



W.P.No.33043 of 2023

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D.BHARATHA CHAKRAVARTHY, J.

Today, this matter is listed under the caption 'For being mentioned' at the instance of the learned counsel for the petitioner.

2. Learned counsel for the petitioner would submit that the Writ Petition number is wrongly mentioned as W.P.No.33043/2022 instead of W.P.No.33043/2023. Therefore, the same shall be corrected. He would further submit that in Paragraph No. 9, instead of Question No. 1132, by way of typographical error, it was wrongly mentioned as 112. Accordingly, the same may also be corrected.

3. Therefore, the Registry is directed to correct the Writ Petition number as well as the above correction in paragraph No. 9 and upload, and re-issue a fresh order copy to the parties concerned subject to payment of necessary charges.

04.06.2024

jrs

Note to Office: Issue the order copy on 05.06.2024.

D.BHARATHA CHAKRAVARTHY, J.



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W.P.No.33043 of 2023

04.06.2024



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

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THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.33043 of 2022

V.Arokiadass

... Petitioner

Vs.

The Chairman,
Teachers Recruitment Board,
College Road,
Chennai – 600 006.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus to direct the respondent to issue a copy of the OMR marking sheet of the petitioner in the TNTET paper-II, 2013 examination dated 18.08.2013 and consequently if the petitioner is found eligible to be granted the three additional marks as claimed by him, then to issue the necessary Eligibility Certificate for the year 2013 to the petitioner and permit him to apply and participate in the upcoming rounds of recruitment.

For Petitioner : Mr.S.Sandesh Saravanan

For Respondent : Mr.R.Siddharth
Standing Counsel

ORDER



The writ petition is filed for a direction to the respondents to issue a copy of the OMR Marking Sheet of the petitioner in the TNET Paper-II, 2013 examination dated 18.08.2013 and consequentially if the petitioner is found eligible to be granted the three additional marks as claimed by him, then to issue the necessary Eligibility Certificate for the year 2013 to the petitioner and permit him to apply and participate in the upcoming rounds of recruitment.

2. The petitioner has the necessary education qualification to be appointed as a BT Assistant. The petitioner took part in the Tamil Nadu Teachers Eligibility Test (hereinafter referred to as TNTET) in the year 2013. The petitioner secured 79 marks while the minimum required pass mark was 82. Already by virtue of deletion of two questions, two marks have been granted. If the petitioner is granted one more mark, he will be declared pass.

3. In the said circumstances, in respect of one of the question, i.e., in which language the song “Vande Mataram” was first written, there were four answers viz., Bengali, Urdu, Marathi and Sanskrit.

4. As per the key answer Sanskrit was the correct answer. However, the matter was challenged before the Hon'ble Division Bench in



W.A.No.1040 of 2017. By an order dated 12.10.2017, the Hon'ble Division

Bench allowed the case of the candidates by directing the respondents to give one mark for the candidates who have attempted in any of the two answers i.e., Bengali and Sanskrit.

5. Thereafter, the matter was again came up for consideration before yet another Hon'ble Division Bench in W.A.No.167 of 2020. The Hon'ble Division Bench found that the song “Vande Matharam” was first written in Bengali alone and Bengali is the correct answer. Reasoning of the Hon'ble Division Bench in Paragraph 7 & 8 in W.A.No.167 of 2020 dated 03.02.2020 is extracted hereunder:-

“7. We have considered the submissions made. We find it necessary to answer the issue viz., with regard to the correctness or otherwise of the answer opted by the respondent/writ petitioner. The Division Bench in the case of The Chairman, Teachers Recruitment Board, College Road, Chennai-6 v. K.Veeramani, decided on 12.10.2017 (W.A.No.1040 of 2017), categorically recorded, and with which we also agree, that the song “Vande Matharam” was first penned and recorded in Bengali viz., by Bongkim Chondro Chottoapadhyay. The song was later on translated into Sanskrit. The question posed in the question paper was, as to in which language the song “Vande Matharam” was written first?. It is, therefore, no longer in doubt that the song was written in Bengali first and therefore,



Division Bench had found that the writ petition is hit by delay and latches.

Therefore, the petitioner cannot be granted relief at this stage.

9. I have considered the rival submissions made on either side. I have perused the materials available on record. It can be seen that if one mark is granted to the petitioner, then the petitioner will be given a certificate that he has passed the TNTET. As far as relevant question is concerned, the said question was also put to the petitioner in his booklet as questions 112. It is not in dispute that the petitioner answered that the song was first written in Bengali. It is not also in dispute that originally by taking a view that the song was originally written in Sanskrit that one mark was refused to the petitioner.

10. As per the dictum laid out by the Hon'ble First Division Bench in W.A.No.1040 of 2017 dated 12.10.2017, one mark has to be given for candidates who have chosen Bengali as well as Sanskrit.

11. As per the reasoning given by the later Division Bench, candidates who have chosen Bengali alone as the answer will be eligible. Therefore, the petitioner is eligible for one mark as per the reasoning given by both the Hon'ble Division Benches.



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12. The only question to be decided by this Court is whether the writ petition filed by the petitioner is belated or not. In the earlier Division Bench in W.A.No.167 of 2020, the petitioner had prayed for the consequential posting as the teacher also.

13. In that view of the matter, the Hon'ble Division Bench held that the writ petitioner in that case was a fence-sitter and he did not approach the Court immediately. The Hon'ble Division Bench had further made observations in Paragraph 9 that the recruitment rules have changed in view of G.O.(Ms).No.149, School Education Department dated 20.07.2018 and therefore, the petitioner cannot be given any relief in that case. However, in the present case, learned counsel for the petitioner would categorically submit that he is not asking for any posting or employment as the BT Assistant in any Government School or any other school.

14. If he is granted the Certificate as having cleared the TNTET Test by virtue of G.O.(Ms).No.128 School Education (TRB) Department dated 23.08.2021, the life time validity has been given in respect of pass in TNTET and therefore, he can be validly appointed in any private school or he may even participate in future recruitment if he is eligible.



15. Prayer is made only with reference to the eligibility alone and not with reference to any consequential challenge to selection. I am of the view, that the petitioner's case need not be rejected on the ground of delay alone.

16. In view thereof, this writ petition is ordered on the following terms:-

- i. The respondent shall verify the original OMR Marking Sheet of the petitioner and if the petitioner has given the answer as Bengali in respect of the question as to in which language in the song “Vande Mataram” was written first, the petitioner shall be awarded one more mark and accordingly be declared as having cleared the TNTET successfully and the necessary Certificate can be given to the petitioner;
- ii. The petitioner will not claim any retrospective appointment or promotion based on the said Certificate. However, TNTET Certificate will be issued to the petitioner and he will be eligible to participate in any fresh selection whatsoever besides appointment in any other private employment also;
- iii. Such exercise shall be carried out by the respondent within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs.



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Index : Yes/No

Speaking/Non-speaking Order

Neutral Citation :Yes/No

rgm

To

The Chairman,
Teachers Recruitment Board,
College Road,
Chennai – 600 006.



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D.BHARATHA CHAKRAVARTHY, J.

rgm



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