



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.06.2017
CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A(MD)Nos.390 of 2017 and 226 to 228 of 2017
and

C.M.P. (MD)No.3491 of 2017 in W.A. (MD)No.390 of 2017,
2365 of 2017 in W.A. (MD)No.226 of 2017,
2366 & 2367 of 2017 in W.A. (MD)No.227 of 2017 and
2368 & 2369 of 2017 in W.A. (MD)No.228 of 2017

W.A. (MD)No.390 of 2017:

1.The Secretary to Government,
Education Department,
State of Tamil Nadu,
St. Fort George,
Chennai - 09.

2.The Director,
Teacher's Education Research and Training,
Chennai - 06.

3.The Principal,
District Teachers Education and Training Institute,
Munanjipatti,
Tirunelveli District.

: Appellants/Respondents 1 to 3

Vs.

1.G.Mahendran David

:1st Respondent/Writ Petitioner

2.The Correspondent,
Sarah Tucker Teacher Training Institute,
Palayamkottai,
Tirunelveli.

:2nd Respondent/4th Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying to set aside the order dated 19.09.2016 made in W.P. (MD) No.17637 of 2016.

Prayer in WP(MD). 17637/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus call for the records in respect of order passed by 3rd respondent in Na.Ka.No.890/E/2014 dated 14.08.2014 and consequential order passed in Na.Ka.No.979/E/2013 dated 04.12.2015 and quash the same and consequently direct the 3rd respondent to approve the appointment of petitioner as office



assistant at 4th respondent and disburse all the service and monetary benefits from 17.07.13 in accordance with the provisions Tamil Nadu Private School Regulation Act and Rules.

WEB COPY

For Appellants : Mr.V.R.Shanmuganathan,
Special Government Pleader
For Respondent No.1 : Mr.T.A.Ebenezar
For Respondent No.2 : No Appearance

W.A. (MD) No.226 of 2017:

- 1.The Secretary,
School Education Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai.
- 2.The Director of Teacher Education Research and Training,
DPI Campus, College Road,
Chennai.
- 3.The Regional Accounts Officer (Audit),
School Education Department,
Madurai.
- 4.The Principal, District Institute of Education and Training,
Munanjipatti,
Tirunelveli District. : Appellants/Respondents 1 to 4

Vs

- 1.Mariyal : 1st Respondent/Writ Petitioner
- 2.The Correspondent, Ooliyasthanam Teacher Training Institute,
Gandi Nagar,
Tirunelveli - 06. : 2nd Respondent/5th Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying to set aside the order dated 15.03.2016 made in W.P. (MD) No.12508 of 2011.

Prayer in WP(MD). 12508/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to pay the salary from June 2005 with all the timely increments from the grant in aid as Office Assistant to the petitioner within stipulated time as may be fixed by this Honourable Court.

For Appellants : Mr.V.R.Shanmuganathan,
Special Government Pleader
For Respondent No.1 : Mr.T.A.Ebenezar
For Respondent No.2 : Mr.S.Chellapandian

W.A. (MD) No. 227 of 2017:

1. The Secretary,
School Education Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai.
2. The Director of Teacher Education Research and Training,
DPI Campus, College Road,
Chennai.
3. The Regional Accounts Officer (Audit),
School Education Department,
Madurai.
4. The Principal, District Institute of Education and Training,
Munanjipatti,
Tirunelveli District. : Appellants/Respondents 1 to 4
Vs.

1. Mariyal : 1st Respondent/Writ Petitioner
2. The Correspondent, Ooliyasthanam Teacher Training Institute,
Gandi Nagar,
Tirunelveli - 06. : 2nd Respondent/5th Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying to set aside the order dated 15.03.2016 made in W.P. (MD) No. 2041 of 2014.

Prayer in WP (MD). 2041/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Order passed by the 4th respondent in his Proceedings in Na.Ka. No. 14080/E3/2008 dated 21.11.2013 and quash the same and consequently direct the respondents to pay the salary from June 2005 to till date within stipulated time as may be fixed by this Honourable Court.

For Appellants	: Mr.V.R.Shanmuganathan, Special Government Pleader
For Respondent No.1	: Mr.T.A.Ebenazar
For Respondent No.2	: Mr.S.Chellapandian

W.A. (MD) No. 228 of 2017:

1. The Secretary to Government,
School Education Department,
Government of Tamil Nadu,
Secretariat, St. Fort George,
Chennai - 09.



2.The Director of Teacher's Education Research and Training,
College Road,
Chennai - 06.

3.The Principal, District Institute of Education and Training,
Vanaramutti,
Thoothukudi District.

: Appellants/Respondents 1 to 3
Vs.

1.Ananda Kumar :1st Respondent/Writ Petitioner

2.The Correspondent, St.Johns Teacher Training Institute,
Nazareth 628 617,
Thoothukudi District. :2nd Respondent/4th Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent,
praying to set aside the order dated 15.03.2016 made in W.P.(MD)
No.23524 of 2015.

Prayer in WP(MD). 23524/ 2015 :

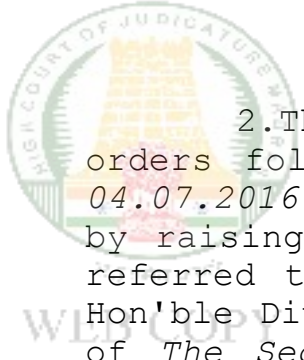
Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a Writ of
Certiorarified Mandamus calling for the records pertaining to the
order passed by the 3rd respondent in his proceedings in
O.Mu.No.447/A3/2008, dated 4.7.2008 and quash the same as illegal
and consequently direct the respondents to approve petitioners
appointment in 4th respondent institute as Laboratory cum Workshop
Assistant from the date of joining on 9.3.2005 and to pay all the
service and monetary benefits within stipulated time.

