**IN THE HIGH COURT OF MADRAS**

W.P. Nos. 24507 and 24631 of 2012 and M.P. Nos. 1 + 1 of 2012

Decided On: 21.09.2012

Appellants: **A. Yamini**
**Vs.**
Respondent: **The Principal Secretary to Government of Tamil Nadu, School Education Department, Secretariat, Chennai 600009 and The Chairman, Teachers Recruitment Board, College Road, Chennai-600006**

**AND**

Appellants: **E. Vijayaraj**
**Vs.**
Respondent: **Teachers' Recruitment Board, Rep. by its Chairman, IV Floor, EVK Sampath Building, DPI Compound, College Road, Chennai 600006, The Director of School Education, College Road, Chennai 600006 and The State of Tamil Nadu, Rep. by its Secretary to Government, School Education Department, Secretariat, Chennai 600009**

**Hon'ble Judges/Coram:**
Honourable Mr. Justice S. Nagamuthu

**ORDER**

**Honourable Mr. Justice S. Nagamuthu**

1. As per Section 23 of the Right of Children to Free and Compulsory Education Act, 2009 [in short RTE Act, 2009], the National Council for Teacher Education (NCTE) has been appointed as the Academic Authority by the Government of India. The said Academic Authority has indicated to all the States that the teachers to be recruited in future should have passed the Teacher Eligibility Test [TET] to be conducted by the appropriate Government in accordance with the guidelines framed by the National Council for Teacher Education for the purpose. In pursuance of the said direction of the NCTE and Section 23(1) of the RTE Act, 2009, the Government of Tamil Nadu has issued Government Order in G.O.Ms. 181, School Education (C1) Department, dated 15.11.2011 designating the respondent Teacher Recruitment Board as Nodal Agency for conducting the Teacher Eligibility Test for Secondary Grade Teachers and Graduate Assistants. As per the NCTE regulations, the Nodal Agency is bound to conduct the Teacher Eligibility Test at least once in a year. But, as and when required, any number of such tests can be conducted by the Nodal Agency in a year. In pursuance of the above Government Order, the Teachers Recruitment Board initiated process by conducting Teacher Eligibility Test on 12.07.2012. The qualifying marks for eligibility in the said examination was fixed at 60% which is inconsonance with the guidelines issued by the NCTE. The results of the said examination held on 12.07.2012 were declared by the Teachers Recruitment Board on 24.08.2012. But, unfortunately, the pass percentage was shockingly low. To be precise, for Paper-I [Secondary Grade Teachers], the percentage of pass was 0.60% and for Paper-II [Graduate Assistants] percentage of pass was 0.18%. Thus, out of 6,76,763 candidates who appeared in the examination, only 2448 candidates secured 60% of marks and got eligibility certificate.

2. According to the respondents, as of now, there are about 26116 vacancies of Secondary Grade Teachers and Graduate Teachers in various schools in the State. Since only 2448 candidates have acquired the eligibility certificate, the Government is not in a position to fill up all those vacancies which has resulted in hardship to maintain the Schools as per the norms of the NCTE. It is further stated by the respondents that the Government felt not to compromise on quality of the teachers and the education imparted to the children. However, considering the need to recruit the above number of teachers, the Government decided to conduct another teacher eligibility test to be held on 03.10.2012. For the said purpose, the Government had issued G.O.Ms. 222, School Education Department, dated 24.08.2012 directing the teachers recruitment board to conduct the teacher eligibility test and also increased the duration of the time from 1 = hours to 3 hours. As per the said Government Order the candidates who had already failed in the Teacher Eligibility Test held on 12.07.2012 alone are permitted to participate in the examination to be held on 03.10.2012. As a result, the candidates who could not make their applications for the examination held on 12.07.2012 and those candidates who passed out the qualifying examinations after 12.07.2012 could not make their applications to participate in the Teacher Eligibility Test. The petitioners herein are such candidates who have not appeared in the examination held on 12.07.2012. Therefore, the petitioners are before this Court with these two writ petitions seeking a direction to the respondents to allow them also to participate in the examination to be held on 03.10.2012.

3. The main ground upon which these two writ petitions have been filed is that the proposed examination to be held on 03.10.2012 not only violates the equality clause enshrined in Article 14 of the Constitution but also Article21 of the Constitution. According to the petitioners, there is no intelligible classification between the candidates who have failed in the examination held on 12.07.2012 and the candidates who have not appeared in the examination at all. The learned counsel for the petitioners submitted that the proposed examination in question is only an Eligibility Test and it is not a guarantee for any employment. According to them, the denial of opportunity to participate in the eligibility test is a denial of opportunity to participate in the future selection process. Further, according to the petitioners, the Government has proposed to appoint all those 2448 candidates as teachers without conducting any selection process as though the Teacher Eligibility Test itself amounts to selection process. This, according to the petitioners, is illegal.

4. When these matters came up for hearing on the previous hearing, the learned Additional Advocate General appearing for the State submitted that the matter would be discussed at the higher level of the Government and the grievance of the petitioners would be considered and he would come up with a decision from the Government.

