

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16506 of 2022

and

WMP(MD)Nos.11930 & 11932 of 2022

Tamilnadu Typewriting Shorthand Computer
Institutes Sangam,
Registraion No.18/2018,
Virudhunagar District
rep.by its President S.Soma Sankar

... Petitioner

Vs.

- 1.The Principal Secretary to
Government of Tamil Nadu,
Higher Education Department,
Secretariat, Chennai – 600 009.
- 2.The Commissioner/Director of Technical
Education,
No.53, Sardar Patel Road,
Bakthavatsalam Nagar,
Guindy, Chennai – 600 025.
- 3.The Chairman,
Board of Examinations,
Department of Technical Education,
Chennai – 600 025.

... Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Certiorarified Mandamus, to call for the records relating to the third respondent vide his revised time table for March 2022 examinations (120917/R4/2021) to quash the same insofar as it relates to continuation of the above examination in the new pattern and to issue consequential directions to conduct August 2022 examination in the old pattern in the matter of conducting Typewriting (Junior and Senior Grades) by having first paper Test (Speed) initially and then Second Paper (Statement and Letter) thereafter pass such further or other orders as this Court may deem fit in the circumstances of the case and thus render justice.

For Petitioner : Mr.L.Shaji Chellan

For Respondents : Mr.Prakash, Additional Government Pleader

ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

2.The petitioner is a society registered under the provisions of the Tamil Nadu Societies Registration Act, 1975. It espouses the cause of the technical students engaged in learning typewriting, shorthand and computer. The students who had studied in the institutes affiliated to the petitioner society take part in the examinations conducted by the third respondent. The third respondent conducts technical examinations twice a year ie., in February and



August. The case on hand pertains to examination pattern in the typewriting

course (junior and senior). The junior grade examination as well as senior grade examination consist of two papers ie., first paper (speed test) and second paper (statement and letter). Such examinations have been conducted for over 75 years. There is no dispute that the speed test is the first paper while the statement and letter test is the second paper. Ten minutes is allotted for speed test for both junior and senior grades. 45 minutes is allotted for the statement and letter test for the junior while one hour is allotted for the said paper in the senior grade. When the third respondent proposed in March 2022 that the second paper will be undergone first, the petitioner submitted representation dated 23.02.2022. protesting the change in the order of conducting the tests.

3. Since the petitioner's request was not being considered, the petitioner filed WP(MD)No.4417 of 2022. The said writ petition was disposed of on 11.03.2022 with a direction to the respondents to consider the said representation. Pursuant to the direction given by this Court, a stakeholders' meeting was organized. Thereafter, the respondents decided to stick to their decision to alter the pattern. The respondents issued a revised time table but maintaining the original decision. The petitioner therefore filed WP No.18645 of 2022 before the Principal Seat. The said writ petition was disposed of on

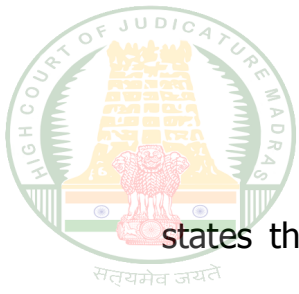


22.07.2022 by granting liberty to the petitioner to move this Bench. In terms

of the said liberty, the present writ petition has been filed. Though the challenge in the writ petition is to the time table issued for the examination that was held in March 2022, the real grievance of the petitioner is that since the respondents are proposing to follow the very same approach in the examinations that are going to be held on 03.09.2022 and 04.09.2022. The petitioner seeks restoration of the old pattern.

4.The learned counsel for the petitioner reiterated the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to direct the third respondent to permit the candidates to write the first paper first followed by the second paper.

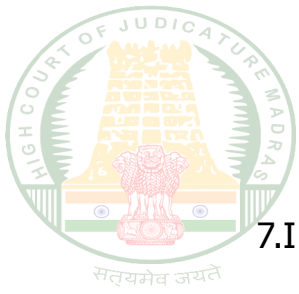
5.The learned Additional Government Pleader appearing for the respondents submitted that the impugned decision taken by the third respondent does not call for any interference. The claim of the petitioner that he was not invited for the stakeholders' meet was strongly rebutted. The learned Additional Government Pleader produced a copy of the minutes which indicates that the petitioner Thiru.Soma Sankar had also taken part in the meeting held on 21.03.2022. Reliance is placed on G.O Ms.No.229, Education, Science and Technology (T1) Department dated 21.03.1995 which



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states that the recognized typing institutes have to follow any modification and inclusion of guidelines introduced by the Government. G.O Ms.No.463 Education Department dated 25.03.1988 gives power to the Chairman of Board of Examinations to take appropriate decisions. The respondents also question the claim of the petitioner that the revised pattern of examinations is against the opinion of the psychological experts. The stand of the respondents is that when the second paper (manuscript) is undergone first, the candidates' fingers get flexed and the candidates will be mentally relaxed and he or she can take the first paper with greater confidence.

