 dated 23.02.2022 and if the petitioner comes within the zone of consideration, the petitioner's shall be included for further oral test / certificate verification etc., and upon selection include her name in the selection list and the same be forwarded to the appropriate authority for issuing appointment order;

(iii) No costs. Consequently connected miscellaneous



petitions are closed.

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8. It is clear from the above the objective of the Act is to provide for reservation for those who have pursued their education in Tamil Medium. In the instant case, there is no dispute with regard to the fact that the petitioner had undergone her studies in Tamil medium from 1st standard to 10th Standard and also her Under Graduation in B.A. History and B.Ed. The controversy is with regard to 11th and 12th standards.

9. Insofar as the 11th standard is concerned, the 2nd respondent has come up with a stand that the petitioner did not upload the PSTM Certificate for 11th Standard. Whereas, it is seen from the typed set of papers Page No.103, that a certificate has been granted by the competent authority stating that the petitioner had undergone 11th Standard with Tamil as the medium of instruction. When the petitioner had uploaded all the other PSTM certificates, there is absolutely no reason as to why the petitioner will not upload the PSTM certificate that was given for 11th Standard. In any case, the original certificate is available which can always be verified by the 2nd respondent. Therefore, this Court holds that the petitioner has a valid PSTM certificate for 11th Standard.



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10. That leaves this Court to deal with the certificate that was issued for the 12th Standard. Insofar as 12th Standard is concerned, the petitioner underwent private study. She wrote her examination in Tamil which is evident from the certificate issued by the Member Secretary of the State Board of School examination. While dealing with this issue, the order that was relied upon supra in WP No.10629 of 2024 comes to the aid of the petitioner. This Court held that a pedantic approach will not help achieve the objective behind giving preference to the candidates who have undergone their entire studies in Tamil Medium. Even in that case, a similar certificate was produced stating that the petitioner therein had written the examination in Tamil. This Court held that it was a case of self study by the petitioner and he had written the examination in Tamil. Therefore, considering the fact that the petitioner had undergone studies only in Tamil medium right through, the certificate produced for 12th Standard was acted upon and the TNPSC was directed to consider the petitioner therein under PSTM Category.



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11. In the instant case also the petitioner has undergone her studies right through only in Tamil Medium. Insofar as 12th standard is concerned, the petitioner had undergone 12th Standard through private study and written the examination in Tamil. That sufficiently satisfies the requirement and the certificate that was issued by the Member secretary of State Board of School Examination dated 07.03.2022 also sufficiently satisfies the requirement. This Certificate is also found at Page No.106 of the typed set of papers.

12. In the light of the above discussion, the impugned ineligibility list dated 25.08.2024 issued by the 2nd respondent is interfered insofar as the petitioner is concerned. There shall be a direction to the respondents to treat the petitioner as a person studied in Tamil medium and consider her in an appropriate merit position with respect to the selection under the notification dated 25.10.2023 and if the petitioner comes within the zone of consideration, the name of petitioner shall be included in the further selection and her name shall be included in the selection list and the same shall be forwarded to the appropriate authority for issuing appointment order. This Court had already passed an interim order directing one post to



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be kept vacant on 22.08.2024. Therefore, the petitioner can be accommodated in that vacant post.

13. Accordingly, this writ petition stands allowed in the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

28.08.2024

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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To

1. The State of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Fort St.George, Chennai
2. The Teachers Recruitment Board,
Represented by its Member Secretary,
DPI Campus, Chennai 600 006
3. The Director of School Education,
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N.ANAND VENKATESH, J

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