



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.11.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A. (MD)No.1019 of 2013 and M.P (MD)Nos.2 of 2013 and 1 of 2014
W.A. (MD)No.1020 of 2013 and M.P (MD)Nos.2 of 2013 and 1 of 2014
W.A. (MD)No.1021 of 2013 and M.P (MD)Nos.2 of 2013 and 1 of 2014
W.A. (MD)No.1022 of 2013 and M.P (MD)Nos.2 of 2013 and 1 of 2014
W.A. (MD)No.1023 of 2013 and M.P (MD)Nos.2 of 2013 and 1 of 2014
W.A. (MD)No.1025 of 2013 and M.P (MD)Nos.2 of 2013 and 1 of 2014
W.A. (MD)No.1026 of 2013 and M.P (MD)Nos.2 of 2013 and 1 of 2014
W.A. (MD)No.1027 of 2013 and M.P (MD)Nos.2 of 2013 and 1 of 2014
W.A. (MD)No.1029 of 2013 and M.P (MD)Nos.2 of 2013 and 1 of 2014

and

W.P (MD)No.13074 of 2013 and M.P (MD)No.1 of 2013

W.A. (MD)No.1019 of 2013:

1.The Director of School Education,
DPI Compound,
College Road,
Chennai.

2.The District Educational Officer,
Tenkasi Education District,
Tenkasi.

... Appellants/
Respondents

Vs.

1.E.Latha

... 1st Respondent/
Writ Petitioner

2.The Correspondent,
Baren Bruck Higher Secondary School,
Bungalow Surandai,
Tirunelveli.

... 2nd Respondent/
3rd Respondent

PRAYER: Appeal filed under Clause 15 of the Letters Patent, against the order passed in M.P (MD)No.1 of 2013 in W.P (MD)No.11975 of 2013, dated 25.07.2013.

Prayer in WP (MD). 11975/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, to call for the records pursuant to the impugned rejection order by the 2nd respondent O.Mu.NO. 5110/a2/2012 dated 31/12/2012 quash the same and consequently



direct the relspondent to approve the petitioners appointment as BT assistant (History) at Barenbruck Higher Secondary School, Bungalow surandai Tirunelvei district and give all other service and monetary benefit.

WEB COPY

For Appellants : Mr.A.K.Baskarapandian
Special Government Pleader

For Respondents : Mr.T.Palanisamy for R.1

Mr.S.Chellapandian for R.2

W.A. (MD)No.1020 of 2013:

1.The Director of School Education,
DPI Compound,
College Road,
Chennai.

2.The District Educational Officer,
Tenkasi Education District,
Tenkasi.

... Appellants/
Respondents

Vs.

1.Arokiya Gunaselvi

... 1st Respondent/
Writ Petitioner

2.The Correspondent,
Baren Bruck Higher Secondary School,
Bungalow Surandai,
Tirunelveli.

... 2nd Respondent/
3rd Respondent

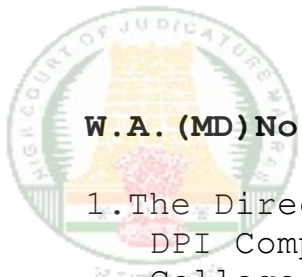
PRAYER: Appeal filed under Clause 15 of the Letters Patent, against the order passed in M.P(MD)No.1 of 2013 in W.P(MD)No.11976 of 2013, dated 25.07.2013.

Prayer in WP(MD). 11976/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pursuant to the impugned rejection order by the 2nd respondent O.Mu.NO. 5109/A2/2012 dated 31/12/2012 quash the same and consequently direct the relspondent to approve the petitioners appointment as BT assistant (Tamil) at Barenbruck Higher Secondary School, Bungalow surandai Tirunelvei district and give all other service and monetary benefit.

