



W.P.No.29056 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 16.04.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.29056 of 2022

D.Sowthriya

.. Petitioner

Versus

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Human Resources Management Department,
Fort St. George,
Chennai - 600 009.

2. Tamil Nadu Public Service Commission,
Represented by Secretary,
TNPSC Road, VOC Nagar,
Park Town, Chennai - 600 003.

3. The Headmaster,
Panchayat Union Elementary School,
Mandapam - 623 518,
Ramanathapuram Education District.

.. Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, directing the 2nd respondent to consider the application, dated 12.08.2022 filed by the petitioner for the posts notified in Notification No.16/2022, dated 21.07.2022 under the Persons Studied in Tamil Medium (PSTM) quota based on the Certificate Nos.5375327, 4786191 and 0255801 produced by the petitioner proving that the petitioner has undergone X Std, Higher Secondary Course and the Under Graduate Course in Tamil medium along with the Certificate issued by the Headmaster of Panchayat Union Elementary School, Mandapam, Ramanathapuram Education District where the petitioner has undergone classes II to V in Tamil medium notwithstanding that the petitioner has not undergone Class I in any medium and consequently direct the 2nd respondent to permit the petitioner to write the preliminary examination and the main written examination pursuant to Notification No.16/2022, dated 21.07.2022 under the Persons Studied in Tamil Medium (PSTM) quota for direct recruitment to the vacancies in the posts included in Combined Civil Services Examination - I (Group I Services).

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

For Respondents : Mr.Stalin Abhimanyu,



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Additional Government Pleader,
for R1

: Mr.I.Abrar Mohamed Abdullah,
for R2

: Mrs.S.Mythreye Chandru,
Special Government Pleader,
for R3

ORDER

This Writ Petition is filed with a prayer to direct the second respondent to consider the application of the petitioner, dated 12.08.2022 for the posts notified in Notification No.16/2022, dated 21.07.2022 under the 'Persons Studied in Tamil Medium' (hereinafter referred to as '*PSTM*') quota based on the certificate Nos.5375327, 4786191 and 0255801 produced by the petitioner.

2. The brief facts relevant to the disposal of the Writ Petition are that by a notification bearing No.16/2022, dated 21.07.2022, applications were invited for the combined Civil Services Examination for Group - I services.



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92 vacancies in about 6 posts were notified. According to the petitioner, she is fully eligible to participate in the said selection under the quota meant for *PSTM*.

3. As per Section 3 of the *Tamil Nadu Appointment on preferential basis in the Services under the State of Persons Studied in Tamil Medium Act, 2010* (hereinafter referred to as 'the *Act*'), 20% of the posts shall be preferentially appointed by the *PSTM* candidates by way of Horizontal Reservation. The definition of the persons who have studied in Tamil medium is defined under Clause 12(D) (ii), (iii) and (iv) which is as follows :-

"12(D). Persons Studied in Tamil Medium:

(ii). Candidates claiming to be Persons Studied in Tamil Medium (*PSTM*) must upload/produce evidence for the same in the form of SSLC, HSC Mark Sheet, Transfer Certificate, Provisional Certificate, Convocation Certificate, Degree Certificate, PG Degree Certificate, Mark Sheets, Certificate from the Board or University or from the Institution, as the case may be, with a recording that he/she had studied the entire duration of the respective course(s) through Tamil Medium of instruction.



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(iii). Candidates must upload/produce documents as evidence of having studied in the Tamil Medium, all educational qualification upto the educational qualification prescribed.

Example: If the prescribed educational qualification is Degree, then the candidate should have studied from the First Standard to Degree through Tamil Medium of instruction.

(iv). If no such document as evidence for 'PSTM' is available, a certificate from the Principal/Headmaster/District Educational Officer/Chief Educational Officer/District Adi Dravidar Welfare Officer/Controller of Examinations/Head/Director of Educational Institution/Director/Joint Director of Technical Education/Registrar of Universities, as the case may be, in the prescribed format must be uploaded/produced, for each and every educational qualification upto the educational qualification prescribed."

The same is also reproduced in the notification in paragraph No.12D.

4. In the case of the petitioner, the petitioner did not undergo any formal education of Standard - I. She was straightaway admitted into the primary school in the Standard - II. All through her education that is, primary, secondary, higher secondary and degree, the petitioner is studied in



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Tamil medium. Since, as per the G.O.Ms.No.82, Human Resource Development (S) Department, dated 16.08.2021, which clarifies the position, from Standard - I up to the relevant qualification, they should have studied in Tamil medium, the petitioner's case is not considered under the *PSTM* quota. Therefore, the petitioner has approached this Court.

5. Pending the Writ Petition, the written examination has also been conducted, however, the petitioner was not called for oral test.

6. The Writ Petition is resisted by the second respondent by filing a counter-affidavit stating that since the Government Order categorically states that from Standard - I up to the last year of qualification, the medium of instruction should be in Tamil and the petitioner has not placed any proof that she studied Standard - I in Tamil medium, her case could not be considered. This apart, while considering similar cases, this Court, on an earlier occasion, felt that in these cases of non-formal education, it is only



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the rule which has to be amended. The respondents also rely upon the order of the Co-ordinate Bench of this Court in W.P.Nos.4129 and 22818 of 2022, dated 11.03.2024.