For Appellants	: Mr.V.R.Shanmuganathan, Special Government Pleader
For Respondent No.1	: Mr.T.A.Ebenazar
For Respondent No.2	: No Appearance

COMMON JUDGMENT

(Judgment of the Court was delivered by T.S.SIVAGNANAM, J.)

These Writ Appeals in W.A.(MD)Nos. 390, 226, 227 and 228 of
2017, by the State are directed against the orders in W.P.(MD)
Nos.17637 of 2016, 12508 of 2011, 2041 of 2014 and 23524 of 2015
respectively. These Writ Petitions were filed by the first
respondents herein, praying for issuance of Writs of
Certiorarified Mandamus and to quash the same.



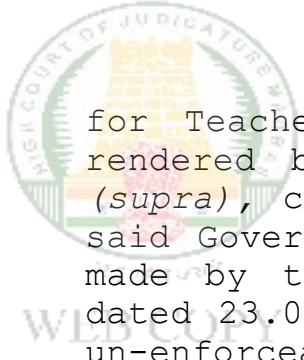
2. The said writ petitions were allowed by the impugned orders following the decision in *W.P.(MD)No.11577 of 2016* dated 04.07.2016. The State is on appeal as against the impugned orders by raising only one contention namely, that the earlier decision referred to by the learned Single Judge and the judgment of the Hon'ble Division Bench referred to by the respondent in the cases of *The Secretary to Government, Education Department and others Vs. A.Maria Selvam* in *W.P.(MD)Nos.888 of 2014 etc.*, batch dated 21.07.2015, were made applicable to the cases of the respondents, as those decisions arose out of orders passed in respect of Aided Schools, both Minority and Non-minority. Whereas, in the case of the respondent/Writ Petitioner, they are Teacher Training Institutions. Thus, the above is the only distinction which is sought to be made, so as to non-suit the respondents and to contend that the decision of the Division Bench in the case of *A.Maria Selvam (supra)* would not apply to the facts and circumstances of this case.

3. We have heard the learned counsels for the respondents.

4. In our considered view, the distinction which is sought to be made by the appellant Government is not tenable for more than one reason. Firstly, the problem arose on account of earlier decision taken by the Government in banning recruitment for several categories of posts throughout the State by order dated 29.11.2001. The order was in force till 07.02.2006. Though, it was lifted, the Government vide order dated 26.05.2006, reiterated the ban orders, which related to appointment of Non-teaching Staff such as Junior Assistants, Record Clerks, Office Assistants, Sweeper, Gardener, Waterman, Watchman etc.,. This was put to challenge by aggrieved persons and the Government Order was quashed. Thereafter, the Government passed various Government Orders one of that being *G.O.Ms.No.203* dated 23.07.2010, wherein, the Government took a decision that certain category of posts such as Watchman, Gardener cum Sweeper, Scavenger etc., are required to be out-sourced. These orders were put to challenge along with similar Government Orders and all orders were set aside.

5. Ultimately, the Division Bench in the case of *A.Maria Selvam (supra)*, considered the batch of cases, wherein, review petitions were also tagged along, which arose due to orders passed in various writ petitions pertaining to approval of appointments in Non-teaching posts by Minority and Non-minority Aided Institutions and the Government Appeal has been dismissed by judgment dated 21.07.2015.

6. Consequently, when we perused the Government Order in *G.O.Ms.No.40, School Education (U2) Department*, dated 14.03.2013, <https://www.seiaonline.org/india-services/> pertains to Teacher Education Institutions. The learned Special Government pleader would strenuously contend that this is the Government Order which has been passed specifically



for Teacher Education Institutions and therefore, the decision rendered by the Division Bench in the case of *A.Maria Selvam (supra)*, cannot be made applicable. However, on a perusal of the said Government order it is seen that it reiterates the proposal made by the Government in respect of schools in G.O.Ms.No.203 dated 23.07.2010. The said Government order has been held to be un-enforceable and the sanctioned posts have been permitted to be filled up.

7. Therefore, the decision rendered by the Division Bench in the case of *A.Maria Selvam (supra)*, would equally apply to Teacher Education Institutions as all the educational institutions fall under the very same Education Department and all the institutions were commonly imposed with ban of recruitment and similar directions issued to the schools to fill up the relevant posts by out-sourcing was held to be untenable. And in such circumstances, merely because the respondents are Teacher Education Institutions, or persons employed by them, there can be no distinction between both set of employees. Therefore, the present issue is clearly covered by the decision of the Division Bench in the case of *A.Maria Selvam (supra)*, and it was dismissed.

8. Accordingly, these Writ Appeals stand dismissed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub-Assistant Registrar

To

1. The Secretary to Government, Education Department,
State of Tamil Nadu, St. Fort George, Chennai - 09.
 2. The Director, Teacher Education Research and Training,
DPI Campus, College Road, Chennai.
 3. The Regional Accounts Officer (Audit),
School Education Department, Madurai.
 4. The Principal,
District Teachers Education and Training Institute,
Munanjipatti, Tirunelveli District.
 5. The Principal, District Institute of Education and Training,
Vanaramutti, Thoothukudi District.
- +2 ccs to Mr.T.A.Ebenezer, Advocate, SR.Nos.59813 and 59812
+One cc to Mr.S.Chellapandian, Advocate, SR.No.59927

MR

RL/9C/6P/MR/KKR/SAR1/10/7/2017

COMMON JUDGMENT MADE IN
W.A(MD)Nos.390 of 2017
and 226 to 228 of 2017
12.06.2017