



W.P(MD)No.27930 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.01.2024**

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THE HON'BLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.27930 of 2023

and

W.M.P(MD)No.24027 of 2023

R.Borgia

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Secretariat, Chennai.

2.The Secretary,
Teachers Recruitment Board,
College Road,
Chennai-6.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to declare the petitioner as qualified in the Teachers Eligibility Test conducted in the year 2012 for Paper II for post of B.T.Assistant as per the decision of the Honble Apex Court.

For Petitioner : Mr.K.Hemakarthiskeyan

For R1 : Mr.G.Suryaananth
Additional Government Pleader



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For R2

: Mr.VR.Shanmuganathan
Standing Counsel

ORDER

The present writ petition has been filed seeking direction to the respondents to declare the petitioner as qualified in the Teachers Eligibility Test conducted in the year 2012 for Paper II for post of B.T.Assistant as per the decision of the Hon'ble Apex Court.

2. The petitioner is fully qualified for the post of Secondary Grade Teacher and B.T Assistant. The TET examination was conducted for the post of Secondary Grade Teacher and B.T Assistant in the year 2012. In which, the petitioner participated and secured 92 marks in paper I and 83 marks in paper II. He was declared qualified in paper I and not qualified in paper II. It was fixed 90 marks as qualified out of 150 marks and 60% was the pass percentage. While so, the Government decided to relax 5% and accordingly, issued G.O.Ms.No.25 School Education (TRB) Department, dated 06.02.2014 by relaxing 5% of marks and fixing 82 as a pass mark for S.C., S.T., B.C., B.C.(M)., M.B.C., D.N.C., and persons with disability for the test conducted in the year 2013 alone. Since 82 was declared as pass in the year 2013 contending that there is no bar to



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fix the same mark to the candidate who appeared for the examination in the year 2012, this writ petition came to be filed.

3. The learned counsel for the petitioner submitted that the Hon'ble Division Bench of this Court in W.P(MD)No.2677 of 2014 has dealt with a similar matter along with W.P(MD)No.4558 of 2014. W.P(MD)No.4558 of 2014 was allowed and W.P(MD)No.2667 of 2014 was dismissed Against which, the 2nd respondent and private individuals who participated in the examination independently filed several SLPs before the Hon'ble Apex Court. All the cases were taken up together by the Hon'ble Apex Court and the same was reported in **2017 (1) SCC 322 (Lavanya & Others Vs. State of Tamil Nadu, Represented by its Principal Secretary & Others and State of Tamil Nadu, Represented by its Secretary to Government & Others & S.Vincent & Others)**. The relevant portion of the same is extracted as follows:

42. The Madras High Court rightly rejected the challenge to G.O.Ms.No.25, dated 06.02.2014 and G.O.Ms.No.71, dated 30.05.2014, holding that as per the NCTE Guidelines, the State Government has the power to grant relaxation on the marks obtained in TET for the candidates belonging to reserved category and the same is affirmed. The Madurai Bench did not keep in view the NCTE



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Guidelines and the power of the State Government to grant relaxation in terms of their extant reservation policy and erred in quashing G.O.Ms.No.25, dated 06.02.2014 and hence, the same is liable to be set aside.

43. The appeals filed by the State Government are, accordingly, allowed and the impugned judgment of the Madurai Bench is set aside. The impugned judgment of the Madras Bench of the High Court is affirmed and all the appeals preferred by the unsuccessful candidates are dismissed.

4. The Hon'ble Apex Court observing the fact that G.O.Ms.No.25, dated 06.02.2014 and G.O.Ms.No.71, dated 30.05.2014 were upheld by the Principal Bench of this Court observed that the Madurai Bench without keeping in view the NCTE Guidelines and power of State Government to grant relaxation in terms of their extant reservation policy erred in quashing G.O.Ms.No.25, dated 06.02.2014. A careful perusal of the materials available on record and G.O.Ms.No.25, dated 06.02.2014 would reveal that the said Government Order itself was given retrospective effect to the TET examination conducted in August 2013. However, the benefit of the said relaxation was not extended to the candidates who participated in the TET conducted in the year 2012. Seeking the extend of the benefit of the same, one S.Vincent had filed W.P(MD)No.2677 of 2014 which was dismissed by the Hon'ble Division



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Bench of this Court. However, both the respondents have filed SLP before the Hon'ble Apex Court. Though the Hon'ble Apex Court was pleased to uphold G.O.Ms.No.25, dated 06.02.2014, nothing has been decided considering the case of Vincent giving relaxation of 5%. But it is brought to the notice of this Court by the learned counsel for the petitioner that a contempt petition was later filed by the said Vincent. The learned Standing Counsel appearing for the 2nd respondent fairly conceded that as a One Time Measure, the said benefit was extended to the said Vincent alone. The writ petitioner seeking fruits of the benefits availed by the said Vincent, has filed this writ petition seeking to extend the benefit of G.O.Ms.No.25 and consider his case as qualified in the TET conducted in the year 2012 for paper II for the post of B.T Assistant. However, such an exercise has been undertaken by the petitioner after a lapse of 6 years.

5. The learned Standing Counsel vehemently submitted that selection process has been improved by introducing an additional competitive examination vide G.O.Ms.No.149 School Education (TRB) Department, dated 20.07.2018 requiring the candidates qualified in TET to attend an additional competitive examination in addition to the examination conducted by the 2nd respondent.



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6. I am afraid to observe that consideration of the petitioner's case to be declared as qualified in TNTET 2012 by relaxing 5% of marked for paper II would open up a pandora box and flood gate of litigation by similarly placed persons as that of the petitioner. Having slept over his rights for more than 6 years since 2017, after a judgment passed by the Hon'ble Apex Court as reported in 2017 (1) SCC 322, the petitioner has filed this writ petition belatedly. In view of the same, on the basis of delay and laches, I do not find any merits in this case.

7. Hence, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

02.01.2024

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

1.The Secretary,
The State of Tamil Nadu,
School Education Department,
Secretariat, Chennai.

2.The Secretary,
Teachers Recruitment Board,
College Road, Chennai-6.



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L.VICTORIA GOWRI,J.

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Order made in
W.P(MD)No.27930 of 2023

Dated:
02.01.2024