7. *Mrs.Nalini Chidambaram*, learned Senior Counsel for the petitioner submits that when, up to primary education, persons who are studying in non-formal sectors including home study, can be admitted, the respondents cannot insist any further proof from the petitioner that she studied Standard - I at home only in Tamil medium. When the petitioner all along underwent her formal education only in Tamil medium, there is no way that the non-formal education that she underwent at home in respect of Standard - I will be in any other language. There need not be any further proof for the obvious. When the petitioner is permitted to study Standard - I at home, then, no other authority except the petitioner herself can certify that she studied in Tamil medium and in no other medium of instruction. In that view of the matter, insisting upon proof for studying in Tamil medium in



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respect of the Standard - I would only render violence to Rule and would go against the very purpose of making reservation in respect of *PSTM* candidates.

8. Per *contra*, *Mr.I.Abrar Mohamed Abdullah*, learned Counsel for the second respondent/TNPSC would submit that the second respondent would go strictly by the notification and strictly by the certificates uploaded by the petitioner. The candidates have to upload the certificates for their entire education up to the level of essential qualification that they underwent only in Tamil. Since in the instant case, the petitioner has not filed any proof in respect of Standard - I, the third respondent was right in not considering the case of the petitioner under *PSTM* quota. As far as the process is concerned, the learned Counsel would submit that after written examination, the eligible candidates have been called for oral interview and further counseling is under process.



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

10. The definition of the *PSTM* as per Section 2(d) of the *Act* (as amended) is as follows :-

" (d) "person studied in Tamil medium" means a person who has studied through Tamil medium of instruction upto the educational qualification prescribed for direct recruitment in the rules or regulations or orders applicable to any appointment in the service under the state."

11. In order to clarify the said section, G.O.Ms.No.82, dated 16.08.2021 is issued and it reads as follows :-

"(i) ஒன்றாம் வகுப்பு முதல், தொடர்புடைய பணி விதிகளில் நேரடி நியமன முறைக்கென வரையறுக்கப்பட்ட கல்வித் தகுதி வரையில் (10/12 ஆம் வகுப்புகள், பட்டயம், இளங்கலை/முதுகலைப் பட்டங்கள்) முழுவதுமாக தமிழ்மொழியில் கல்வி பயின்றவர்கள் மட்டுமே, 2010 ஆம் ஆண்டு தமிழ்நாடு தமிழ் வழியில் கல்வி பயின்றவர்களை அரசின் கீழ்வரும் பணிகளில் முன்னுரிமையின் அடிப்படையில் பணி நியமனம் செய்தல் சட்டம் மற்றும் அச்சட்டத்திற்கான 2020 ஆம் ஆண்டு திருத்தச் சட்டத்தின் கீழ் முன்னுரிமை வழங்கப்பட தகுதியுடையவர்கள் ஆவர்."



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12. It is not in dispute that up to the primary level, the Rules of the State of Tamil Nadu does not insist upon formal education alone. The persons who undergo home schooling, as well as non-formal education can also claim themselves to be qualified in primary school level up to Standard - V and can get admitted in the next class in the formal stream. In that view of the matter, when the petitioner has undergone the Standard - I education at home and was admitted into the formal school only from the Standard - II, obviously, the school authorities will issue certificate only from the Standard - II onwards.

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



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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 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 Ltd. 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**

¹ 2022 SCC OnLine 929
<https://www.mhc.tn.gov.in/judis>



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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 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)



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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.



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WEB COPY 16. In view thereof, this Writ Petition is allowed on the following terms:-

(i) The petitioner is declared to be a *PSTM* candidate within the definition of the *Act* as also the paragraph No.12D of the notification No.16/2022, dated 21.07.2022. Accordingly, the case of the petitioner shall be considered by the second respondent;

(ii) If, the petitioner being considered as a *PSTM* candidate, comes within the zone of consideration for further oral test and if the oral test has not been conducted for the petitioner, the respondents shall conduct the same as a special case and thereafter, evaluate the petitioner's case on merits in accordance with law and if the petitioner comes within the zone of consideration for appointment, the second respondent shall recommend the petitioner for appointment by including her in the select list in respect of the four posts applied by her;



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(iii) If the petitioner does not come within the zone of consideration, even after considering her as a *PSTM* candidate, suitable reply shall be furnished to the petitioner in writing intimating the mark position and the least cut-off in respect of *PSTM* candidates for the category for which the petitioner belongs;

(iv) Since it is represented that the recruitment is in the advance stage, the above exercise shall be carried out by the second respondent as expeditiously as possible, in any event, not later than three weeks from the date of receipt of a copy of this order;

(v) There shall be no order as to costs.

16.04.2024

Index : yes

Speaking order

Neutral Citation : yes

grs

Note : Issue order copy on 18.04.2024.

To

1. The Principal Secretary to Government,

<https://www.mhc.tn.gov.in/judis>



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Human Resources Management Department,
Fort St. George,
Chennai - 600 009.

2. The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, VOC Nagar,
Park Town, Chennai - 600 003.

3. The Headmaster,
Panchayat Union Elementary School,
Mandapam - 623 518,
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D.BHARATHA CHAKRAVARTHY, J.

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