

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Special Leave Petition (C) No.28043 of 2013

Prof. A. Marx.

.... Petitioner

Verses

Government of Tamil Nadu & Anr.

.... Respondents

WITH

Special Leave Petition (C) No.28042 of 2013**J U D G M E N T****K. S. RADHAKRISHNAN, J.**

1. The petitioner herein has approached the High Court seeking a writ of certiorari to quash the Tamil Nadu Teacher Eligibility Test (TNTET) -2013 Notification/Advertisement No.13/2013 dated 22nd May, 2013 issued by the Teachers Recruitment Board and also sought a direction to the Board to issue fresh notification extending the constitutional benefits of reservation to TNTET by assigning minimum qualifying cut off marks for

each communal category, in accordance with the prevailing reservation rule and also for the consequential reliefs.

2. The Madras High Court refused to grant the reliefs prayed for on the ground that the question as to whether relaxation/concessional marks to be granted or not to be granted is a policy matter, to be taken by the State Government and the court sitting under Article 226 of the Constitutional of India cannot give a positive direction to the State so as to reduce the minimum marks to any reserved category.

3. It is noticed that the same question was considered by the High Court in a series of cases, reference was made to the judgments of the Division Bench in Writ Petition No.30426 of 2012 and connected matters as well and the judgment in Writ Appeal No.819 and 820 of 2013. The High Court also made reference to the Judgment of this Court reported in ***Bharatia Seve Samaj Trust through President and another v. Yogeshbhai Ambalal Patel***

and another (2012) 9 SCC 310. Aggrieved by the same, these special leave petitions have been preferred.

4. Learned counsel appearing for the petitioner submitted that fixing 60% as uniform qualifying marks is illegal and is violative of Article 16(4) of the Constitution of India. Learned counsel submitted that the State ought to fulfill the constitutional obligation in allocating minimum qualifying marks based on communal reservation.

5. We find it difficult to accede to the request of the counsel. The question as to whether the cut off marks stipulated for the reserved category candidates have to be reduced or not, is entirely a matter for the State Government to decide. The Court exercising writ jurisdiction cannot grant such relaxation/concessional marks, as the same is the decision to be taken by the State Government. Taking into consideration a variety of factors, State/Authorities concerned in their wisdom would fix the cut off marks and court cannot substitute its views to that of the experts. We, in such circumstances, are not

inclined to interfere with these special leave petitions and the same are dismissed.

.....J.
(K.S. Radhakrishnan)

.....J.
(A.K. Sikri)

New Delhi,
December 13, 2013



JUDGMENT