

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: **31.08.2017**

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.1163 of 2010

1.A.Ilampooranan

2.T.Ashok Kumar

3.S.Suresh

.. Petitioner

Vs.

1.State rep. By its Secretary
Personal and Reform Department
Secretariat, Fort St. George
Chennai – 9

2.The Commissioner
Employment & Training
Guindy, Chennai- 3

3.The Chairman
Teachers Recruitment Board
DPI Campus, College Road
Nungambakkam, Chennai – 6

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the eligible candidates sponsored with the 3rd respondent for the post of special teacher (physical education) by virtue of notification published in the Daily Thanthi, dated 25.07.2009 and consequential list published by the 3rd respondent dated 22.12.2009 and consequently consider the names of the petitioners based on the educational qualification besides the priority status enjoyed by them which are endorsed in the employment cards.

For Respondents : Ms.Vasudha Thiagarajan for R1 to R3

ORDER

This writ petition pertains to list of candidates nominated for the post of physical education teacher (seniority date wise). This list is dated 22.12.2009 and has been published by the Teachers Recruitment Board, Chennai, which is Respondent No.3 before me.

2. Three writ petitioners have come before this Court with a prayer to mandamus the respondents 1 and 2 before me i.e., State of Tamil Nadu and Commissioner of Employment and Training (hereinafter referred to as 'Employment Exchange') to nominate them also for inclusion in the above said list published by the third respondent. The above said list is hereinafter referred to as the 'said list' for the sake of convenience and clarity.

3. In sum and substance, the case of the writ petitioners is that there are about 9 categories which are classified as 'priority category' and that all the three writ petitioners ought to have been included in the said list by virtue of belonging to priority category. There is also an ancillary plea with regard to priority category falling in various communities. The respondents do not maintain any seniority list within the above said priority categories, is the complaint.

4. This writ petition was listed before me on 07.07.2017, on

which date I recorded the proceedings and passed an order, which read as follows:

"No representation on behalf of the writ petitioner. Counter affidavit has been duly filed by Respondent No.2. Post for dismissal, whenever the matter is listed in due course."

5. It is also relevant to refer to the earlier proceedings recorded by this Court on 15.02.2017, when the matter was listed before another Hon'ble Judge and the same read as follows:

"None appears on behalf of the parties. Post after two weeks."

The above proceedings/order speak for themselves.

6. Today also when the matter was listed and called, there was no representation on behalf of the writ petitioners. However, the learned Additional Government Pleader Ms.Vasudha Thiagarajan was present on behalf of all the three respondents and was ready to argue the matter.

7. To be noted, a counter affidavit has also been filed by the official respondents and therefore, the pleadings are complete.

8. The writ petition has been pending in this Court for over 7 years now. Adjourning such matters for mere non-appearance of the writ petitioners' counsel, in spite of being given opportunity, not once, but twice, would only add to avoidable delays in disposal of other matters. It also adds to arrears, which also is clearly avoidable. Therefore, I proceed to examine the matter on the basis of the records placed before me as

well as on the basis of the submission of the State counsel i.e., the learned Additional Government Pleader Ms.Vasudha Thiagarajan.

9. The factual matrix, which is the crux and gravamen of the writ petition, has been set out supra in the opening paragraphs of this order. Therefore, I do not refer to the same again to avoid repetition. The crux and gravamen of the writ petition which has been extracted supra has been articulated in grounds 'C' and 'D' of the writ affidavit which may be usefully extracted. Grounds 'C' and 'D' of the writ affidavit read as follows:

"C) It is submitted that insofar as the priority category is concerned, there are Nine categories viz., Destitute widows (DW); Inter-cast Married Couple (ICM); Ex-Servicemen Dependents of Ex-Servicemen (DEX); Repatriates from Burma/Sri Lanka (BR/CR); Dependants of those whose land was acquired by government (LA); Discharged Government Servants (DGE-S); Physically handicapped (PH); Orphan (Orphan); inmates and ex-inmates (infronted Homes) (Ex-mate);

D) The discrepancy besides arbitrariness adopted by the respondents is that when candidates are reconsidered under priority category falling in various communities, the respondent do not maintain any seniority list within the above priority categories."

