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W.P.No.31171 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.07.2024

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

WP.No.31171 of 2023

Kavitha.G

... Petitioner

Vs.

1.The Principal

Chennai Dr.Ambedkar Govt. Law College
Pudhupakkam, Tiruporur TK,
Chengalpet – 603 103

2.The Controller

Tamilnadu Dr.Ambedkar Law University
Poompozhi, No.5, Greenways Road,
Chennai – 600028.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents herein to consider the representation dated 27/07/2023 in accordance with law.

For Petitioner : Mr.V.Balasubramani

For Respondents : Mr.D.Ravichander
Special Government Pleader - R1
Mr.Arunkumar Rajan - R2

ORDER

The petitioner had completed her 10th standard from SP Girls Higher Secondary School, Villivakkam on 17.06.1995 and 12th standard from Singaram Pillal Girls Higher Secondary School on 23.05.1997. She enrolled for an Under Graduate degree in Law in the Dr.Ambedkar Law College, Puthupakkam in the same year.



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2. The prayer in this writ petition is for a mandamus directing the respondents to consider her representation dated 27.07.2023. In that representation, she seeks issuance of a 'Person who studied in Tamil medium' (PSTM) Certificate i.e., a certificate attesting to the fact that she had studied the course during the period 1997-2002, in Tamil.

3. The raison d'être of such certification is to support students who had studied Law in Tamil medium. Effective 30.09.2010 a separate quota has been offered in the Tamil Nadu Public Service Examinations conducted by the State. The petitioner is an aspirant for Judicial Service and there is a 20% reservation for those candidates who had studied in Tamil medium. Hence her request.

4. At the outset Mr.D.Ravichander, learned SGP, who accepts notice for R1, being the Principal, Dr.Ambedkar Law College, draws attention to a communication in Na.Ka.No.1031/A4/2023 dated 08.08.2023, pointing out that R1 has rejected her request for PSTM Certificate on the ground that there are no records to indicate that any candidates in the 1997-2002 batch had opted for Tamil medium.

5. He would thus submit that the prayer has been rendered infructuous insofar as she only seeks a mandamus simplicitor directing disposal of her representation, which has been achieved by letter of R1 dated 08.08.2023.

6. Learned SGP is right to the extent that the representation has been addressed by letter dated 08.08.2023. However, the grievance under the representation has not really been resolved as the petitioner, in the writ affidavit has averred that she has, in fact, both studied the course and written all her examinations in Tamil. Those factual assertions have really not been addressed



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under letter dated 08.08.2023 and for that reason I believe that the grievance of the petitioner subsists, notwithstanding communication dated 08.08.2023.

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7. After detailed deliberations with all learned counsel at the hearings held on 31.10.2023, 28.11.2023, 09.01.2024, 14.02.2024, 13.03.2023 and finally on 20.06.2024, the following facts emerge:-

(i) Admittedly, R1 Institution was under the academic control of the Madras University till 1996 and it is only from 1997 that it has come under the aegis of R2 University, which was established in that year.

(ii) The category of Tamil medium classes was started only in 1997 – 1998 for those students who were in the second year of the law course i.e., candidates who had joined the Law course in 1996 – 1997 and had already completed one year in English medium were given the option for PSTM in the second year of their course in the year 1997 – 1998;

(iii) The petitioner joined the Law course in 1997 - 1998;

(iv) According to respondents, no students of the 1997 – 1998 batch opted for Tamil.

(v) No records are available in this respect to support the petitioner's averment that the classes were conducted in Tamil;

(vi) However, there is no dispute on the position that the petitioner has written all the semester examinations only in Tamil. Though no records are available, this position is not disputed by the respondents;



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(vii) The Government Order under which the PSTM course was introduced has not been produced despite a specific direction to the respondents to do so. According to them, that G.O provided for a stipend to be given in addition to PSTM certification. Since their records do not indicate that any stipend has been given to her, it is presumed that she did not opt for the PSTM course.