For Appellants : Mr.A.K.Baskarapandian
Special Government Pleader

For Respondents : Mr.T.Palanisamy for R.1
Mr.S.Chellapandian for R.2

**W.A. (MD) No.1021 of 2013:**

1.The Director of School Education,
DPI Compound,
College Road,
Chennai.

2.The District Educational Officer,
Tirunelveli Education District,
Tirunelveli

... Appellants/
Respondents

Vs.

1.D.Leena Granappu

... 1st Respondent/
Writ Petitioner

2.The Correspondent,
St. Johns Higher Secondary School,
Palayamkottai,
Tirunelveli.

... 2nd Respondent/
3rd Respondent

PRAYER: Appeal filed under Clause 15 of the Letters Patent, against the order passed in M.P(MD)No.1 of 2013 in W.P(MD)No.11977 of 2013, dated 25.07.2013.

Prayer in WP(MD). 11977/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pursuant to the impugned rejection order by the 2nd respondent Na.Ka.no. 6527/a4/12 dated 04/01/2013 quash the same and consequently direct the relspndent to approve the petitioners appointment as BT assistant (Maths) at St.John Higher Secondary School, Palayamkottai, Tirunelveli district and give all other service and monetary benefit.

For Appellants	: Mr.A.K.Baskarapandian Special Government Pleader
For Respondents	: Mr.T.Palanisamy for R.1 Mr.S.Chellapandian for R.2

W.A. (MD) No.1022 of 2013:

1.The Director of School Education,
DPI Compound,
College Road,
Chennai.

2.The District Educational Officer,
Tirunelveli Education District,
Tirunelveli.

... Appellants/
Respondents



Vs.

1.A.Lincy

... 1st Respondent/
Writ Petitioner2.The Correspondent,
Walker Higher Secondary School,
Dohnavur,
Tirunelveli.... 2nd Respondent/
3rd Respondent

PRAYER: Appeal filed under Clause 15 of the Letters Patent, against the order passed in M.P(MD)No.1 of 2013 in W.P(MD)No.11978 of 2013, dated 25.07.2013.

Prayer in WP(MD). 11978/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pursuant to the impugned rejection order by the 2nd respondent O.Mu.No5289/A4/12 dated 11.02.2013 quash the same and consequently direct the respondent to approve the petitioner s appointment as BT Assistant (Maths) at Walker Higher Secndary School, Dohnavur, Tirunelveli District and give all other service and monetary benefit from and pass such any other orders.

For Appellants : Mr.A.K.Baskarapandian
Special Government Pleader

For Respondents : Mr.T.Palanisamy for R.1

Mr.S.Chellapandian for R.2

W.A. (MD)No.1023 of 2013:

1.The Director of School Education,
DPI Compound,
College Road,
Chennai.

2.The District Educational Officer,
Tirunelveli Education District,
Tirunelveli.

... Appellants/
Respondents

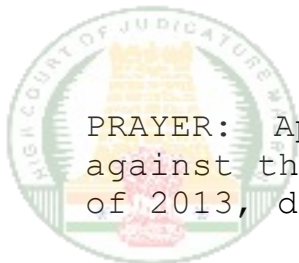
Vs.

1.A.Malthimuthukumari

... 1st Respondent/
Writ Petitioner

2.The Correspondent,
Schaffter Higher Secondary School,
Tirunelveli.

... 2nd Respondent/
3rd Respondent



PRAYER: Appeal filed under Clause 15 of the Letters Patent, against the order passed in M.P(MD)No.1 of 2013 in W.P(MD)No.11979 of 2013, dated 25.07.2013.

Prayer in WP(MD). 11979/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pursuant to the impugned rejection order by the 2nd respondent O.Mu.No. 6322/A2/12 dated 24.01.2013 quash the same and consequently direct the respondent to approve the petitioner s appointment as Tamil Pandit at Schaffter Higher Secondary School, Tirunelveli, Tirunelveli District and give all other service and monetary benefit from and pass such any other orders.

