

**(2013) 06 MAD CK 0057**

**In the Madras High Court**

**Case No :** Writ Petition (MD) No. 10019 of 2013 and M.P. (MD) No. 1 of 2013

M. Rajalakshmi

APPELLANT

Vs

The Competent Authority

RESPONDENT

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**Date of Decision :** 24-06-2013

**Acts Referred:**

**Citation :** (2013) 06 MAD CK 0057

**Hon'ble Judges :** S. Manikumar, J

**Bench :** Single Bench

**Advocate :** R. Lakshmanan, for the Appellant; S. Bharathi, Government Advocate, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

S. Manikumar, J.—The petitioner has sought for a mandamus to direct the respondent to include B.Com., B.Ed., Category in the TNTET -

2013 by making necessary modification in the Notification dated 22.05.2013 and to conduct exam for those candidates who have passed B.Com.

and B.Ed., degree. The prayer is sought to be justified on the ground that as per the National Council for Teacher Education's Notification dated

10.06.2011, the appropriate Government has to conduct TET Examination for those who have completed B.A./B.Sc./B.Com. degree, for

imparting education for students studying in Standards 6 to 8. The writ petition has been filed, also on the ground that the petitioner has written

TET Examination, on the previous occasion. Heard Mr. R. Lakshmanan, learned counsel for the petitioner and perused the materials available on

record.

2. As per the Notification issued by the National Council for Teacher Education,

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dated 10.06.2011, qualifications have been prescribed for a person to be eligible for appointment as a Teacher. As per sub-para (i) of para-1 of the Principal Notification, the minimum qualifications prescribed, as per the Notification are as follows:-

1. Minimum Qualifications:-

(i) Classes I-V

(a) Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education (by whatever name known)

OR

Senior Secondary (or its equivalent) with at least 45% marks and 2-year Diploma in Elementary Education (by whatever name known), in

accordance with the NCTE (Recognition Norms and Procedure), Regulations, 2002.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (B.El.Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Education (Special Education)

OR

B.A./B.Sc./B.Com. and two year Diploma in Elementary Education (by whatever name known)

AND

(b) Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the

NCTE for the purpose.

3. For Classes VI to VIII, B.Com. has been included, as one of the qualifications for taking up Teacher Eligibility Test. Prescription of eligibility

qualification and experience, is purely left to the Government or the Employer, as the case may be. Though the said qualification is included in the

NCTE Notification, it does not prohibit the Government to restrict the candidates, to take up TET Test. Teachers Recruitment Board is a Nodal

Agency for conducting Teacher Eligibility Test and recruitment of Teachers, is done as per G.O.(Ms) No. 181, School Education (C2)

Department, dated 15.11.2011. Teachers Recruitment Board has invited applications for Teacher Eligibility Test for the year 2013. Clause-3 of

the Notification, prescribes the eligibility, to write TET Paper II which are as below:

### 3. Eligibility to write Paper II:

Candidates should possess the following prescribed qualifications to write the Teacher Eligibility Test Paper II:

a) Candidates who have passed a Bachelor's degree (B.A./B.Sc./B.Litt.) with Tamil, English, Mathematics, Physics, Chemistry, Botany, Zoology,

History and Geography as major subjects in their Degree course or a Degree with any one of the equivalent subjects (regarding equivalent

subjects, Government Orders issued prior to the date of this Notification alone will be considered) from a recognised University under 10+2+3

pattern and a Bachelor Degree in Education (B.Ed.) from a recognised University and seeking an appointment as Graduate Teacher for Classes VI

to VIII can write Paper II.

b) Candidates appearing for the Final Year Examination of B.Ed. during the current Academic Year (2012-2013) are also permitted to appear for

Paper II in Teacher Eligibility Test. Such candidates should have successfully completed the course in the current Academic Year (2012-2013)

itself and should produce B.Ed. Certificate during Certificate Verification, otherwise they shall not be considered for current year Government

recruitment process. However, they may be issued with TET Certificate after producing B.Ed. Degree Certificate.

4. It is evident from Clause-3 of the Notification issued by the Teachers Recruitment Board, i.e. the Nodal Agency, for recruitment of teachers, as

per G.O.(Ms) No. 181, School Education (C2) Department, dated 15.11.2011, B.Com. is not an eligible qualification.

5. Perusal of the Statement of Marks, in the Certificate of Bachelor of Commerce, shows that the petitioner has studied Marketing, Accountancy,

Economic Analysis, Business Management, Financial Accounting etc. and insofar as the degree, B.Ed., is concerned, he has studied Educational

Psychology, Elements of Educational Research and Elementary Statistics, Adult and Non-Formal Education, Commerce etc. When the

correctness of G.O.Ms. No. 559, Education Department, dated 11.07.1995, was

tested, a Hon'ble Division Bench of this Court, concurred with the findings of the learned single Judge that B.Ed. is not a suitable qualification, for imparting primary education. This Court further held that Diploma in Teacher Education is the suitable qualification for Secondary Grade Teachers Post. The Government is the competent authority to exclude any qualification for the post notified. In this context, it is useful to refer a judgment of the Apex Court in P.U. Joshi and Others Vs. The Accountant General, Ahmedabad and Others, wherein at paragraph 10 of the judgment, the Supreme Court held as follows:

Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment of eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service.

6. Insofar as the curriculum for Standards up to Standard VIII is concerned, Commerce is not one of the subjects taught. The subject Commerce

is taught only in higher Standards. Therefore, it is prerogative of the Government to restrict the eligibility to those who have passed Bachelors

Degree only to B.A./B.Sc./B.Ed. with Tamil, English, Mathematics, Physics, Chemistry, Botany, Zoology, History and Geography, as major

subjects in their Degree course or a Degree with any one of the equivalent subjects (regarding equivalent subjects, Government Orders issued

prior to the date of this Notification alone will be considered). Merely because the petitioner had been permitted to take up TET Examination on

the previous occasion, with B.Com qualification, it cannot be said that the Government have no authority to exclude the said subject from the

purview of TET test. The Notification issued by National Council for Teacher Education dated 10.06.2011 only directs the appropriate

Government to conduct examination for those candidates who possess B.A./B.Sc./B.Com. and two year Diploma in Elementary Education (by

whatever name known).

7. A reading of the Notification dated 10.06.2011 does not place any restriction or prohibit the appropriate Government to decide as to which

qualification is required for teaching the students, studying in Standards I to VI or VI to VIII, as the case may be. As stated supra, Commerce is

not one of the subjects, taught, whereas, Tamil, English, Mathematics, Physics, Chemistry, Botany, Zoology, History and Geography are the

subjects taught at the elementary level.

8. In the light of the above discussion, this Court is of the view that the petitioner cannot compel the Government, which is competent to frame

Rules and fix the eligibility, to include B.Com./B.Ed. category in TNTET 2013 Examinations.

9. An aspirant to Government job or employment in a School recognised by the Government, has no right to compel the Government that all the

educational qualifications have to be included in the test conducted by the Government, for recruitment of teachers from Standards I to V or

Standards from VI to VIII. In such view of the matter, this Court is not inclined to issue any mandamus as prayed for by the petitioner. The writ

petition is dismissed. Consequently, the connected miscellaneous petition is

closed. No costs.