10. Interestingly and intriguingly in the affidavit filed in support of the writ petition, the writ petitioners have not stated anywhere as to which of the priority categories they belong to. The affidavit filed in

support of the writ petition is completely silent. However, in the counter affidavit, those details have been clearly set out in Paragraph 3. From paragraph 3, it is clear that Writ Petitioner No.1 i.e., A.Ilampooranan and Writ Petitioner No.3 i.e., S.Suresh belong to one of the 9 priority categories, namely the category that goes by the name 'Dependants of those whose land was acquired by the Government' and is referred to as "LA" in short form. I deem it appropriate to extract Paragraph 3 of the counter affidavit which reads as follows:

"3. It is submitted that the petitioners have registered their Educational qualifications in the District Employment Office at Thiruvannamalai. As per the records maintained in that office, the registration particulars are as follows:-

*Name : A.ILAMPOORANAN
Registration No : 526/2003
Date of Birth : 27.04.1982
Community and category : Open Competition -
Priority (Land Acquisition)
Qualifications registered with Seniority : PET SF 24.07.2006*

*Address : S/o.Adiyappadoss,
1/18, Jain Street,
Agrakakottai Village,
Thellar Post
Vandavasi Taluk,
Thiruvannamalai*

District

*Name : T.ASHOK KUMAR
Registration No : 3825/2001*

*Community and category : Backward Class Non-
Priority*

Qualifications registered with Seniority : PET SF 15.10.1998

Address : S/o.D.Thangamani,

3-A, Yadavar Street,
Konnamangalam Village,
Semmambadi Post,
Vandavasi Taluk,
Thiruvannamalai District.

Name : S.SURESH
Registration No : 1997M05125
Date of Birth : 19.05.1979
Community and category : Open Competition -
Priority (Land Acquisition)
Qualifications registered with Seniority : PET SF 21.07.2004
Address : S/o. Late Seshadri
Brahmin Street,
Thaiyar Village & Post
Thellar Via,
Vandavasi Taluk,
Thiruvannamalai District."

11.The most important aspect of the matter is, Writ Petitioner No.2 i.e. T.Ashok Kumar does not belong to any one of the priority categories. Furthermore, in the counter affidavit, it has now been averred that writ petitioners 1 and 3 have been nominated by the second respondent i.e., the Employment Exchange vide letter dated 13.03.2002. It has been further averred that Respondents 1 and 3 also participated in certificate verification on 22.04.2012. I deem it appropriate to extract the relevant paragraph in Counter Affidavit, which reads as follows:

"8.....It is submitted that the petitioners Ilampooranan and Suresh have been nominated by the 2nd respondent during the year 2012 in the letter Tho.Pa.No.46871/2011 dated 13.03.2002 (Copy enclosed) and these petitioners have also participated in the certificate verification on 22.04.2012. The other petitioner T.Ashok Kumar is a non-priority B.C Candidate and not within the purview of nomination. Hence not nominated."

12. Therefore, the prayer of two of the three writ petitioners has been answered / acceded to as writ petitioners 1 and 3 have since been nominated in the priority category in the said list and they have also participated in Certificate verification. With regard to Writ Petitioner No.2, the question of including him in one of the nine priority categories does not arise because he does not belong to any one of the priority categories as is evident from the counter affidavit before me. To be noted, writ petitioners have not filed any reply affidavit/rejoinder refuting the assertion in this regard in the counter affidavit.

13. To be noted, as already alluded to supra, the writ affidavit is silent about the priority category to which each of the writ petitioners belong. It has been very clearly set out that writ petitioners 1 and 3 belong to LA category in the counter affidavit. The learned Additional Government Pleader also has fairly drawn my attention to the same.

14. As those writ petitioners (writ petitioners 1 and 3) have now been included in the priority category and participated in the certificate verification, I am of the view that the writ petition has virtually been carried to its logical end, qua writ petitioners 1 and 3.