For Appellants	: Mr.A.K.Baskarapandian Special Government Pleader
For Respondents	: Mr.T.Palanisamy for R.1 Mr.S.Chellapandian for R.2

W.A. (MD)No.1025 of 2013:

1.The Director of School Education,
DPI Compound,
College Road,
Chennai.

2.The District Educational Officer,
Tirunelveli Education District,
Tirunelveli

... Appellants/
Respondents

Vs.

1.A.Roselin

... 1st Respondent/
Writ Petitioner

2.The Correspondent,
St.Johns Higher Secondary School,
Palayamkottai,
Tirunelveli.

... 2nd Respondent/
3rd Respondent

PRAYER: Appeal filed under Clause 15 of the Letters Patent, against the order passed in M.P(MD)No.1 of 2013 in W.P(MD)No.11981 of 2013, dated 25.07.2013.

Prayer in WP(MD). 11981/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pursuant to the impugned rejection order by the 2nd respondent Na.Ka. No. 6528/A4/12 dated 04.01.2013 quash the same and consequently direct the respondent to approve the petitioner s appointment as BT



Assistant (Maths) at St. John Higher Secondary School, Palayamkottai, Tirunelveli District and give all other service and monetary benefit from and pass such any other order.

For Appellants

: Mr.A.K.Baskarapandian
Special Government Pleader

For Respondents

: Mr.T.Palanisamy for R.1
Mr.S.Chellapandian for R.2

W.A. (MD)No.1026 of 2013:

1.The Director of School Education,
DPI Compound,
College Road,
Chennai.

2.The District Educational Officer,
Tenkasi Education District,
Tenkasi.

... Appellants/
Respondents

Vs.

1.J.Praba Vinothini

... 1st Respondent/
Writ Petitioner

2.The Correspondent,
Baren Bruck Higher Secondary School,
Bungalow Surandai,
Tirunelveli.

... 2nd Respondent/
3rd Respondent

PRAYER: Appeal filed under Clause 15 of the Letters Patent, against the order passed in M.P(MD)No.1 of 2013 in W.P(MD)No.11982 of 2013, dated 25.07.2013.

Prayer in WP(MD). 11982/ 2013 :

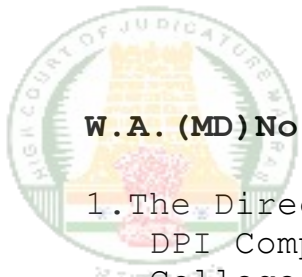
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pursuant to the impugned rejection order by the 2nd respondent O.Mu.No.0757/A2/2012 dated 28.03.2013 quash the same and consequently direct the respondent to approve the petitioner s appointment as BT Assistant (History) at Barenbruck Higher Secondary School, Bungalow Surandai Tirunelveli District and give all other service and monetary benefit from and pass such any other order.

For Appellants

: Mr.A.K.Baskarapandian
Special Government Pleader

For Respondents

: Mr.T.Palanisamy for R.1
Mr.S.Chellapandian for R.2

**W.A. (MD) No.1027 of 2013:**

1.The Director of School Education,
DPI Compound,
College Road,
Chennai.

2.The District Educational Officer,
Cheranmahadevi Education District,
Tirunelveli.

... Appellants/
Respondents

Vs.

1.K.Kirubakaran

... 1st Respondent/
Writ Petitioner

2.The Correspondent,
C.C.M. Higher Secondary School,
Idayangudi,
Tirunelveli.

... 2nd Respondent/
3rd Respondent

PRAYER: Appeal filed under Clause 15 of the Letters Patent, against the order passed in M.P(MD)No.1 of 2013 in W.P(MD)No.11983 of 2013, dated 25.07.2013.

