



W.P.(MD)No.21724 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.21724 of 2023

and

W.M.P(MD)Nos.18119 & 18120 of 2023

Dr.E.Roshan Ara Begum

... Petitioner

Vs.

1.The Principal Secretary to Government,
Department of Higher Education,
Fort St. George,
Chennai-600 009.

2. The Secretary to Government,
Personnel and Administration Reforms Department,
Human Resources Management Department,
Fort St. George,
Chennai-600 009.



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3.The Member Secretary,
Tamilnadu State Council For Higher Education,
Lady Willingdon College Campus,
Kamarajar Salai,
Triplicane,
Chennai-600 005.

4.The Registrar,
Madurai Kamaraj University,
Palkalai Nagar,
Madurai-625 021.

5. The Secretary/correspondent,
Dr.Zakir Hussain College,
Ilayangudi-630 702,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the Impugned Order issued by the 1st respondent in G.O.Ms.No.111, Higher Education (K1) Department,



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dated 17.04.2023 so far as the Agenda No.48 is concerned and quash the same as illegal and unconstitutional and consequently direct the respondents to reconsider the Degree of M.Sc., Zoology (Special in Genetics) awarded by Madurai Kamaraj University is equivalent to M.Sc., (Zoology) for purposes of approval of appointments to the post of Assistant Professor (Zoology) etc., in the 5th respondent College.

For Petitioner : Mr.C.Gangai Amaran

For Respondents : Mr.T.Amjad Khan – for R1 to R3

Government Advocate

Mr.T.Sakthi Kumaran – for R4

Standing Counsel

ORDER

The petitioner has filed this writ petition seeking for a Writ of Certiorarified Mandamus to quash the Impugned Order issued by the 1st respondent in G.O.Ms.No.111, Higher Education (K1) Department, dated 17.04.2023 so far as the Agenda No.48 is



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concerned and consequently direct the respondents to reconsider the Degree of M.Sc., Zoology (Special in Genetics) awarded by Madurai Kamaraj University is equivalent to M.Sc., (Zoology) for purposes of approval of appointments to the post of Assistant Professor (Zoology) etc., in the 5th respondent College.

2. Heard Mr.C.Gangai Amaran, learned counsel for the petitioner, Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents 1 to 3 and Mr.T.Sakthi Kumaran, learned Standing Counsel appearing for the fourth respondent.

3. The petitioner, who has been appointed as Assistant Professor / Lecturer in the Department of Zoology in the fifth respondent college on 28.09.2022. The petitioner had the qualification of degree in M.Sc., Zoology (Special in Genetics) the course was offered by the Lady Doak College, Madurai, which has been affiliated to the fourth respondent college/ Madurai Kamaraj



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University. However, the petitioner is affected due to the Government Order in G.O.(Ms)No.111 Higher Secondary Education, dated 17.04.2023 which would state that the above course in M.Sc., (Genetics) offered by the Lady Doak College is not equivalent to M.Sc., (Zoology) for the purpose of employment in public service.

4. When the petitioner's appointment proposal was sent by the fifth respondent college to Alagappa University, Karaikudi, Alagappa University sent a communication to the fifth respondent College to provide the Government Order to show that M.Sc., (Genetics) is not equivalent to M.Sc., (Zoology) as offered by Madurai Kamaraj University.

5. Therefore, the petitioner has challenged G.O.(Ms.) No.111 dated 17.04.2023, which specifies that the course studied in the Lady Doak College is not equivalent to M.Sc., (Zoology)



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sponsored by Madurai Kamaraj University. The petitioner need not challenge the above Government Order and it is sufficient for the fifth respondent to give a clarification to the University concerned stating that though equivalent certificate is required only for public appointments, as it is explicit in G.O.(Ms)No.111 and it is not required for the appointment of teachers made by an autonomous College like the fifth respondent.

6. On the same line, similarly placed persons have filed a writ petition in W.P.(MD)No.7322 of 2023, wherein, this Court has made a clear observation as to why the Government Order in G.O.(Ms.) No.111 dated 17.04.2023, need not be taken into consideration for the appointments made by the University or by any appointments not made through the recruitment agencies of the Government for making appointments on behalf of the Government.



