



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.4406 of 2024 AND
W.M.P.(MD)Nos.4234 & 4236 of 2024

The Tamil Nadu Commerce Institutes' Association,
Rep. by its Liaison Officer,
16/20A, Nandhi Kovil Street,
Trichy – 620 002.

... Petitioner

Vs.

1. The Principal Secretary to the Government,
Government of Tamil Nadu,
Secretariat, Fort St. George, Chennai – 09.
2. The Principal Secretary to the Government,
Educational Department,
Government of Tamil Nadu,
Secretariat, Fort St. George, Chennai – 09.
3. The Director,
Directorate of Technical Education,
Chennai – 600 025.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records comprised in G.O.Ms.No.82 Higher Education Department (B1) dated 17.03.2023 issued by the 1st respondent and quash the same as being arbitrary and illegal and consequently direct the respondents to issue a fresh notification for certificate course in computer office



automation in line with the order in WP (MD)No.8456 of 2021 dated 23.12.2021.

For Petitioner : Mr.K.Prabhakar,
for Mr.G.Raghuvaran Gopalan.

For Respondents : Mr.K.S.Selvaganesan,
Additional Government Pleader.

ORDER

Heard both sides.

2. The writ petitioner challenges the validity of G.O.(Ms)No.82 Higher Education(B1) Department dated 17.03.2023 insofar as paragraph No.7 is concerned. The said paragraph reads as follows:-

“மேலும், மேலே ஒன்றாவதாகப் படிக்கப்பட்ட அரசாணையில் Certificate course in Computer on Office Automation தொடர்பாக ஒப்புதல் அளிக்கப்பட்ட விதிகள் மற்றும் ஒழுங்குமுறைகளில் வரிசை எண்.3-ல் ஏற்கனவே உள்ளவற்றிற்கு பதிலாக பின்வருமாறு திருத்தம் செய்து அரசு ஆணையிடுகிறது.

Duration of the Course

“An Institute Candidates has to undergo minimum of 120 hours of Training at the recognised Typewriting Institutes and Government / Government



Aided / Self financing Polytechnics and a Private Candidates has to give a declaration stating of 120 hours trained by self.” ”

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for by setting aside the impugned amendment.

4. The respondents filed counter affidavit. It is pointed out that the Government Order was not put to challenge immediately and that it has already been implemented. Examinations were held in August 2023 and in February 2024. The stand of the respondents is that when the system permits the private candidates also to appear for “Computer on Office Automation” examination, it would be inequitable to make them to undergo the very same process like a student undergoing the course in a regular institute. After taking me through the contents of the counter affidavit, the learned Additional Government Pleader submitted that there is no merit in the writ petition. He called upon this Court to dismiss the writ petition by sustaining the impugned Government Order.



5. I carefully considered the rival contentions and went through the materials on record.

6. It is not as if the issue is cropping up for the first time. When in the year 2021, notification issued by the Director of Technical Education enabled the private candidates to take part in the examination for certificate course in “Compute on Office Automation” with a mere self-declaration, it was put to challenge in W.P.(MD)No.8456 of 2021. The writ petition was allowed by a learned Judge of this Court vide order dated 23.12.2021. Paragraph Nos.4, 5, 6, 10 and 12 read as follows:-

“ 4. Mr.Raguvaran Gopalan, learned counsel for the petitioner pointed out that in the impugned notification, educational qualification and the training qualification had been given as follows:

“A.EDUCATIONAL QUALIFICATION:

I. A pass in SSLC of Tamil Nadu State or Equivalent Examination thereof.

and

A pass in Junior Grade Typewriting Examination in English / Tamil of the Department of Technical Education, Tamil Nadu or the Equivalent Examination thereof.



(or)

II. A pass in Higher Grade Typewriting English / Tamil of the Department of Technical Education, Tamil Nadu or equivalent Examination on thereof.

B.TRAINING QUALIFICATION:

I. Candidate should have undergone a minimum of 120 hours of training in a recognized Typewriting Institute or Government / Government Aided / Self-financing Polytechnic Colleges.

II. Private candidates who have qualified and undergone a minimum of 120 hours of training in a private institute may also appear for the Examination as Private Candidate.

III. All the candidates including Private Candidates should maintain a record note-book for the Practical Classes attended by them as per the syllabus and submit the same at the time of their Practical Examination.”

5. Learned counsel has no quarrel with these two stipulation either with the educational qualification or with the training qualification. But, learned counsel insists examination of the nature of authentication that the candidate had actually completed 120 hours of training in a recognised typewriting institute. It is imperative that a declaration must also be given by the candidate that he/she had qualified in a particular institute. If he/she names a particular institute or say that he/she had actually undergone such training in a recognised typewriting



institute, then such declaration by the candidate, should also be counter-signed by a responsible officer of the named typewriting institute.