Prayer in WP(MD). 11983/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pursuant to the impugned rejection order by the 2nd respondent O.Mu.No.25827/A4/2012 dated 21.01.2013 quash the same and consequently direct the respondent to approve the petitioner s appointment as BT Assistant (History) at C.C.M. Higher Secondary School, Idayangudi, Tirunelveli District and give all other service and monetary benefit from and pass such any other order.

For Appellants	: Mr.A.K.Baskarapandian Special Government Pleader
For Respondents	: T.Palanisamy for R.1 Mr.S.Chellapandian for R.2

W.A. (MD) No.1029 of 2013:

1.The Director of School Education,
DPI Compound,
College Road,



2.The District Educational Officer,
Tirunelveli Education District,
Tirunelveli

... Appellants/
Respondents

Vs.

1.D.Shally Roselind

... 1st Respondent/
Writ Petitioner

2.The Correspondent,
Mary Sargent Higher Secondary School,
Palayamkottai,
Tirunelveli.

... 2nd Respondent/
3rd Respondent

PRAYER: Appeal filed under Clause 15 of the Letters Patent,
against the order passed in M.P(MD)No.1 of 2013 in W.P(MD)No.13074
of 2013, dated 16.08.2013.

For Appellants	: Mr.A.K.Baskarapandian Special Government Pleader
For Respondents	: T.Palanisamy for R.1 Mr.S.Chellapandian for R.2

W.P(MD)No.13074 of 2013:

D.Shally Roselind

... Petitioner

Vs.

1.The Director of School Education,
DPI Compound,
College Road,
Chennai.

2.The District Educational Officer,
Tirunelveli Education District,
Tirunelveli.

3.The Correspondent,
Mary Sargent Higher Secondary School,
Palayamkottai,
Tirunelveli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of
India, to issue a writ of Certiorarified Mandamus to call for the
records pursuant to the impugned rejection order passed by the
second respondent in Na.Ka.No.5855/A5/13, dated 31.07.2013, and
quash the same and consequently, direct the respondent(s) to
approve the petitioner's appointment as Secondary Grade Teacher at
Mary Sargent Higher Secondary School, Palayamkottai, Tirunelveli
District, to give all other service and monetary benefits from
07.11.2012.



For Petitioner : Mr.S.Chellapandian

For Respondents : Mr.A.K.Baskarapandian

Special Government Pleader for R.1 and R.2

WEB COPY

COMMON JUDGMENT

(Judgment of the Court was delivered by M.SATHYANARAYANAN,J.)

W.A.(MD)Nos.1019 to 1027 and 1029 of 2013 are preferred by the official respondents challenging the common interim order(s) dated 27.05.2013/16.08.2013, wherein the learned Single Judge has followed the common order dated 29.04.2013 made in M.P(MD)Nos.1 of 2013 in W.P(MD)Nos.2722 of 2013, etc., batch of writ petitions and it is relevant to extract hereunder paragraphs 27 to 31:

"27. In these circumstances, I am of the view that as per Section 23(2) of the Act, 2009, the teachers concerned in these writ petitions could be given five years time from the date of commencement of the Act for acquiring TET qualification.

28. At this juncture, it is relevant to state that the District Elementary Education Officer, Tirunelveli, is not correct in granting 5 years time from the date of commencement of the Act i.e. no teacher shall be appointed in the schools covered by the Act, without TET after 5 years from the commencement of the Act. This is the scheme of the Act.

29. Hence, the respondent authorities are directed to give temporary approval to the teachers concerned in these writ petitions and the respondent authorities are also directed to pass orders granting necessary aid by way of salary to those teachers as temporary measure pursuant to the temporary approval granted in these orders. These teachers shall appear in the August 2013 TET examinations that could be conducted by the TRB. The statement of the Additional Advocate General that TRB would conduct TET examination during August 2013 is recorded, I hope that the TRB would conduct the examination in time during August 2013 and if adequate number of teachers do not secure pass in the examinations, TRB is also directed to conduct supplementary examination as it was conducted in the year 2012.