6.The primary contention of the learned Additional Government Pleader is that the States of Telengana and Andhra Pradesh are also on the same page as that of the State of Tamil Nadu. It is also pointed out that the Tamil Nadu Commerce Institute Association which originally opposed the new pattern has accepted the change. Since the pattern to be adopted in conducting an examination falls in the realm of policy decision, it is not for this Court to interfere. He would also state that the writ petition has been filed by an association and not by any aggrieved student. He also questioned the very maintainability of the writ petition.



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7.I carefully considered rival contentions and went through the materials on record. The first objection is regarding the maintainability of the writ petition. The Hon'ble Division Bench of the Madras High Court in the decision reported in **(2006) 2 CTC 705 (Vellakoil Vattara Vari Seluthuvor Nalvalu Sangam v. State of T.N)** held that writ petition filed by a registered society for the benefit of its members is very much maintainable. The case on hand is second round of litigation. WP(MD)No.4417 of 2022 was already filed by the petitioner on the very same issue. When in the first round, the maintainability issue has not been raised, it is not open to the respondents to raise the same now.

8.The respondents themselves concede that for more than 75 years the students/candidates undertook the speed test first followed by the manuscript test. In fact, the speed test is called as the first paper while the manuscript test paper is called as the second paper. The very nomenclature indicates that the first one should be taken first and the second one should be taken thereafter. When that has been the practice adopted for more than 75 years, compelling reasons must be set out to justify the departure. The Hon'ble Supreme Court in *Ashoka Smokeless Coal India (P) Ltd v. UOI* (2007) 2 SCC 640 held that any change in the policy decision for cogent and valid reasons is acceptable in law but such a change must take place only when it is

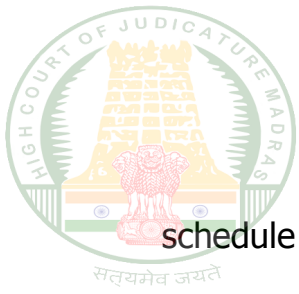


necessary. While it is open to the third respondent to effect change in the policy, compelling reasons must be there more so when long-standing and settled practice is being departed from. In this case, such compelling reasons have not been set out.

9. More than anything else, WP(MD)No.4417 of 2022 was disposed of on 11.03.2022 in the following terms :

“8. Accordingly, this Courts directs the third respondent to consider the petitioner's representation, dated 23.02.2022 requesting the respondents to conduct the examinations for the common Center - Type Writing Examinations (Junior Grade and Senior Grade) for the year Feb/Mar 2022, scheduled to be held on 26.03.2022 and 27.03.2022 in old pattern, ie., First Paper I (Speed) and Second Paper II (Statement and Letters) instead of First Paper I (Statement and Letter) and Second Paper II (Speed) and pass final orders on merits and in accordance with law after affording a fair hearing to the petitioner and the representatives of Federation of Tamil Nadu Typewriting Institute, and any other party, whom the third respondent deems fit to enquire on or before 25.03.2022.”

When this Court directed the authorities to pass final order on merits, the authority is obliged to pass a speaking order. In this case, no such order has been passed. What was communicated to the petitioner was only the exam

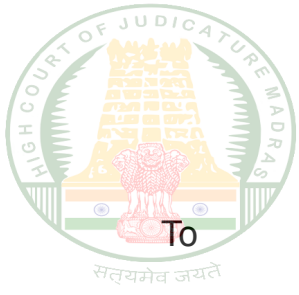


schedule without any change in the decision to alter the pattern. I am constrained to interfere primarily for the reason that the direction given by a learned Judge of this Court on 11.03.2022 in WP(MD)No.4417 of 2022 was not adhered to. Of course, when the matter was taken up for hearing, the learned Additional Government Pleader passed on a copy of the minutes of the meeting dated 24.03.2022. This was never communicated to the petitioner. The Hon'ble Supreme Court in the decision reported in (2001) 8 SCC 443 (State of West Bengal v. M.R.Mondal) held that a decision not formally communicated to the party concerned is not a decision at all and it is null and void. The respondents propose to follow the new pattern in the examinations proposed to be held next month.

10.For all these reasons, the impugned decision of the third respondent not to revert to the earlier pattern but to follow the new pattern is set aside. The third respondent is directed to conduct the typewriting examinations by calling upon the candidates to write the first paper first (speed test) followed by the second paper (manuscript). The writ petition is allowed. No costs. Connected miscellaneous petitions are closed.

02.08.2022

Index : Yes / No
Internet : Yes/ No
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To

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2. The Commissioner/Director of Technical Education,
No.53, Sardar Patel Road, Bakthavatsalam Nagar,
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3. The Chairman, Board of Examinations,
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G.R.SWAMINATHAN, J.

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