5. Today, accordingly, the Chairman, Teachers Recruitment Board, Chennai has filed two affidavits. In the first affidavit [W.P. No. 24507 of 2012] he has, inter alia, stated as follows:-

It is submitted that considering the request of the petitioners and similarly placed candidates, the Government have decided to offer them an opportunity to appear in the proposed supplementary Teacher Eligibility Test. For this purpose, Teachers Recruitment Board has decided to call for applications between 24th September and 28th September 2012 (five working days) from candidates who have not applied earlier. Teachers Recruitment Board has also decided to postpone the supplementary Teacher Eligibility Test examination from October 3rd, 2012 to October 14th, 2012. Teachers Recruitment Board is making all necessary arrangements for this purpose.

6. In the second affidavit [W.P. No. 24631 of 2012], inter alia, the Chairman, Teachers Recruitment Board, has stated as follows:-

12. It is submitted that in G.O. (Ms) No. 222, School Education (Q) Department dated 24.08.2012, the Government directs the Teachers Recruitment Board, to conduct the Teacher Eligibility Test and has also increased the duration of the time of Teacher Eligibility Test from one and half hours to three hours.

13. It is submitted that the Government have examined the issue relating to fixing the criteria for selection of candidates who have cleared the Teacher Eligibility Test for appointment to the post of Secondary Grade Teachers and B.T. Assistants and other related issues. Accordingly, Government have constituted a committee vide G.O. (2D) No. 36, School Education Department, dated 14.09.2012 under the Chairmanship of the Hon'ble Minister for School Education, Sports and Youth Welfare with the following members.

1 Hon'ble Minister for School Education, Sports and Youth Welfare

Chairman

2 Principal Secretary to Government, School Education Department Member

3 The Chairman, Teachers Recruitment Board, Chennai-6. Member

4 The Director of School Education, Chennai-6. Member

14. It is submitted that, after the recommendation of the Committee, the Government would examine the matter in detail and would arrive at criteria for selection of candidates for Secondary Grade Teachers/Graduate Assistants at the earliest.

The said statements of the Chairman, Teachers Recruitment Board are recorded.

7. From the above statements in both the affidavits, now, I find that there is no more dispute before this Court requiring any adjudication.

8. I only wish to state that, having considered the grievance of the petitioners and the similarly placed persons, Government has taken a right decision to allow not only the petitioners, but also all such similarly placed candidates to make their applications so as to participate in the Teachers Eligibility Test to be held on 14.10.2012. Similarly, in the second affidavit filed, it has been stated that for selecting the candidates who possess eligibility certificate, and to appoint as Secondary Grade Teachers/Graduate Assistants, a committee has been constituted and the said committee will make its recommendations in respect of criteria for selection of candidates for the purpose of appointment. Therefore, it is crystal clear that the Teachers Recruitment Board, as stated in the affidavit, is going to conduct a process of selection from out of the candidates who possess the Teachers Eligibility Certificate. Therefore, the petitioners may not have any grievance regarding this also.

9. In view of the above, the writ petitions are disposed of in the following terms:-

(i) The 1st respondent shall postpone the proposed Teachers Eligibility Test from 03.10.2012 and conduct the same on 14.10.2012 as stated in the affidavit of the Chairman, Teachers Recruitment Board.

(ii) All candidates who have not earlier applied for Teachers Eligibility Test held on 12.07.2012 shall be permitted to submit their applications on or before 28.09.2012 or any further date to be fixed by the Board.

(iii) The Teachers Recruitment Board shall make wide publicity of the notification through Press and Media calling for applications from the candidates who have not earlier made application so as to appear for the examination to be held on 14.10.2012.

(iv) It is further directed that considering the volume of work involved, the candidates who had earlier appeared and failed in the Teachers Eligibility Test held on 12.07.2012 need not make fresh applications. As stated in the affidavit of the Chairman, Teachers Recruitment Board, the applications submitted by them earlier shall be treated as applications for the proposed examination and the Hall-Tickets shall be issued to them.

(v) So far as the candidates who make applications afresh now, Hall Tickets will be issued by the Teachers Recruitment Board.

(vi) Considering the paucity of time, in the matter of scrutiny of the applications to be submitted by the candidates as per this order, Teachers Recruitment Board is permitted to thoroughly scrutinize the applications even after the conduct of the examination and, if the application of any candidate is found to be defective or any candidate does not satisfy the required qualifications, the Teachers Recruitment Board will be at liberty to reject the same and intimate the same to the candidate concerned.

(vii) So far as the candidates who possess the Teachers Eligibility Certificate are concerned, after receipt of the recommendations of the committee constituted [vide G.O. No. [2D] No. 36, School Education Department, dated 14.09.2012] selection and appointment shall be made as per the criteria to be fixed by the Committee.

(viii) No costs. Consequently, connected MPs are closed.

Before parting with this order, I wish to place on record my appreciation for the excellent assistance rendered by Mr. P.H. Aravindpandian, the learned Additional Advocate General, more specifically, for his endeavour to persuade the Government by giving appropriate legal advise to file the above two affidavits which have solved the issues involving huge number of candidates.