30. The teachers in these writ petitions shall secure pass in TET before 31.03.2015. If they do not secure pass before 31.03.2015, they have to vacate the ~~of the~~ the persons with TET qualification shall be appointed in those places. In view of the scheme of the Act and also to protect the interest of the students,



the State shall also conduct periodical TET examinations through its nodal agencies namely TRB. This interim arrangements are made subject to the result of these writ petitions.

31. Post all the writ petitions for counter and disposal on 24.06.2013."

2. The learned Single Judge in the impugned common interim order(s) dated 27.05.2013/16.08.2013, has followed the above cited judgment and granted the interim orders.

3. Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the appellants/official respondents in the respective writ petitions as well as the learned Counsel for the private respondent(s) would contend that in the light of the authoritative pronouncement rendered by a Division Bench of this Court in **The Secretary to Government, Government of Tamil Nadu and others v. S.Jeyalakshmi and another reported in 2016 Writ L.R. 769**, the writ appeals can be disposed of and therefore, they pray for appropriate orders.

4. This Court has considered the rival submissions and also perused the materials placed before this Court.

5. The Division Bench of this Court in **The Secretary to Government, Government of Tamil Nadu and others v. S.Jeyalakshmi and another** reported in **2016 Writ L.R. 769**, has considered the applicability of the Right of Children to Free and Compulsory Education Act, 2009, especially, the qualification with regard to TET and held as follows:

"59. Insofar as minority institutions are concerned, the contention of the learned senior counsel appearing for the minority Schools is that when Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 received the assent of the President of India and it is still in force, it cannot be supplanted by an Executive Order, namely, by G.O.Ms.No.181 dated 15.11.2011. Further, the Apex Court has clearly held in Pramati Educational & Cultural Trust that RTE Act, 2009 is not applicable to the minority institutions. Therefore, we have no hesitation to hold that the right conferred under Article 30(1) of the Constitution cannot be abrogated. Consequently, G.O.Ms.No.181 dated 15.11.2011, which was issued pursuant to the directions of NCTE, cannot be made applicable to the minority institutions.



60. In the light of the above, we are of the view that the Government cannot insist upon the minority institution, both aided or unaided, to abide by any Regulation framed under the provisions of the RTE Act. Therefore, we hold that G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011 issued by the Government of Tamil Nadu, is not applicable to the minority institutions. Similarly, G.O.Ms.No.76 dated 18.3.2015 issued by the Government of Puducherry, is also not applicable to the minority institutions.

61. *** **

62. However, keeping in mind the larger interest in which the Government has issued the above G.Os., this Court feels that the minority institutions may also consider conducting a refresher course and also some interactive sessions to all the Teachers during annual vacation, in order to ensure and improve the quality of Teachers.

63. In the result, the writ petitions are allowed and the writ appeals are dismissed with a direction to the Government to release the salary of the Teachers and also to pay the arrears of salary within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected M.Ps., are closed."

6. Since the writ petition in W.P(MD)No.13074 of 2013 has been filed for quashment of the proceedings of the District Educational Officer, Tirunelveli Education District, Tirunelveli, dated 31.07.2013, directing the concerned Teacher employed in the minority institution to qualify TET examination, this Court is of the view that the said writ petition itself can be taken up for final disposal in the light of the aforesaid decision of the Division Bench of this Court.

7. The Division Bench of this Court in the above cited decision has laid down the ratio that the Government cannot insist both the aided or unaided, to abide by any regulation framed under the provisions of the Right of Children to Free and Compulsory Education Act, 2009 and as such, G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011 is not applicable to the minority institution.