8. The question to be decided is whether, in the absence of any records to support the petitioner having opted for PSTM category, she can be granted such categorization/eligibility. In my view, the mere fact that the petitioner has not been given a stipend cannot enure to her detriment or to the indirect conclusion that she has not studied in Tamil medium.

9. This Court has carefully considered the rival submissions of Mr.V.Balasubramani, learned counsel, for the petitioner, Mr.D.Ravichander, learned Special Government Pleader for R1 and Mr.Arunkumar Rajan, learned counsel, for R2. The background to the PSTM eligibility is set out in the decision of the Full Bench of this Court in *R.Boominathan v Government of Tamil Nadu and Other* [(2019) 7 MLJ 385(FB)].

10. It was first during the period 1973-74 to 2001-02 that a separate section was set up for Tamil medium students. The Full Bench at paragraph 14 states that the Tamil section was discontinued on introduction of 5 year B.A.,B.L.(Honors) course in Dr.Ambedkar Government Law College, Chennai from 2002-03 and re-introduced from academic year 2006-07 onwards, both for 3 years and 5 years course vide G.O.(Ms)No.280, Law (LS Department) dated 14.11.2006. The position is different in the Law Colleges in other Districts, such



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as, Madurai, Tirunelveli, Coimbatore, Tiruchirappalli and Chengalpet and there is no necessity to advert to the specific details thereof as we are concerned only with the Madras Law College.

11. *'The Tamil Nadu Appointment on Preferential Basis in the Services under the State of Persons Studied in Tamil Medium Act, 2010'* defines 'persons studied in Tamil Medium' as persons who have obtained educational qualifications or qualifications prescribed for direct recruitment in applicable Rules and Regulations through Tamil medium of instruction.

12. *'Preferential vacancies'* have been provided for thereunder to mean vacancies available for persons who have studied in Tamil Medium under Section 3(1) thereof which provides for preference in appointment in State services to be filled through direct recruitment with PSTM. Preferential appointment was brought in vide G.O.Ms.No.145, Personnel and Administrative Reforms (S) Department dated 30.09.2010 and G.O.Ms.No.40, Personnel and Administrative Reforms (S) Department dated 30.04.2014 to the effect that 20% of the direct recruitment shall be filled on preferential basis with PSTM candidates.

13. The requirement is that the aspirant should have studied the prescribed qualifications in Tamil medium and should have obtained a certificate to that effect in the required format from the Head of the Institution where she studied. Mere writing of examinations would not entitle them for this benefit.

14. The reference made to the Full Bench was whether:-

"(i) Whether studied the Course in Tamil and having written University examinations in Tamil language will qualify the candidate for claiming reservation against Persons Studied in Tamil Medium (PSTM)?

(ii) In the absence of Tamil Medium of Instructions in the Colleges, whether the candidates studied the Courses in Tamil, or having written examinations in Tamil can be placed on par with



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PSTM Candidates for the purpose of claiming reservation earmarked for PSTM?

(iii) Whether the Tamil Medium of Instruction is in vogue and is available in law colleges run by the State Universities and if available, from what period the courses have been commenced in Tamil Medium and whether the same has been continuing uninterruptedly upto which period? If Tamil Medium of Instruction is available, factually which are the Law Colleges run by the State Universities conducting the Law Course in Tamil as Medium of Instruction?"

