

IN THE HIGH COURT OF JUDICATE AT MADRAS

Dated : 25.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE M.V.MURALI DARAN

W.P.No.32316 of 2013

and

M.P.No.1 of 2013

K.Veeramani

.. Petitioner

Vs.

The Chairman,

Teachers Recruitment Board,

College Road, Chennai-6.

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to award one mark for the answer attended by the petitioner in Question No.107 (D-Type) (Paper-II) and publish the correct result in so far relates to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.R.Muthukumarasamy, Advocate General

Assisted by

Mrs.K.Bhuvaneshwari, Government Advocate

Assisting the Court by Advocates

1) Mrs.S.Sujatha, 276, L.C.

2) Mr.A.S.Bilal, 283, L.C.

3) Mr.Annadurai, M.H.A.A.

ORDER

The Petitioner has filed the instant Writ Petition for issuance of a Writ of Mandamus, directing the respondent to award one mark for the answer attended by the petitioner in Question No.107 (D-Type) (Paper-II) and publish the correct result in so far relates to the petitioner.

2.A country with a population of more 1.32 billion people with 29 states and 7 Union Territories and extremely different languages and dialects spoken across every part of this nation makes our country a largest democracy in this world. As Nelson Mandela has remarked, "If you talk to a man in a language he understands, that goes to his head. If you talk to him in his language, that goes to his heart".

3.Language has perhaps been bridge between people across towns, cities, states, countries and continents. As civilizations developed, so did languages and our country has the pride of having many languages that have been in existence and practice for several thousands of years together.

4.As there are several languages in our country, it is sometimes difficult to ascertain as to what evolved in which language. This Court is now posed with the question as to in what language was our National song originally written. The answer would in fact answer the main issue involved in the present writ petition.

5.It is the claim of the petitioner that he has taken part in the Teacher eligibility test conducted by the Respondent on 18.08.2013 and as applied for the post of B.T. Assistant. It has been contended by the petitioner that he had secured 89 marks in the examination and upon receiving the final answer key he has found that the respondent has not awarded marks properly to the questions. In particular it has been contended by the petitioner that he has attended question number 107 (D-type) in paper-2 but according to him the answer given in the answer key is incorrect. The question is as follows: -

In which language the song "Vande Matharam" was written first

a. Bengali

c. Urdu

b. Marathi

d. Sanskrit

6.It has been contended by the petitioner that the correct answer is option A.Bengali, whereas the respondent in the answer key has wrongly given it as option D.Sanskrit. To support his claim, he has relied upon the book "Anandamath" which was authored by Bankim Chandra Chatterjee

which was published in 1882 which included the song "Vande Matharam", which later become the national song of India.

7.Since it was felt by this Court that the matter required consideration, notice was ordered to the Respondent and the petitioner was also directed to be called for certificate of verification. When the matter was again called on 07.06.2017, the learned Special Government Pleader had submitted that the answer key to question number 107 was prepared on the basis of authenticated text and sought time to produce the said materials on 13.06.2017 failing which the Secretary, Teachers Recruitment Board was directed to be personally present before the Court. Again after two adjournments no response was forthcoming and on 07.07.2017 when the matter was taken up, the learned Additional Government Pleader submitted that the national song was only written in Sanskrit and later translated to Bengali.

8.To resolve this controversy, this Court directed the learned Advocate General to appear and inform the correct answer to the question since there were conflicting answers to the said question. This Court also sought the assistance of any advocate to offer their reply to settle the controversy involved in the present writ petition.

9.I have heard the submissions of Mr.C.Prakasam, learned counsel appearing on behalf of the petitioner and Mr.R.Muthukumarasamy, learned Advocate General of the State assisted by Mrs.K.Bhuvaneshwari,

Government Advocate and also the submissions of Mrs.S.Sujatha, Mr.A.S.Bilal and Mr.Annadurai, learned counsels, who have come forward to assist this Court.

