



W.P.(MD)No.18386 of 2024 etc., and batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)Nos.18386 to 18389 & 18804 of 2024

and

**W.M.P.(MD).Nos.15646 to 15648, 15650 to 15652,
15654 to 15656, 15668 15669, 15671, 15904 & 15907 of 2024**

W.P.(MD).No.18386 of 2024

P.Nithish

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
St.George Fort,
Chennai-600 009.

2.The Director of School Education,
School Education Department,
College Road,
Nungambakkam,
Chennai-600 006.

3.The Chairman,
Teachers Recruitment Board,
College Road,
Nungambakkam,
Chennai-600 006.

... Respondents



W.P.(MD)No.18386 of 2024 etc., and batch

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned ineligibility list issued by the third respondent vide impugned proceedings nil dated 18.07.2024 and quash the same as illegal insofar as the petitioner is concerned and consequently direct the respondents to select and appoint the petitioner to the post of Graduate Assistant / BRTE taking into consideration of the marks secured by him within the time stipulated by this Court.

W.P.(MD).No.18387 of 2024

M.Suresh

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
St.George Fort,
Chennai-600 009.

2.The Director of School Education,
School Education Department,
College Road,
Nungambakkam,
Chennai-600 006.

3.The Chairman,
Teachers Recruitment Board,
College Road,
Nungambakkam,
Chennai-600 006.

... Respondents



W.P.(MD)No.18386 of 2024 etc., and batch

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned ineligibility list issued by the third respondent vide impugned proceedings nil dated 22.07.2024 and quash the same as illegal insofar as the petitioner is concerned and consequently direct the respondents to select and appoint the petitioner to the post of Graduate Assistant / BRTE taking into consideration of the marks secured by him within the time stipulated by this Court.

W.P.(MD).No.18388 of 2024

R.Anila

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
St.George Fort,
Chennai-600 009.

2.The Director of School Education,
School Education Department,
College Road,
Nungambakkam,
Chennai-600 006.

3.The Chairman,
Teachers Recruitment Board,
College Road,
Nungambakkam,
Chennai-600 006.

... Respondents



W.P.(MD)No.18386 of 2024 etc., and batch

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned ineligibility list issued by the third respondent vide impugned proceedings nil dated 23.07.2024 and quash the same as illegal insofar as the petitioner is concerned and consequently direct the respondents to select and appoint the petitioner to the post of Graduate Assistant / BRTE taking into consideration of the marks secured by him within the time stipulated by this Court.

W.P.(MD).No.18389 of 2024

S.Mohamed Haris

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
St.George Fort,
Chennai-600 009.

2.The Director of School Education,
School Education Department,
College Road,
Nungambakkam,
Chennai-600 006.

3.The Chairman,
Teachers Recruitment Board,
College Road,
Nungambakkam,
Chennai-600 006.

... Respondents



W.P.(MD)No.18386 of 2024 etc., and batch

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned ineligibility list issued by the third respondent vide impugned proceedings nil dated 25.07.2024 and quash the same as illegal insofar as the petitioner is concerned and consequently direct the respondents to select and appoint the petitioner to the post of Graduate Assistant / BRTE taking into consideration of the marks secured by him within the time stipulated by this Court.

W.P.(MD).No.18804 of 2024

Jefry Stairish

... Petitioner

Vs.

1. Teachers Recruitment Board,
Represented by its Chairman,
3rd Floor, Puratchi Thalaivar Dr.MGR Centenary Building,
DPI Campus, College Road,
Chennai-600 006.
2. Teachers Recruitment Board,
Represented by its Member Secretary,
3rd Floor, Puratchi Thalaivar Dr.MGR Centenary Building,
DPI Campus, College Road,
Chennai-600 006.
3. The Director of School Education,
DPI Campus, Chennai-6.
4. The Director of School Education,
DPI Campus,
Chennai-6.

... Respondents



W.P.(MD)No.18386 of 2024 etc., and batch

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned ineligibility list in Chemistry subject dated 20.07.2024 on the file of the first respondent and to quash the same as illegal insofar as the petitioner is concerned and consequently for a direction, directing the respondent Nos.1 and 2 to select and appoint the petitioner in the post of Graduate Assistant / BRTE in Chemistry within the time stipulated by this Court.

(In W.P.(MD).Nos.18386 to 18389 of 2024)

For Petitioners	: Mr.M.Ajmalkhan, Senior Counsel assisted by Mr.H.Mohammed Imran
For R-1 & R-2	: Mr.T.Amjadkhan, Government Advocate
For R-3	: Mr.VR.Shanmuganathan, Standing Counsel

(In W.P.(MD).No.18804 of 2024)

For Petitioner	: Mr.G.Karthik
For R-1 & R-2	: Mr.V.R.Shanmuganathan, Standing Counsel
For R-3 & R-4	: T.Amjadkhan, Government Advocate



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COMMON ORDER

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By consent of both parties, these Writ Petitions are taken up for final disposal at the admission stage itself.

