

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 27.02.2021
CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4443 of 2021
and
W.M.P.Nos.5060, 5064 & 5069 of 2021
(Heard through VC)

1.S.Pandiyarajan
2.T.Ravi
3.K.Subramani
4.B.Nadhiya

... Petitioners

-vs-

1. The Director of School Education,
DPI Campus,
College Road,
Chennai - 6.

2. The Chairman,
Teacher Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road,
Chennai - 600 006.

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondents to pass orders awarding marks for Question Numbers 4, 48, 50, 114 and 138 of 5th batch examination conducted on 16.02.2020 Forenoon, published with 'star' marked questions with wrong key answers, on par with awarding marks for 1st Batch, 3rd Batch and 4th Batch examinations and consequently directing the respondents to revise the total marks for the petitioners and to consider the petitioners for selection to the post of Block Educational Officer based on merit in selection, in consideration of representations submitted by the petitioners, with all consequential and other attendant benefits.

For Petitioners : Mr.G.Sankaran

For Respondent-1 : Mr.P.Raja
Government Advocate

For Respondent-2 : Mr.C.Munusamy
Special Government Pleader

O R D E R

The petitioners have come forward with this writ petition seeking a direction to the respondents to pass orders on awarding marks for Question Numbers 4, 48, 50, 114 and 138 of 5th batch examination conducted on 16.02.2020 Forenoon, published with 'star' marked questions with wrong key answers, on par with awarding marks for 1st Batch, 3rd Batch and 4th Batch examinations and consequential direction to the respondents to revise the total marks for the petitioners and to consider the petitioners for selection to the post of Block Educational Officer based on merit in selection, in consideration of representations submitted by the petitioners, with all consequential and other attendant benefits.

2. Mr.P.Raja, learned Government Advocate takes notice on behalf of the respondent No.1. Mr.C.Munusamy, learned Special Government Pleader takes notice on behalf of the respondent No.2.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. The case of the petitioners is that they have applied for the post of Block Educational Officer called for by the second respondent vide notification dated 27.11.2019. The second respondent has conducted an on-line examination in six sessions, each session will carry separate question paper, wherein the petitioners have written 5th session examination conducted on 16.02.2020. Consequently, the second respondent has published the final key answers for 6 sessions' question papers on 27.01.2021 in which, wherever the answer key is wrong, it has been mentioned with 'star mark' for every session question papers. Accordingly, in respect of 5th session question paper, with reference to question numbers 4, 48, 50, 114 and 138 carried star (*) mark on the premises that all the key answers for the said questions are wrong. It has been stated at the bottom of the final key answers for 1st, 3rd and 4th session answer keys that in respect of the questions where wrong key answers provided and marked with star symbol, marks will be awarded for the same during the evaluation. Whereas, in the 2nd, 5th and 6th session answer keys, no such footnote indication was appeared. Thereafter, on verification of marks awarded for each candidate including the petitioners, it is found that the respondents have omitted to award marks for the star marked questions with wrong key answers during the evaluation only for 2nd, 5th and 6th session examinations. Hence, the petitioners have submitted individual representation dated 01.02.2021 and 02.02.2021, respectively, to the second respondent in this regard. But till date, the second respondent has not considered the same. Hence the petitioners have come up with the above prayer.

5. Though the petitioners have come up with the larger prayer, the learned counsel for the petitioners submitted that it would suffice, if a direction is given to the respondents to consider the representation of the petitioners, within a time frame to be stipulated by this Court.

6. Considering the facts and circumstances of the case and taking into account the fact that the petitioners' representations are already pending with the second respondent, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondents, more particularly, the second respondent herein to consider the representations submitted by the petitioners dated 01.02.2021 and 02.02.2021, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioners and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of one month from the date of receipt of a copy of this order. A decision on the representations shall be taken one week prior to the date of finalisation of selection and the same shall be communicated to the petitioners.

ii) In case the petitioners are unable to appear for personal hearing, the petitioners are entitled to send a written submission within a period of two weeks from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioners can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioners fail to appear or file a written submissions in time, the respondents shall pass orders based on the available records and the petitioners, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioners;

iv) The petitioners shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representations dated 01.02.2021 and 02.02.2021 and this order, to the respondents forthwith;

v) The respondents are directed to communicate the decision taken on the representation, to the petitioners within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioners to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioners, they will have to face the

civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioners, later on, will not take a plea that the petitioners are not aware of the order. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rsi

To

1. The Director of School Education,
DPI Campus,
College Road,
Chennai - 6.
2. The Chairman,
Teacher Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road,
Chennai - 600 006.

+4cc to Mr.G.Sankaran, Advocate, S.R.No.12086
+1cc to the Government Pleader, S.R.No.12791.

W.P.No.4443 of 2021
and

W.M.P.Nos.5060, 5064 & 5069 of 2021

SSN(CO)
CSR 29.04.2021

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