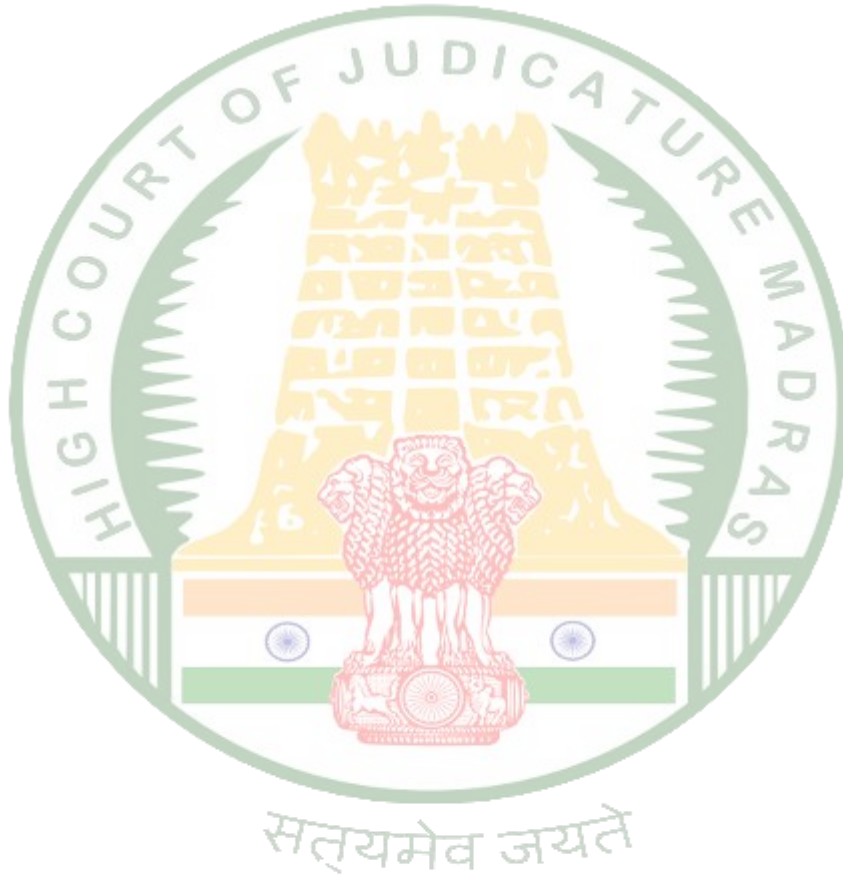
15. Therefore, it would suffice if the above submission is recorded and the writ petition is disposed of.

In the result, the writ petition is disposed of on above terms.

No costs.