2. Heard the learned counsel on either side.

3. The petitioners, who are the candidates, have appeared for direct recruitment to the posts of Graduate Assistant / Block Resource Teacher Educators (BRTE)-2023 called for by the Teachers Recruitment Board. The candidates have cleared their written examination and they have also cleared their Teacher Eligibility Test. They have also participated in the certificate verification, however, their candidature have been found to be ineligible. On enquiry, the petitioners came to know that they have not taken into consideration for further selection process in view of the fact that they were not in the final year of B.Ed., course when they appeared for Teacher Eligibility Test.

4. Mr.M.Ajmal Khan, learned Senior Counsel and Mr.G.Karthik, learned Counsel appearing for the petitioners submitted that as per the Notification in



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Notification No.1 / 2022 of the Teachers Recruitment Board (TRB), dated

07.03.2022, any candidate having qualified in B.Ed., programme recognised by the National Council for Teacher Education (NCTE) or a person who is pursuing any of the Teacher Education Course is eligible to apply to the said post and hence, it is not right on the part of the TRB to reject the candidature of those candidates who happened to be in the second year instead of final year while pursuing their Teacher Eligibility Test.

5. The learned counsel appearing for the petitioners further submitted that the Notification would state that the candidates should have possessed 50% marks in Graduation along with pass in B.Ed., or appearing in final year B.Ed., (Special Education) and hence, the petitioners cannot interpret the final year B.Ed., as pursuing the degree.

6. Attention was further drawn to the stipulations in the Notification, wherein, it is stated that if a candidate has been allowed to appear for the Tamil Nadu Teacher Eligibility Test (TNTET), it does not imply that the eligibility of the candidature has been verified and in case, when their certificate verification is satisfied otherwise, then their eligibility will be quashed.



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7. There cannot be any quarrel on the point that whoever is allowed to appear for the TNTET can be presumed to be an eligible candidate without their certificates verified. It is also equally true that the person who is appearing for the examination alone is responsible to fulfil their eligibility criteria even if he / she happened to allow to write the written examination. However, in this regard, a Clarificatory Letter issued by the National Council for Teacher Education, dated 04.08.2022, was referred to by Mr.M.Ajmal Khan, learned Senior Counsel appearing for the petitioners.

8. The above clarification has been consequent to the order made by the Hon'ble Supreme Court in Civil Appeal No.5564/2019 (arose from S.L.P. (C).No.16698 of 2018 and it was disposed of on 16.07.2019. In fact, the subject matter of the above proceedings is the interpretation for the word “*pursuing*” adopted in similar such Notification issued by the State of Punjab. A doubt was raised by some of the candidates with regard to the word “*Pursuing*”. While disposing of those litigations, the Hon'ble Supreme Court has given the following order:

“Para 8.3 ... as per dictionary meaning, the word “Pursuing” means undergoing and / or proceeding further. Therefore, a candidate who has been admitted in any of the TTC and undergoing



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the teacher training course (TTC) can be said to be “Pursuing” such teacher training course and shall be eligible to appear in the TET examination, irrespective of the fact that whether, by the last date specified for filling up the online form for TET examination, he has, in fact, appeared in the examination of the concerned teacher training course and the result is awaited. “Pursuing” the requisite teacher training course is sufficient to make such a candidate eligible to appear in the TET examination. Therefore, on a fair reading of Clause 5(ii) of the NCTE guidelines, a person who has been admitted in TTC and is pursuing, he / she can appear in the TET examination”....

Para 8.4.....Therefore, it is clear that the respective appellants herein whose appointments were challenged were eligible to appear in the TET examination at the time they were “Pursuing” the concerned TTC. Thus, we hold that the decision of the High Court, to the aforesaid extent, is not sustainable. The impugned orders of the High Court are accordingly modified to the aforesaid extent....”

9. The National Council for Teachers Education has accepted the clarity given by the Hon'ble Supreme Court in the above said order, wherein, it is clarified that ‘pursuing’ can only mean undergoing or proceeding further. So, it is further clarified that a limited interpretation that the candidate who is pursuing the requisite course should be in the final year examination, cannot be given. So a person who is undergoing the course can also appear in TET



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Examination. In similar lines, a clarification has been issued by NCTE to the

Directorate of Education stating that the person who has been admitted in the training course and pursuing can appear in the TET Examination. When the National Council for Teacher Education itself has given the above clarification, to the terms of the Notification issued by the TRB, the Government of Tamil Nadu should also need to read it in the same spirit. Even by looking at the apparent terms under 3(b) of the Notification, seven educational requirements are contemplated. One of the criteria is graduation with at least 50% marks and pass or appearing in final year B.Ed., (Special Education) and another option is that any candidate having qualified B.Ed., programme recognized by the NCTE and they are eligible to appear for Tamil Nadu Teacher Eligibility Test (TET).

10. A special reference has been made about the above clarificatory note issued by the National Council to the Guidelines issued by the NCTE and it is stated that a person who is pursuing any of the Teacher Education course recognized by NCTE or the person who has been admitted in Teacher Training Course, as the case may be, is also qualified to appear in the TET examination. So, these petitioners, who have been undergoing the Teacher education course either by pursuing B.Ed., (Special Education) or any other B.Ed., programme (which is recognized by the NCTE) are also eligible to appear for TET examination.



