



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. (MD) No.3 of 2015

and

M.P. (MD) No.1 of 2015

1.Secretary to Government,
Department of Education,
Government of Tamil Nadu,
Fort.St.Gerorge,
Chennai - 600 009.

2.The Secretary,
Tamil Nadu Teachers Recruitment Board,
College Road,
Chennai-600 006.

... Appellants

Vs.

1.V.Rajan

2.The Commissioner,
Tamil Nadu State Physically
Handicapped Persons Welfare,
No.15/1, Model School Road,
Thousand Lights,
Chennai-600 006.

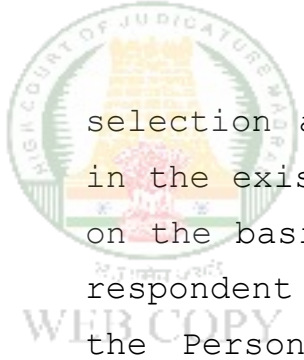
3.District Disabled Rehabilitation Officer,
Nagercoil-629 001.

... Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to allow the writ appeal by setting aside the order passed by this Court in W.P.(MD)No.1906 of 2010, dated 19.12.2013.

Prayer in WP(MD) . 1906/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, by directing the respondents 1 and 2 for the nomination,



selection and appointment of the petitioner as the Drawing Teacher in the existing vacancies by considering the name of the Petitioner, on the basis of the letter dated 29-12-2009 addressed by the fourth respondent to the third respondent in the reservation at 3% under the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act 1995, within a time frame as may be fixed by this Honourable Court.

For Appellants : Mr.T.S.Mohamed Mohideen
Additional Government Pleader

For Respondents 2&3 : Mr.N.Subramanian

JUDGMENT

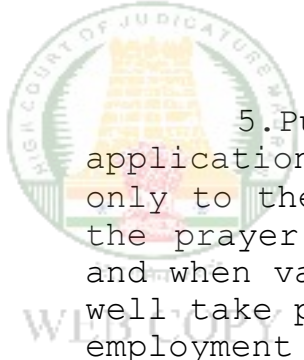
[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

The Secretary to Government, Department of Education and Government of Tamil Nadu has filed this Writ Appeal, challenging the order dated 19.12.2013 in W.P.(MD)No.1906 of 2010 passed by the learned Single Judge.

2.The first respondent belongs to Scheduled Caste Community. He possessed the qualifications required for being appointed as a Drawing Teacher. He registered himself with the District Employment Exchange, Kanyakumari District. He met with an accident and hence, he has now become physically challenged. But, when vacancies arose in the post of Drawing Teacher, his name did not find place in the State Level List, who are physically challenged. Therefore, he could not compete in the 3% quota for disabled persons. Hence, he filed Writ petition in W.P.(MD)No.1906 of 2010. The said writ petition was disposed of with a direction to revise the State Level Seniority List in accordance with District Level Seniority List by including the name of the writ petitioner and two others and also to consider him for selection to the said post in any existing or future vacancies. Aggrieved by this direction, this Writ Appeal has been filed.

3.Though the contention taken in the grounds of Writ Appeal is on the footing that it is only the employment exchange which is competent to decide the issue and that without making employment exchange as a party to the writ petition, such a direction could not have been issued, this Court is of the view that the issue can be resolved on a different footing altogether.

4.The Honourable Supreme Court has reiterated in **State of M.P. Vs. Sandhya Tomar (2013) 11 SSC 357** that considering only the person sponsored by the employment exchange would not meet the requirements of Articles 14 and 16 of the Constitution of India.



5.Public Employment will have to be filled up by inviting applications from all eligible candidates. It cannot be confined only to the list sponsored by the employment exchange. Therefore, the prayer sought for by the writ petitioner is misconceived. As and when vacancies arise in the post of drawing teacher, he can very well take part in the same, even if his name is not sponsored by the employment exchange.

6.Therefore, in this view of the matter, the direction issued by the learned Judge is not really warranted. In any event, such a direction could not have been issued, when the employment exchange was not even a party.

7.This Court, therefore, sets aside the order dated 19.12.2013 made in W.P.(MD)No.1906 of 2010. This writ appeal is accordingly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(A.E)

/True Copy/

Sub Assistant Registrar

To:

1.The Commissioner,
Tamil Nadu State Physically
Handicapped Persons Welfare,
No.15/1, Model School Road,
Thousand Lights,
Chennai-600 006.

2.District Disabled Rehabilitation Officer,
Nagercoil-629 001.

+1cc to Mr.N.SUBRAMANIAN Advocate in SR. No.70470

RMI/GNS

JS/MR.KKR/SAR.3/05.12.2017/3P-4C

**Judgment made in
W.A. (MD) No.3 of 2015
04.08.2017**