10.Our Independence struggle to attain freedom from the British has been one of the most toughest independence struggle across this world which resulted in loss of numerous number of lives but still unified this whole nation together in a peaceful way to protest against the British to leave this country and return it to the natives and the sons and daughters of this soil. To unify and to create a feeling of oneness amongst all Indians across the whole country, several renowned leaders and authors have composed several songs, poems, verses and also enacted several street plays and dramas to bring together the people for the sustained independence struggle.

11.One such songs that touched the hearts of thousands of people and acted as a unifier was the song "Vande Matharam" which meant "I bow to thee, Mother". It was first sung in a political context by Rabindranath Tagore at the 1896 session of the Indian National Congress. In 1950, subsequent to the Independence, it was adopted as the national song which even today touches our heart when we hear it.

12.To find out the origin of this song this Court has sought the assistance of the learned counsels from the bar who were willing to assist the Court and the learned counsels Mrs.S.Sujatha, Mr.A.S.Bilal and

Mr. Annadurai have readily come forward with considerable research and material on the subject. Mrs. S. Sujatha has taken painful efforts in collecting materials from the National Encyclopedia of Bangladesh, extract from the book Interpretation of Vande Matharam and also produced other records collecting from the native of Bankim Chandra Chatterjee which would clearly throw light on the subject. Mr. A. S. Bilal, learned counsel has also given extensive materials collecting from all levels and Mr. Annadurai has made submissions tracing the history of the song "Vande Matharam".

13. From the perusal of the materials produced before this Court, that the song "Vande Matharam" was originally penned down as "Bondey Matorom" by Bongkim Chondro Chottoapadhyay in Bengali. It was later translated to Sanskrit as "Vande Matharam". Though Sanskrit has been used in the song a cursory perusal of all relevant records produced would reveal that the native language in which the song was written in Bengali.

14. The learned Advocate General Mr. R. Muthukumarasamy, has also accepted the fact that the song "Vande Matharam" was originally written in Bengali and there was a mistake on the part of the respondent in not awarding the mark for the petitioner though he has selected the correct option Bengali.

15. Therefore, it is clear that the petitioner is entitled for one additional mark since he has rightly answered the question in issue. Hence, it is directed that the respondent shall award one additional mark

to the petitioner. Though it has been communicated that even if the petitioner is granted one additional mark as claimed, he would still have a cut-off of 58.57 which is 0.16 marks lesser than the prescribed cut-off marks for SC(G), the learned counsel for the petitioner would however submit that several persons below the petitioner have been accommodated and given appointments as B.T. Assistant. But, the Special Government Pleader through the Additional counter informed this Court that one Mr.Elavarasan, who secured 54.12 marks in the TET and belongs to SC(G) was given appointment on the ground that he perused B.Ed. in Special Education.

16.Considering the submissions made by the learned counsel appearing for the petitioner and also considering the fact that the petitioner is only 0.16 marks below that cut-off marks as claimed, the respondent is directed to accommodate the petitioner in any vacancy that have arisen in the SC(G) category and consequently issue appointment order as B.T. Assistant, if otherwise eligible within a period of four weeks from the date of receipt of a copy of the order. The writ petition is allowed in the aforesaid terms. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

17.Before parting this Court places its appreciation for the able assistance provided by Mrs.Sujatha, Mr.Bilal and Mr.Annadurai, learned counsels who have taken pains in providing voluminous material to this Court for resolving the controversy.

18. Patriotism is an essential requirement for every citizen of this country. The fact that this country is our Motherland should always be remembered by every citizen of this country. Several people have sacrificed their lives and families to the independent struggle that prolonged for several decades. In these tough times, it was songs like our national song "Vande Matharam" which created a sense of belief and confidence in the people.