15. At paragraphs 23 to 25, the Full Bench states as follows:

23. In the State of Tamil Nadu, Tamil being the Regional language, the Government had thought it fit to give it a thrust. In this context, the Government had taken a policy decision to declare that those who pursue education with Tamil, being the regional language, as Medium of Instruction, will be given preference in public employment. It is in this direction that the Government issued G.O. (Ms) No.145, Personnel and Administrative Reforms Department dated 30.09.2010, followed by G.O. (Ms) No.40, Personnel and Administrative Reforms Department dated 30.04.2014, ordering to fill 20% of all vacancies in direct recruitment on preferential basis with persons who studied the prescribed qualification in Tamil Medium. As per the order of the Government, persons who claim preference under PSTM category, must have studied the prescribed qualification for the post in Tamil Medium and should have obtained a certificate evidencing the same. Such orders of the Government were in tune with the statutory enactment namely Tamil Nadu Appointment on Preferential Basis In The Services Under The State of Persons Studied in Tamil Medium Act, 2010 (T.N. Act 40 of 2010). Section 2 (d) of the said Act defines "persons studied in Tamil Medium" to mean that those persons who have obtained their educational qualification or qualification prescribed for direct recruitment in the Rules or Regulations or orders applicable to any appointment in the services under the State through Tamil Medium of instruction. Section 3 of the said Act deals with preferential appointment. As per Section 3, twenty percent of all vacancies in appointment in the services under the State which are to be filled through direct recruitment shall be set apart on preferential basis to persons studied in Tamil Medium.

24. Even though the State had earmarked 20% of the vacancies in the services under the State, by direct recruitment, to be filled by appointing persons under PSTM category, as per the records made available to us, there are no Colleges in the State that imparts Tamil as Medium of Instruction, throughout. As per the counter affidavit filed by the Director of Legal Studies, Kilpauk, Chennai - 600 010, 11 Government Law Colleges are functioning in the State of Tamil Nadu where three and five year Law Courses are being imparted. That apart, two Private Law Colleges are



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functioning in the State namely Central Law College, Salem and Saraswathi Law College, Tindivanam and they are also offering Law Courses. However, these colleges are not imparting the curriculum in Tamil.

25. Intermittently, Dr.Ambedkar Government Law College, Chennai imparted Law Course in Tamil between 1973-1974 and 2001-2002 and thereafter, Law Course is not imparted in Tamil. Thereafter, Dr. Ambedkar Law College, Chennai re-commenced imparting law degree in Tamil Medium from 2006-2007. However, it did not continue to impart law degree in Tamil due to various reasons, including lack of interest among the students to pursue law degree in Tamil.

16. Ultimately, the reference was answered in the following

terms:

(i) A person who studied the Course in Tamil or had written the University or Competitive examination in Tamil will not ipso facto recognise or qualify him or her to claim reservation under Persons Studied in Tamil Medium (PSTM) category

(ii) Even though a person opted for Tamil as Medium of Instructions in the Colleges or studied the Courses in Tamil or written examinations in Tamil, in the absence of a certificate issued by the Registrar/Principal or Head of the Institution in the prescribed format stating that he or she pursued the education in Tamil as Medium of Instruction throughout, he or she cannot be placed on par with PSTM Candidates for the purpose of claiming reservation under the preference quota

(iii) Tamil, as Medium of Instruction, is not in vogue in certain colleges, or rather to say, Law Degrees are not imparted in Tamil as a Medium of Instructions. Only in few colleges, Law Degrees are imparted in Tamil as Medium of Instructions and in some other colleges, it is being imparted intermittently. Only if a student pursued the entire Course in Tamil and obtained a Certificate to that effect from the head of the institution/Registrar or Principal of the College, will he or she be declared as the one who is eligible to claim preference in public employment under PSTM category. As on date, Law Colleges at Chennai, Madurai, Coimbatore, Tiruchirapalli, Tirunelveli and Chengalpattu are imparting the courses in Tamil as medium of instruction, as could be evident from G.O. Ms. No.33, Law (LS) Department dated 31.01.2017 as well as the counter affidavit filed by Director of Legal Studies, Chennai.

17. I have had the benefit of the submissions of Mr.Jayaprakash, learned Government Advocate, who states that he was a student in R1 institution around that time and provides factual details in regard to the scenario that transpired



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then. According to him, there was an agitation in or around 1996-1997 by the students for re-introduction of PSTM certification, and bowing to the pressure, the certification was re-introduced from the year 1997-1998 onwards for the students of the 1996-97 batch who were studying in the 2nd year of the course.