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7. The petitioner has not applied to the said post pursuant to the notification issued by the Government or any Government recruiting agency. The fifth respondent College which is a minority institution has appointed the petitioner considering his qualification for the post of Assistant Professor in Zoology. Even though G.O.(Ms)No.111, dated 17.04.2023 has been communicated to all the Universities, the object behind circulating such Government Order is obviously for informing them that any person who has applied for any public posts and who requires to produce an equivalent certificate, cannot go and seek such a certificate from the University, and he has to apply only before the Equivalence Committee constituted by the Government in this regard.

8. Since the petitioner has been appointed only in terms of UGC Regulation, the petitioner need not fret upon the G.O. (Ms)No.111 dated 17.04.2023. It is needless to state that there is an



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Equivalence Committee constituted by the Government for the purpose of declaring any course as equivalent to that of any other course in their best appreciation for the posts called for. So in this regard, it is appropriate to refer to the observation made in the earlier passed by this Court in **W.P.(MD)No.7322 of 2022, dated 17.04.2024** as under:

“6. It is further submitted that as per Section 15(2) of the Private Colleges Regulation Act, the Government has prescribed the qualification for the teaching staffs in a Private Colleges and the Government Orders relied, can be made applicable to the Government Colleges recruited through the Teachers Recruitment Board.

7. The learned counsel for the respondents submitted that the Government has issued G.O.(Ms)No.34 Higher Education (K2) Department, dated 12.02.2018 in the light of the recommendations made by the third respondent-University. It states that M.Sc., Zoology (Genetics) degree course offered by Lady Doak College, Madurai, is not equivalent to M.Sc., Zoology degree for the purpose of employment in Public Services.

8. As per the Government instructions, the above Government Order has been communicated to all the Registrars of University and consequently, the Government



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has issued yet another G.O.(Ms)No.93 Higher Education (K2) Department, dated 30.05.2019 restricting the University from granting equivalent certificate of this nature and and directing the Universities/Colleges to address the Tamil Nadu State Council for Higher Education in the matter of equivalence.

9. There is no quarrel about the Government Order issued in G.O.(Ms)No.34 Higher Education Department dated 12.02.2018 and the subsequent order in G.O.No.93 dated 30.05.2019.

10. So far as the appointment of this petitioner is concerned, it is in the 4th respondent autonomous university and it has nothing to do with any government appointment. In fact, in the G.O.(Ms)No.34 Higher Education Department, dated 12.02.2018 itself, it is stated that the resolution has been passed by the 56th Equivalent Committee Meeting held on 31.10.2017 about the non-equivalence of the degrees offered by the Universities Educational Institutions and the said matter was forwarded from the Secretary of Tamil Nadu Public Service Commission. Only consequent thereof, the petitioner's qualification in getting the degree offered by the Lady Doak College, Madurai, in M.Sc., Zoology (Genetics) was held as non-equivalent.

11. But what is omitted to be noted, is that the petitioner's appointment was on 16.08.2016 much before the issuance of the G.O.(Ms)No.34, dated 12.02.2018.



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12. As per the above Regulation No.4.4.1 of the UGC Regulation, 2010, the following qualification has been prescribed for the post of Assistant Professors:

“4.4.1. Arts, Humanities, Sciences, Social Sciences, Commerce, Education, Languages, Law, Journalism and Mass Communication

i. Good academic record as defined by the concerned university with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) at the Master’s Degree level in a relevant subject from an Indian University, or an equivalent degree from an accredited foreign university.

ii. Besides fulfilling the above qualifications, the candidate must have cleared the National Eligibility Test (NET) conducted by the UGC, CSIR or similar test accredited by the UGC like SLET/SET.

iii. Notwithstanding anything contained in sub-clauses (i) and (ii) to this Clause 4.4.1, candidates, who are, or have been awarded a Ph. D. Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor



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or equivalent positions in Universities/ Colleges/Institutions.

iv. NET/SLET/SET shall also not be required for such Masters Programmes in disciplines for which NET/SLET/SET is not conducted.”