19. Perhaps in today's modern era where we have marched ahead with technology, our lives have changed a lot. We have become busy with our own lives that sometimes we forget our nation. Sensing this fact the Hon'ble Supreme Court in *Shyam Narayan Chouksey v. Union of India* reported in 2016 SCC Online SC 1411 has directed that National Anthem shall be strictly respected by all citizens and the Anthem shall be played in all cinema halls across the country before the start of the movie. This direction was issued by the Hon'ble Supreme Court by clearly observing that:

"7. From the aforesaid, it is clear as crystal that it is the sacred obligation of every citizen to abide by the ideals engrafted in the Constitution. And one such ideal is to show respect for the National Anthem and the National Flag. Be it stated, a time has come, the citizens of the country must realize that they live in a nation and are duty bound to show respect to National Anthem which is the symbol of the Constitutional

Patriotism and inherent national quality. It does not allow any different notion or the perception of individual rights, that have individually thought of have no space. The idea is constitutionally impermissible.”

20.Likewise, it would be desirable that the National Song “Vande Matharam” is sung by citizens from different walks of life as frequently as possible in their educational institutions/offices/ workplace/stadiums.

21.Recently, this Court while considering whether “Thirukkural” ought to be made part of the School Curriculum in S.Rajarithnam v. Secretary to Government, Home Department reported in 2016 SCC Online Mad 2373 has held that:

“53.It was brought to the knowledge of this Court that the syllabus is determined by the committee appointed by the Government. It is pertinent to mention here, the policy is framed by the Government in consonance with and to preserve the fundamental rights under Part III of the Constitution. Once a policy is framed, then it is a matter of accommodation. If there is a will, there would be a way. It will be the greatest contribution to the society and to the language itself by the Government. Various adaptations and stories associated with Thirukkural in the form of “Thirukkural Kathaigal”. Therefore, it can be taught to the students without

causing burden. Moral values are more important than other values. Once, the moral values are lost, it is only a matter of time, before the person falls, despite possessing all other qualities, which may earn in name, fame, power and money. If Thirukkural is taught with all its avenues and dimensions elaborately, the students would be equipped with all the facets of life, the probable problems and the solutions. The couplets about friendship, hard work, good character, patience, tolerance and confidence will guide them through, even the most difficult of times. Thirukkural will give them the inner strength to withstand any storm. Therefore, this Court commends that appropriate action must be taken by the Government through the committee which decides the syllabus, considering the noble objective and the demanding situation and finalise the syllabus for the next academic year by including 108 Chapters/Adhigarams of Thirukkural (Arathupal and Porutpal) in the curriculum of students between VI Standard to XII Standard, keeping in mind that the purpose of education must be to build a nation with moral values."

22. Considering the larger public interest and to instill a sense of patriotism in each and every citizen of the State, this Court in addition to

direction already passed in the writ petition, issues the following directions:

(a)The National Song "Vande Matharam" shall be played and sung in all schools/colleges/Universities and other educational institutions atleast once a week (Preferably on Monday or Friday);

(b)The National Song "Vande Matharam" shall be played and sung in all Government Offices and Institutions/Private companies/ Factories and industries at least once a Month;

(c)The Director of Public Information is directed to upload and circulate the translated version of "Vande Matharam" in Tamil and English thereby making it available in the Government websites and also in social media;

(d)Let a copy of this order be marked to the Chief Secretary of the Government of Tamil Nadu, who shall issue appropriate instructions to the concerned authorities;

(e)In the event, any person/organisation has difficulty in singing or playing the National Song, he or she shall not be compelled or forced to sing it, provided there are valid reasons for not doing so.

23.The youth of this country are the future of tomorrow. This Court hopes and trusts that this order shall be taken in the right spirit and also implemented in letter and spirit by the citizenry of this great Nation.

25.07.2017

Index : Yes

Speaking order

vs

To

The Chairman,

Teachers Recruitment Board,

College Road, Chennai-6.

M.V.MURALIDARAN, J.

VS

Pre-Delivery order made in

W.P.No.32316 of 2013

and

M.P.No.1 of 2013

25.07.2017