18. There are no records to evidence the manner by which the option for certification was sought, how classes were conducted or the details of the Tamil and English sections. It was only from the year 1998-1999 that there was some clarity in regard to how the PSTM module would operate and it was only from that year onwards that specific classes (sections) were earmarked for persons who had opted for PSTM, for male students and for female students.

19. As far as the 1997-2002 batch is concerned, (to which the petitioner belongs) R1 has stated that there are no records to indicate that the petitioner or for that matter, any other student from that batch, had opted for PTSM. Though specifically sought, no Circular or Notice calling for interested students to opt for PSTM has been produced by the respondents.

20. All learned counsel before me would accede to the position that there was no proper procedure that was followed for the previous two academic years i.e., for 1996-1997 and 1997-1998 in respect of the Tamil class and how it was to be structured.

21. Counters have been filed both by R1 and R2, who is the Controller, Tamil Nadu Dr.Ambedkar Law University. The counter filed by R1 contains several contradictions and lacks clarity.

22. The counter affidavit filed by R1 at paragraphs 7 and 8 states thus:

7. It is respectfully submitted that the Petitioner was admitted in the First Respondent's college in 1997-1998 batch in the Five Year Law course and completed her course in the year 2002. It is submitted that in the year 1997-1998, there was no



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medium of learning in Tamil in the First Respondent's college for Five year Law course. The medium of study in Tamil was introduced in the First Respondent's college from 1997-1998 only for the second year of Five year Law course.

8. It is respectfully submitted that the medium of instruction was introduced in Tamil to the Students who were studying in second year of Five year Law course who joined in the first year during the academic year 1996-1997. Thus, the Petitioner was not admitted in Tamil medium of instruction in 1997-1998 batch.....

23. R1 has however produced a list of persons who have received stipend for having studied in Tamil medium and the petitioner's name does not figure there. On these facts it would seem that the petitioner is ineligible for the certification sought. However, the mainstay of the submissions of the respondents is that the primary criterion for PSTM eligibility/certification is that the candidate should have studied the entire course (all five years) in Tamil.

24. The admitted facts in this case are (i) the petitioner belongs to the batch of 1997-2002 (ii) No records have been produced by any party to support the position that there was a Tamil medium section for this batch (iii) PSTM category has been introduced for the second year of the students in 1996 - 2000 batch. (iv) Admittedly the batch of 1996 -2000 has studied the first year in English Medium and it is only from second year that the PSTM option was given to them.

25. Hence to state that PSTM benefit would be given only for students who have studied for all five years in Tamil medium is belied by the very conduct of the respondents in offering the benefit to those students of 1996 - 1997 to 2000 - 2001 batch who have, admittedly, not studied in Tamil medium in the first year.

26. Having, by conduct, acceded to the position that those students who have opted for PSTM only 4 out of a 5 year course will still be given the



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benefit, I see no reason as to why the petitioner who has, admittedly, written the examinations for all five years in Tamil and whose course commenced in 1997 – 1998 when there was a total lack of clarity on how the PSTM benefit was to be curated or offered to the students, must be denied this benefit.

27. In light of the discussion as aforesaid, particularly on the admitted position that the students in the earlier batch (1996-2000) had been given the benefit of certification even when they had admittedly completed only 4 years of the course in Tamil, the petitioner, in my view, is entitled to benefit of PSTM certification. I make it clear that the benefit extended under this order is specific, and limited to this petitioner as it has been given in the facts and circumstances of this matter alone.

28. This writ petition is allowed. Respondents are directed to do the needful in issuing PTSM certificate to the petitioner based on the reasoning set out in the paragraphs supra within a period of one week from date of issue of this order. No costs.

29.07.2024

Index: Yes / No
Neutral Citation: Yes/No
Ssm/sl

To

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Chengalpet – 603 103

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DR.ANITA SUMANTH,J.

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