

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2017

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7291 of 2014

1.C.Loganathan
2.S.Senthil
3.M.Sasikumar
4.P.Indira Gandhi

...Petitioners

Vs.

1.The Additional Chief Secretary
to Government,
Secondary School Education,
Secretariat, Chennai-600 009.
2.The Secretary to Government,
Adi Dravidar & Tribal Welfare,
Secretariat, Chennai.
3.The Director,
Adi Dravidar and Welfare Department,
Chennai-5.
4.The Chairman,
Teachers Recruitment Board,
College Road, Chennai-6.
5.The Director of Employment Training,
Guindy, Chennai-32.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the third respondent dated 25.09.2013 vide proceedings No.Roc.01(2)/37584/2009-7, (Loganathan) Roc.01(2)/37584/2009-4 (S.Senthil,) Roc.01(2)/37584/2009-5, (M.Sasikumar) Roc.01(2)/37584/2009-6 (P.Indira Gandhi), respectively, and to quash the same and consequently issue appointment orders as Secondary Grade Teacher in the education institution run by the third respondent.

For Petitioner : Mr.S.Vijayakumar

For Respondents : Mr.K.Thangapandi
Government Advocate

O R D E R

The relief sought for in this writ petition is to call for the records pursuant to the order passed by the third respondent in proceedings dated 25.09.2013 and quash the same and direct the respondents to issue appointment orders as Secondary Grade Teachers in the education institution run by the third respondent.

2.The writ petition on hand falls on narrow campus in view of the fact that the writ petitioners were already been issued with the orders of appointment on completion of the selection process. The writ petitioners had not joined as per the orders of appointment issued to them.

3.The learned counsel appearing for the writ petitioners strenuously contended that the writ petitioners are not at fault. Infact, the writ petitioners have earlier filed a writ petition in W.P.No.34583 of 2012 before this Court and this Court passed an order dated 21.12.2012, directing the respondents to consider the representation submitted by the writ petitioner on 07.12.2011 and pass appropriate orders, on merits and in accordance with law and in terms of the recommendations made by the first respondent dated 30.12.2011, within a period of eight weeks from the date of receipt of copy of the order. Pursuant to the directions ordered by this Court, the respondents considered the claim of the petitioner and rejected the same in proceedings dated 25.09.2013 in Na.Ka.No.01(2)/37584/2009-7. That impugned order is under challenge in this writ petition.

4.This Court has to consider the very admission by the writ petitioners in their affidavit filed in support of the present writ petition. In paragraph 3A of the affidavit, the petitioners have stated as under:

"I submit that the petitioners herein belong to SC community. In pursuance of the notification issued by the fourth respondent for the year 2009-10 for appointment to the post of Secondary Grade Teacher, they were called for an interview as sponsored by the fifth respondent herein. Consequent upon the same, they participated in the interview and ultimately they were selected by the fourth respondent and allotted to Adi Dravidar Welfare Department, the third respondent herein. Though they were allotted to Adi Dravidar Welfare Department, none of the petitioners have joined the selected post on account of various reasons. The fourth respondent selected the petitioners for appointment as Secondary Grade teacher, but ultimately they were allotted to Adi Dravidar Welfare Department for some other work.

Since all of them were interested in teaching, they were not provided employment in the Secondary Grade School, as a result of which they have not joined the duty."