31.08.2017

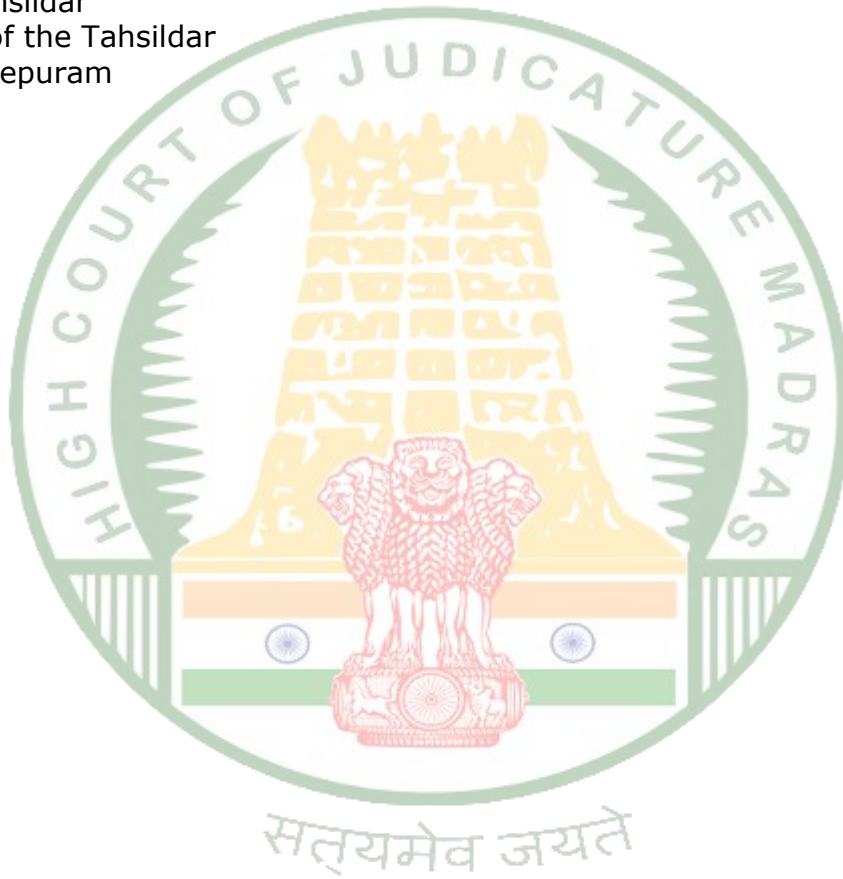
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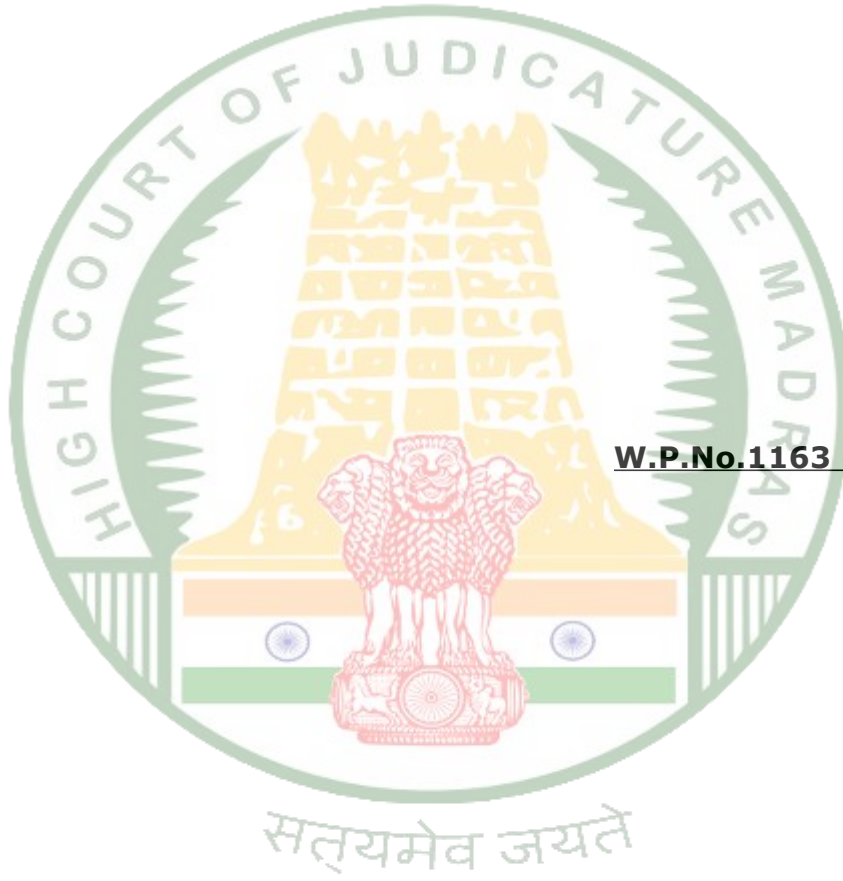
- 1.The Revenue Divisional Officer
Kancheepuram District, Kancheepuram
2. The District Collector
Kancheepuram District at
Kancheepuram
- 3.The Tahsildar
Office of the Tahsildar
Kancheepuram



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M.SUNDAR, J.,

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