



W.P(MD)No.8346 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.P(MD)No.8346 of 2023
and
W.M.P(MD)Nos.7684 & 7686 of 2023**

R.Ramsridhar

... Petitioner

VS.

- 1.The State of Tamil Nadu,
Represented by its,
Principal Secretary to Government,
Higher Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The Registrar,
Tamil Nadu Dr.Ambedkar Law University,
Poompozhi,
No.5, Dr.D.G.S.Dinakaran Salai,
Chennai – 600 028.
- 3.University Grants Commission,
Represented by its Chairperson,
Bahadur Shah Zafar Marg,
New Delhi – 110 002.



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4.The National Commission for Scheduled Castes,
5th Floor, Lok Nayak Bhavan,
Khan Market, New Delhi – 110 003.

5.The State Commissioner for the Disabled,
Office of the State Commissioner for the Disabled,
No.15/1, Model School Road,
Thousand Lights,
Chennai – 600 006.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the record pertaining to the Notification dated 18.03.2023 issued by the second respondent and quash the same, and consequently direct the second respondent to issue a fresh notification for the post of Assistant Professors in the second respondent University by providing appropriate reservations for the persons belonging to Scheduled Tribes and Differently Abled Persons, as mandated under Section 27 of the Tamil Nadu Government Servants (condition of Services) Act, 2016.

For Petitioner

: Mr.Dinesh Hari Sudarsan

For Respondents

: Mr.P.Thilak Kumar
Government Pleader for R.1
Mr.B.Brijesh Kishore for R.2
Mr.P.Karthick for R.3



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ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

This Public Interest Litigation has been filed with the following prayer that, the second respondent University had issued a notification, dated 18.03.2023, inviting applications from eligible candidates for appointment to the post of Assistant Professors in various departments of the University. In the notification, there were number of posts called for various disciplines in law and also non-law subjects like English, Economics, Sociology, Political Science, Commerce and Computer Science.

2.The said notification has been put under challenge in this litigation.

3.Assailing the said notification which is impugned herein, Mr.Dinesh Hari Sudarsan, learned counsel appearing for the petitioner has contended that, atleast on three grounds the challenge has been made against the notification. According to him, the first ground is that since 4%



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reservation is to be given to differently-abled/physically disabled persons, as per the Tamil Nadu Government Servants (condition of Services) Act, 2016, such a reservation has not been given to any of the posts, which have been called for in the notification, the very notification itself is vitiated, because it violates the mandatory requirement under the Act.

4.The second ground raised by him is that as per 200 point roster, the turn point 50 and 150 alone have been earmarked for ST candidates and by virtue of the same, these kinds of posts, whenever notifications are issued to fill up, where 1% reservation for ST candidates are not provided, that is the second ground under which, he wanted to challenge the impugned notification.

5.Insofar as the third ground is concerned, as per the amended Rules to the adhoc rules governing the post of Assistant Professor (Pre-Law) in Tamil Nadu Legal Educational Service for the post of Assistant Professor by way of direct recruitment, there are three qualifications essentially prescribed, first one is Master Degree in law, the second is teaching experience for a period of not less than 8 years in a faculty of law in a Law college or practice for a period of not less than 7 years at the Bar as an



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Advocate, the third criterion which was fixed is that the candidate must have qualified in the National Eligibility Test (NET) or State Level Eligibility Test (SLET) or an accredited test.

6.In this context, it is the contention of the learned counsel appearing for the petitioner that, though the notification wanted the qualification of Master Degree in Law, as has been prescribed with regard to the teaching experience of 7 years or practicing 7 years, as provided under the said Rule, has been given a go by as such a requirement has not been made in the impugned notification.

7.These are all the three grounds, on which the impugned notification has been questioned.

8.Heard Mr.B.Brisjesh Kumar, learned standing counsel appearing for the second respondent University, who first submitted that insofar as the selection is concerned, pursuant to the notification as per the orders earlier passed in this Writ Petition, the selection can since go on, which has been completed and the selectees have been given appointment orders, however, since it was a conditional order, where such a selection



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could be made is subject to the outcome of the Writ Petition, only to that extent, the present grounds raised by the petitioner has to be looked into.

9.In this context, the learned standing counsel appearing for the second respondent University has brought to our notice that 200 point roster, which is an annexure to the Act, namely, the Tamil Nadu Government Servants (Condition of Services) Act, 2016, under which 25th roster point is the first roster point being allotted to the physically challenged person, therefore, if at all any seat to be reserved for a physically challenged person in any discipline, for which, these kind of appointments are to be made, such reservation to physically challenged person can be made only when the vacancy crosses 25th mark.