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11. Even if the candidates who cannot fit themselves under the sixth eligibility stated in the Notification can find themselves fit under the 7th eligibility. These petitioners having themselves found in one of the eligibility criteria had appeared for TET examination and got it cleared. There is no dispute with regard to their TET pass. The only objection is that at the time when they appeared for TET they have been pursuing second year teacher education course and not in the final year.

12. The very purpose of giving a clarificatory note issued by the National Council for Teacher Education, dated 04.08.2022, only to allege the above said doubt and in which has been made very clear that the Hon'ble Supreme Court has held that the candidate should have pursued the Teacher Education Course irrespective of the year in which the candidates happened to appear for the TET Examination is eligible. The TRB has misconstrued its Notification and has interpreted the same without aid of the clarificatory note also given by the National Council for Teacher Education on 04.08.2022 and also the judgment given by the Hon'ble Supreme Court in Civil Appeal No.5564 of 2019 (arose from SLP (C) No.16698 of 2018 which was disposed of on 16.07.2019) and rejected these candidates on the premises that they were not in the final year of the Teacher education course when they appeared for TET.



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13. Even if the candidates who cannot fit themselves under the sixtyh eligibility stated in the Notification can find themselves fit under the 7th eligibility. These petitioners having themselves found in one of the eligibility criteria had appeared for TET examination and got it cleared. There is no dispute with regard to their TET pass. The only objection is that at the time when they appeared for TET they have been pursuing second year teacher education course and not in the final year.

14. The very purpose of giving a clarificatory note issued by the National Council for Teacher Education, dated 04.08.2022, only to allege the above said doubt and in which has has been made very clear that the Hon'ble Supreme Court has held that the candidate should have pursued the Teacher Education Course irrespective of the year in which the candidates happened to appear for the TET Examination is eligible. The TRB has misconstrued its Notification and has interpreted the same without aid of the clarificatory note also given by the National Council for Teacher Education on 04.08.2022 and also the judgment given by the Hon'ble Supreme Court in Civil Appeal No.5564 of 201 (arose from SLP (C) No.16698 of 2018 which was disposed of on 16.07.201 and rejected these candidates on the premises that they were not in the final year of the Teacher education course when they appeared for TET Examination. In



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similar lines, a clarification has been issued by NCTE to the Directorate of Education stating that the person who has been admitted in the training course and pursuing can appear in the TET Examination. When the National Council for Teacher Education itself has given the above clarification, to the terms of the Notification issued by the TRB, the Government of Tamil Nadu should also need to read it in the same spirit. Even by looking at the apparent terms under 3(b) of the Notification, seven educational requirements are contemplated. One of the criteria is graduation with at least 50% marks and pass or appearing in final year B.Ed., (Special Education) and another option is that any candidate having qualified B.Ed., programme recognized by the NCTE and they are eligible to appear for Tamil Nadu Teacher Eligibility Test (TET).

15. A special reference has been made about the above clarificatory note issued by the National Council to the Guidelines issued by the NCTE and it is stated that a person who is pursuing any of the Teacher Education course recognized by NCTE or the person who has been admitted in Teacher Training Course, as the case may be, is also qualified to appear in the TET examination. So, these petitioners, who have been undergoing the Teacher education course either by pursuing B.Ed., (Special Education) or any other B.Ed., programme (which is recognized by the NCTE) are also eligible to appear for TET examination.



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16. Even while Mr.V.R.Shanmuganathan, learned Standing Counsel appearing for the Teachers Recruitment Board made his arguments and no other objectionable point has been raised except the fact that the candidates who have listed as ineligible are those who have appeared for TET Examination while they were pursuing either second year or first year.

17. Since the matter is no longer a *res integra*, in view of the earlier judgment given in this regard by the Hon'ble Supreme Court as referred to above, I feel that it is not fair and proper on the part of the TRB to reject the candidature of these petitioners and place them under the ineligible list. .

18. In view of the above reasons, these Writ Petitions are **allowed** and the impugned ineligibility list issued by the Chairman, Teachers Recruitment Board vide impugned proceedings Nil dated 18.07.2024, 22.07.2024, 23.07.2024, 25.07.2024 and 20.07.2024 respectively are liable to be set aside insofar the petitioners are concerned and the Chairman, Teachers Recruitment Board is directed to include the petitioners' name, in case, they have reached the zone of selection and the Chairman, Teachers Recruitment Board is further directed to revise the selection list and publish the same for further process on the side of the Government within a period of two weeks from the date of



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receipt of a copy of this order. No costs. Consequently, connected

miscellaneous petitions are closed.

02.08.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

TSG

To

1.The Secretary to Government,
State of Tamil Nadu,
School Education Department,
St.George Fort,
Chennai-600 009.

2.The Director of School Education,
School Education Department,
College Road,
Nungambakkam,
Chennai-600 006.

3.The Chairman,
Teachers Recruitment Board,
College Road,
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4.The Member Secretary,
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W.P.(MD)No.18386 of 2024 etc., and batch

R.N.MANJULA, J.

TSG

W.P.(MD)No.18386 to 18389,
18804 of 2024

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