8. Therefore, W.P(MD)No.13074 of 2013 is allowed and the impugned proceedings of the District Educational Officer, Tirunelveli Education District, Tirunelveli, dated 31.07.2013, is quashed and as a consequence, all these writ appeals in W.A.(MD) Nos.1019 and 1029 of 2013 are dismissed. However, in the light of the observations in paragraph 62 of the above cited decision, the minority institutions taking into consideration the



interest and welfare of the students studying in those institutions, may also consider the conduct of a refresher course and also some interactive sessions to all the Teachers during annual vacation or in any other holidays in order to ensure and improve the quality of Teachers. No costs. Consequently, all the connected miscellaneous petitions are closed.

These writ appeals having been posted on Tuesday the Twenty ninth day of November, 2016 under the caption "For Being Mentioned", in the presence of Mr.A.K.Baskara Pandian special Government Pleader on behalf of appellants in all Writ Appeals and of Mr.T.Palanisamy Advocate for R1 and Mr.S.Chellapandian Advocate for R2, this Court made the following order.

Today, these matters are listed under the caption 'for being mentioned' at the instance of the Registry, pointing out that this Court, vide common judgment dated 24.11.2016 has disposed of the above batch of writ appeals along with the main writ petitions and however, out of the above batch of cases, the main writ petitions in **W.P(MD)No.11975 of 2013** [W.A.(MD)No.1019 of 2013]; **W.P(MD)No.11976 of 2013** [W.A.(MD)No.1020 of 2013]; **W.P(MD)No.11977 of 2013** [W.A.(MD)No.1021 of 2013]; **W.P(MD)No.11978 of 2013** [W.A.(MD)No.1022 of 2013]; **W.P(MD)No.11979 of 2013** [W.A.(MD)No.1023 of 2013]; **W.P(MD)No.11981 of 2013** [W.A.(MD)No.1025 of 2013]; **W.P(MD)No.11982 of 2013** [W.A.(MD)No.1026 of 2013]; **W.P(MD)No.11983 of 2013** [W.A.(MD)No.1027 of 2013]; except W.P(MD)No.13074 of 2013 [W.A.(MD)No.1029 of 2013], have already been transferred to the Principal Seat and therefore, the said writ petitions could not be taken up for disposal along with the above batch of writ appeals.

2. In the light of the same, the earlier common judgment dated 24.11.2016, is clarified to the effect that W.A.(MD) Nos.1019, 1020, 1021, 1022, 1023, 1025, 1026, 1027 and 1029 of 2013 are dismissed and W.P(MD)No.13074 of 2013, **alone** is allowed.

Sd/-
Assistant Registrar(Crl.side)

/True copy/

Sub Assistant Registrar

To

1.The Director of School Education,
DPI Compound,
College Road, Chennai.

2.The District Educational Officer,
Tirunelveli Education District,
Tirunelveli.



3.The District Educational Officer,
Tenkasi Education District, Tenkasi

4.The District Educational Officer,
Cheranmahadevi Education District,
Tirunelveli

Copy to: The Registrar (Judicial)
Madurai Bench of Madras High Court, Madurai.

W.A. (MD) No.1019 of 2013
and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1020 of 2013
and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1021 of 2013
and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1022 of 2013
and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1023 of 2013
and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1025 of 2013
and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1026 of 2013
and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1027 of 2013
and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1029 of 2013
and M.P (MD) Nos.2 of 2013 and 1 of 2014
and
W.P (MD) No.13074 of 2013
and M.P (MD) No.1 of 2013

24.11.2016

W.A. (MD) No.1019 of 2013 and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1020 of 2013 and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1021 of 2013 and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1022 of 2013 and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1023 of 2013 and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1025 of 2013 and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1026 of 2013 and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1027 of 2013 and M.P (MD) Nos.2 of 2013 and 1 of 2014
W.A. (MD) No.1029 of 2013 and M.P (MD) Nos.2 of 2013 and 1 of 2014

and

W.P (MD) No.13074 of 2013 and M.P (MD) No.1 of 2013
29.11.2016

+2cc to Mr.M.S.Chellapandian, Advocate Sr.No.72494

+1cc to special Government Pleader SR.No.72714

rsb