6. I can see the reasoning behind the representation made by Mr.Raguvaran Gopalan. This declaration would protect the candidate and give a sense of responsibility to declare that he/she had actually undergone 120 hours of training. I therefore, hope that the declaration, in all means, would be true. It would clarify that the candidate is actually qualified and has acquired the skills and expertise in Certificate Course in Computer on Office Automation. It would also indicate that he/she had undergone a course for the same in a recognised typewriting institute counter-signed by a responsible officer.

10. A copy of the said declaration form which has to be given by a candidate and which has to be certified by the institute is appended to this order.



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24

Application No. 1 AB-66664

BOARD OF EXAMINATIONS, DIRECTORATE OF TECHNICAL EDUCATION, CHENNAI 600 025

APPLICATION FORM OF GOVERNMENT TECHNICAL EXAMINATIONS FOR THE CANDIDATES APPEARING FOR CERTIFICATE COURSE IN COMPUTER OFFICE AUTOMATION - DECEMBER 2019

Name of the Candidate	AKSHAYAN M
Father's / Husband's Name	MUTHUKARTAN V
Date of Birth	13/08/2003
Gender	Female
Permanent Address	NO.7/14 VALLALAM KOIL SANNATHI STREET, MAYILADUTHURAI TAMIL NADU 600002
Address for communication	NO.7/14 VALLALAM KOIL SANNATHI STREET, MAYILADUTHURAI TAMIL NADU 600002
Mobile Number	9440322377
Qualification	Computer Graphics (Diploma Grade)
Copy of STATE Mark Sheet received	Yes
Examination Fee & Application Fee	Rs 530/-
Demand Draft No.	454200
DD Date	09/11/2019
Bank Name	PNB
Centre code	6076SRINIVAS INSTITUTE OF TECHNOLOGY, TROCIYIL
Registration No. of Commerce Institute or Ins. code of Polytechnic college	240119

DECLARATION OF THE CANDIDATE

I hereby declare that I have filled the application in my own hand and the particulars furnished are all true and correct to the best of my knowledge. I have undergone 120 hours of training in the subject and I shall abide by the rules and regulations of the Board of Examinations for the smooth conduct of the examination. If the particulars furnished by me are found false at a later stage of the application, I shall be liable for disciplinary action and my candidature shall be cancelled by the Chairman, Board of Examinations, Chennai - 25.

Date: 13 Nov 2019


Signature of the Candidate

CERTIFICATE

Given this 13th Nov 2019 at Chennai, Government Institute Polytechnic, Private)

Entered that **AKSHAYAN M** studied / underwent in the subject and completed 120 hours of training and that I have verified the eligibility and all particulars in the application form of the Candidate entered by Candidate's Authority / Original Bonafide Certificate issued by Competent Authority is entered.

Registration Number of Typewriting Institute / Code No. of the Polytechnic: 240119

Signature of the Principal/In-charge Officer with Office Seal



12. In view of the above observations, this Writ

Petition is allowed to the extent of issuing a Mandamus directing the second respondent to include the aforementioned declaration form also in the application form and re-issue the notification at the earliest. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.”

7. It appears that this order was not put to challenge. The impugned Government Order clearly runs counter to the direction issued earlier. It is of course well settled that the judgment of a Court can be undermined by resorting to the device of validation. Such measures are known as Validating Acts. In order to do so, the basis on which the judgment rests will have to be undone in *toto*. No judgment can be overruled by the executive or the legislature. The case on hand pertains to “Rules and Regulations Governing The Certificate Course In Computer on Office Automation”. Clause (3) of the rules reads as follows:-

“ Duration of the course:

A candidate has to undergo minimum of 120 hours of Training at the recognised Typewriting institute and Government / Government Aided / Self financing



Polytechnics.”

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By the impugned Government Order, this rule has been amended as follows:-

“An Institute Candidate has to undergo minimum of 120 hours of Training at the recognised Typewriting Institutes and Government / Government Aided / Self financing Polytechnics and a Private Candidate has to give a declaration stating of 120 hours trained by self.”

8. The condition to undergo 120 hours of training has not been done away with. It is holding good. While the candidate undergoing training at a recognised Typewriting Institute or a Polytechnic will have to furnish the certificate duly signed by the competent official, no such requirement is applicable to a private candidate. He only has to give self-declaration that he had taken self-training for 120 hours. The only way by which the order in W.P.(MD)No.8456 of 2021 could have been undermined was to remove and delete the very requirement of undergoing 120 hours training in the rule book. That has not been done. Without do so, the authority could not have permitted the private candidates to participate in the examinations on the strength of self-declaration. On the ground that the impugned Government Order runs counter to the order dated 23.12.2021 made in W.P.(MD)No.8456 of



2021, the impugned amendment is set aside. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

06.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU

To:

1. The Principal Secretary to the Government,
Government of Tamil Nadu,
Secretariat, Fort St. George, Chennai – 09.
2. The Principal Secretary to the Government,
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11

W.P.(MD)NO.4406 OF 2024

G.R.SWAMINATHAN,J.

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