10.He would also submit that insofar as the reservation for ST candidates, since the roster point for ST candidates is 50th and 150th turn alone, unless 50th turn reaches, the ST reservation also cannot be granted.

11.The learned standing counsel for the University has further submitted that insofar as the adhoc rules, including the amendment is concerned, the said Rule would be made applicable only in respect of the



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Government Law Colleges under the control of the Directorate of Legal Education and Director of Legal Studies, where the service constituted for Tamil Nadu Legal Educational Service for which alone the rule will apply, insofar as the second respondent University is concerned, since it is an independent statutory State University, it has to follow the statutes of its own and also the mandatory guidelines from time to time being issued by University Grants Commission (in short 'UGC').

12.We have heard the said submissions made by learned counsel appearing for both sides.

13.Insofar as the first ground is concerned, as has been rightly pointed out by the learned standing counsel appearing for the respondent University, the very first turn in 200 point roster which forms part of the Act starts only at 25th turn that is reserved for blind, even though vertical reservation is general turn. Therefore, unless the vacancy reaches 25th point ie., 25th vacancy, the question of making any reservation to a physically challenged person does not arise.



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14.In this context, it is to be noted that earlier the entire Unit or entire Institution or University might have been considered as a single unit for the purpose of reservation or atleast a category of post in the institution would have been considered as a single unit for the purpose of 69% reservation.

15.However, after the Judgment of the Court, now the department wise reservation has to be followed, as every department would be construed as a single unit.

16.For instance, the Department of Constitutional Law is a different department, whereas the Department of Criminology is a different department, therefore, department wise or subject wise since reservations are to be made depending upon the number of vacancies which are available in the particular Department, if 200 point roster is applied and it starts from turn one, immediately after the adoption of 200 point roster, it will go like in each and every recruitment, where first it touches in particular department 25th point, then certainly that post will be reserved for physically challenged person ie., GT blind.



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17.Like that, in respect of the other ground is the second one for reservation of ST candidates also, unless in one department it reaches 50th roster point even that 1% reservation or one post cannot be made for ST candidates, in other words, on reaching of 50th turn in a particular department that posts certainly will be reserved for ST candidates, here that situation does not reach so far.

18.Insofar as the third ground raised by the learned counsel appearing for the petitioner that there must be an experience of 7 years in a faculty of law or 7 years experience as a Lawyer in Bar is concerned, as has been rightly pointed out by the learned standing counsel appearing for the second respondent University that, the rule would apply only in respect of the Tamil Nadu Legal Educational Service that means the teaching faculties working in the various Government law Colleges in the State of Tamil Nadu would govern the service called Tamil Nadu Legal Educational Services, therefore, that rule will not be applicable to the service of the Tamil Nadu Dr.Ambedkar Law University.



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19.Insofar as the Tamil Nadu Dr.Ambedkar Law University service is concerned, there is a separate Act under which University was created and statutes have also been framed under the Act, moreover, from time to time, the mandatory guidelines issued by the University Grants Commission also being scrupulously followed by the University. When that being so, it cannot be stated that the said ad hoc rules also would be made applicable to the services of the University.

20.Therefore, all three grounds raised on behalf of the petitioner to have a successful challenge against the impugned notification fail.

21.Moreover, it has been brought to our notice by the learned standing counsel appearing for the second respondent University that pursuant to the order passed by this Court, as a continuous action towards the selection process, the selection went on and it has been over and all the selectees have been given appointment orders and they have also joined the service in the University. When that being so, at this juncture, without any plausible reason, the notification cannot be interfered with. Therefore, all these reasons or grounds raised in this Writ Petition, since unsustainable, as has been discussed hereinabove, the Writ Petition has become a failure



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one, therefore, it is liable to be dismissed, accordingly, is dismissed.

However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

[R.S.K.,J.] [G.A.M.,J.]
04.04.2024

NCC : Yes
Index : Yes
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To

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Represented by State of Tamil Nadu,
Principal Secretary to Government,
Higher Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The Registrar,
Tamil Nadu Dr.Ambedkar Law University,
Poompozhi,
No.5, Dr.D.G.S.Dinakaran Salai,
Chennai – 600 028.
- 3.University Grants Commission,
Represented by its Chairperson,
Bahadur Shah Zafar Marg,
New Delhi – 110 002.
- 4.The National Commission for Scheduled Castes,
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R.SURESH KUMAR,J.
and
G.ARUL MURUGAN,J.

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ORDER MADE IN
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