13. So far as the appointments made by the Private Colleges are concerned, they are governed by Section 15(i) and (ii) of Tamil Nadu Private Colleges (Regulation) Act, 1976 and Rules 1975. For the sake of clarity, the said provision is extracted hereunder :

“15. Qualifications of Teachers and other persons employed in Private Colleges.- (i) The University may make regulations, statutes or ordinances specifying the qualifications required for the appointment of teachers employed in any private college.

(ii) The Government may make rules specifying the qualifications required for appointment to any post, other than teachers, in any private college.”

14. As per the above Section 15, the Universities can make regulations, statutes or ordinances specifying the qualifications required for appointment of teachers employed in any Private Colleges and the Government powers to specific qualification for appointment of any post in Private Colleges restricted to any other post other than the Teachers post.



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15. In fact, the very issue of granting of equivalence was brought to the table of the Government, because persons who selected for public appointment were getting equivalence certificate from some of the Registrars of Universities, instead of approaching the Expert Committee appointed in this regard by the Government. So, in that light of the matter, the Government took a serious note and had issued the G.O(Ms)No.34 dated 12.02.2018 and subsequent circulars to the Universities requesting them not to grant such equivalence certificate, but only address the Tamil Nadu State Council for Higher Education.

16. That scope of the matter is entirely different from the appointments made by the Private Colleges in accordance with the UGC regulations. In fact, the G.O(Ms)No.34 dated 12.02.2018 itself would make it clear that the non-equivalence is only in respect of the employment in Public Service. Since various educational qualifications are prescribed by the Government for appointing person for Government posts through its recruitment agencies, like TNPSC, TRB, etc., it was necessitated to take the above step and issue the government orders.

17. In cases of such public appointment, the Government has got the obligation to ascertain the equivalence if certain qualifications. So far as the appointments made under UGC regulations are concerned,



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the matter pertains within the authority of the respective University and not the Government.

18. Even the UGC Regulations, 2010 does not adopt the word 'equivalence' in anywhere under regulation 4.4.0, which prescribes the qualification for the Assistant Professors.

19. On the other hand, its recognize the master degree in a relevant subject from an Indian University or equivalent degree from an aggregated Foreign University wherein, the person concerns ought to have got good academic record with at least 55% marks or equivalent grade, if grading system is adopted. Even when individuals file Writ Petition seeking directions as to their qualifications relevance in the matter of appointment, directions have been given to the Syndicate of the university to take a decision in this regard by getting the opinion if the academic Council of the respective University in an objective manner.

20. In the instant case, the individual has not raised any grievance that her academic qualification was found to be unfit for the post. In fact, the qualification was very much accepted and the fourth respondent College has found it suitable to the post of Assistant Professor in the Department of Zoology.

21. In such case, there cannot be any difficulty for the third respondent to grant approval. The impugned order has been passed by the third respondent by



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misconstruing the scope of the applicability of G.O.(Ms) No.34 dated 12.02.2018. In the impugned order, the third respondent has stated that at the time when the petitioner was appointed, the Government order in G.O.(Ms)No.34 dated 12.02.2018 was not in force. Even without admitting, but presuming that the Government Order is applicable to the position in hand, the said Government Order can not have any retrospective effect.

22. However, it is clarified that the Government Order has no application for the appointment made to the Colleges in accordance with Section 15(1) and (2) of Private Colleges Regulation Act read with the Regulations of the University Grants Commission.”

9. Since the petitioner is also similarly paced and the issue raised in this writ petition is also similar to that of the issue dealt with in the earlier writ petition cited above, the similar relief ought to be granted to the petitioner as well.

10. In view of the reason stated above, this writ petition is disposed of stating that G.O.(Ms)No.111, dated 17.04.2023, is not applicable to the appointment made in accordance with UGC



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Regulations and the said Government Order is applicable only for public appointment made by the Government and hence, the fifth respondent college is directed to clarify the same to Alagappa University on this point and resubmit the proposal for approval. No costs. Consequently, connected miscellaneous petitions are closed.

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

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R.N.MANJULA, J.

RM

Order made in
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