4. Though an order of appointment was issued to the writ petitioners, they have preferred not to join in the post in which they were appointed and have chosen to submit a representation to the respondents claiming that they should be posted in educational institution as Secondary Grade teachers. Thus, the writ petitioners were not interested to accept the appointment made by the respondent in this regard. Once an order of appointment was issued and the candidate appointed not joined in the post accepting the offer of appointment, then it is to be implied that the candidate is not interested and accordingly the candidates who received the order of appointment loses the right in respect of their appointment. Even as per the learned counsel appearing on behalf of the writ petitioner, the order of appointment for the writ petitioner was issued in the year 2009 and the writ petitioners had not joined in the post on their own volition and not at the instance of the respondents. Thus, the respondents cannot be blamed for non-joining by the writ petitioner. If these writ petitioners were not interested in joining in the post allotted to them, then it is to be inferred that the writ petitioners were not interested in joining in the post as per the order of appointment issued by the respondent. Now, after a lapse of about eight years, this Court is not inclined to consider the claim of the writ petitioners for issuing a direction to appoint the writ petitioners as secondary grade teachers. It is for the writ petitioners to participate in the open competitive process for appointment for the post of secondary grade teachers and secure employment as per their own mission. Thus, no further adjudication is required in this writ petition.

5. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To

1.The Additional Chief Secretary
to Government,
Secondary School Education,
Secretariat, Chennai-600 009.

2.The Secretary to Government,
Adi Dravidar & Tribal Welfare,
Secretariat, Chennai.

3.The Director,
Adi Dravidar and Welfare Department,
Chennai-5.

4.The Chairman,
Teachers Recruitment Board,
College Road,
Chennai-6.

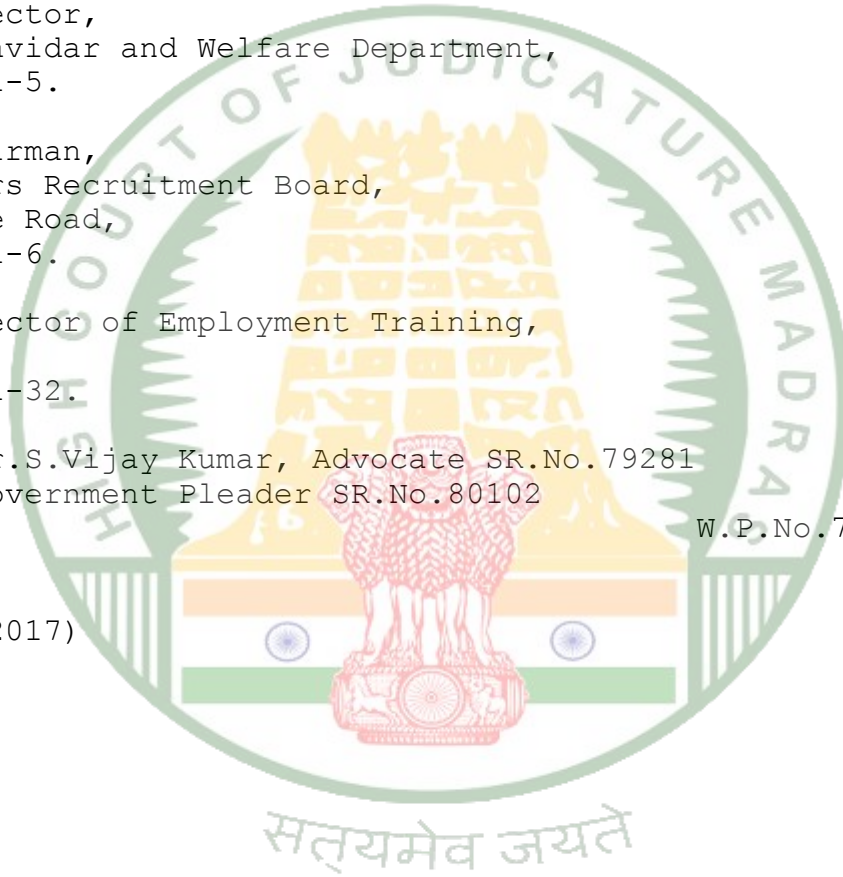
5.The Director of Employment Training,
Guindy,
Chennai-32.

+1cc to Mr.S.Vijay Kumar, Advocate SR.No.79281

+1cc to Government Pleader SR.No.80102

W.P.No.7291 of 2014

RSI (CO)
GN(29/11/2017)



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