

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.09.2017

CORAM

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

W.P. No.8428 of 2016 &

WMP No.7475 of 2016

Dr.Ambedkar Marumalachi Kazhagam

rep. By its President G.Nagalingam

.. Petitioner

Vs

1 The Chief Secretary to Government
Government of Puducherry
Chief Secretariat, Puducherry.

2 The Principal
Pondicherry Engineering College
Puducherry.

3 N.S.Jayapauk
Chairman, Pondicherry Engineering College
Puducherry.

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus, to forbear the third respondent from appointing daily rated N.M.Rs in the Pondicherry Engineering College, Puducherry.

For Petitioner : Mr.M.Gnanasekar

O R D E R

The petitioner has come forward with this Writ Petition to forbear the third respondent from appointing daily rated N.M.Rs in the Pondicherry Engineering College, Puducherry.

2. In the affidavit filed in support of this Writ Petition it is stated that though this Court in several Judgement held that back door appointments should not be made, without following the Recruitment Rules and without calling for candidates from the Employment Exchange, in violation of the Recruitment Rules, large scale appointments are made in the Government of Puducherry and the third respondent, without any authority of law, had attempted to make recruitments by engaging nearly 66 persons as daily rated employees in the Pondicherry Engineering College, which was not accepted by the respondents 1 & 2 and thus, prayed that the third respondent should be prevented from making such appointments.

3. In the matter of appointment made through the back door entries, the authoritative pronouncement of the Constitutional Bench of the Hon'ble Supreme Court in STATE OF KARNATAKA AND ORS. v. UMA DEVI (3) & ORS. [(2006) 4 SCC 1], held that any back door entry for public employment to be deprecated and such a practice amounts to violation of Article 14 and 16 of the Constitution of India and all public appointments to be made in accordance with the Recruitment Rules by providing equal opportunities to all citizens of this Great Nation. No authority is competent to provide appointment in violation of the Constitutional Scheme or the Recruitment Rules in force. It is needless to state that even for temporary appointments, the same is to be provided based on the need basis and for a specific project or Scheme. On completion of such Project or Scheme, such an employee appointed on contract basis, deserves to be ousted and no right can be claimed on the basis of such contract appointment.

4. In this view of the matter, the Hon'ble Supreme Court has reiterated and emphasized that the Public Employments are to be provided by following the Constitutional schemes and Recruitment Rules in force and no back door entry to be made and the employees appointed through back door are to be sent out from the door from which they entered and no leniency can be shown for the persons who got Public Employment without following the Rules in force. Thus, the prayer as such sought for against the third respondent to forbear him from appointing persons through back door entry and to appoint persons by following the Recruitment Rules in force, is to be considered.

5.In this view of the matter, this Court is of the firm opinion that no public authority of the State or Union is empowered to make any back door appointment contrary to the Recruitment Rules in force. Thus, the direction as sought for is general in nature and in view of the observations made above, no further directions are required.

With the above observations, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Rpa

Sd/-
Assistant Registrar (CCC)
/TRUE COPY/
Sub-Assistant Registrar

To

- 1 The Chief Secretary to Government
Government of Puducherry
Chief Secretariat, Puducherry.
- 2 The Principal
Pondicherry Engineering College
Puducherry.

+1CC to Mr.M.Gnanasekar Advocate SR.NO.66204

W.P. No.8428 of 2016

EV[CO]
MK:03/10/2017

सत्यमेव जयते

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