



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P (MD) No.12755 of 2017

and

W.M.P. (MD) No.9865 of 2017

1.M.Karthikeyan

2.B.Ganesan

... Petitioners

vs.

1.The State of Tamil Nadu

Rep. by its Principal Secretary / State Project Director,
Sarva Shiksha Abhiyan, D.P.I. Campus,
College Road, Nungambakkam,
Chennai-600 006.

2.The Chief Educational Officer,

O/o. the Chief Educational Officer
Madurai-625 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Orders in Rc.No.394/2017/A15 on the file of the respondent no.1 dated 04.05.2017 along with impugned notifications in Oo.Mu.No.756/A6/2017 and Oo.Mu.No.757/A6/2017 on the file of the respondent no.2 dated 20.03.2017 and quash the both as illegal and consequently for a direction, directing the respondents to appoint the petitioners in the existing vacancies for Part-time Art Education Teacher in the District upon consideration of their candidature.

For Petitioners : Mr.T.Lajapathi Roy

For Respondents : Mr.D.Muruganatham

Additional Government Pleader

O R D E R

By consent of both sides, this writ petition itself is taken up for final disposal.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

3. This is the second round of litigation by the petitioners.



4. The present writ petition has been filed challenging the impugned order, dated 04.05.2017, passed by the first respondent/State Project Director, Sarva Shiksha Abhiyan, Chennai, in Rc.No.394/2017/A15, in and by which, the first respondent/the State Project Director has stated that there are no vacancies for the post of Part-time Art Instructors in Madurai District, at present. However, when number of eligible schools are taken into consideration, as per the Right of Children to free and Compulsory Education Act, 2009, the request of the petitioner has been rejected on merits.

5. The learned counsel for the petitioner, assailing the said reason given therein, drawing the attention of this Court to a communication dated 20.03.2017 issued by the Chief Education Officer, Madurai, in his proceedings dated 28.12.2011, has admitted the availability of vacancies for the post of Part-time Instructors. Therefore, he submitted that a direction may be given to fill up all those vacancies.

6. But, this Court is unable to espouse the said contention for the following reasons:

(i) Firstly, when the petitioner came to this Court with a writ petition in W.P.(MD)No.3455 of 2017 with a prayer for issuance of Writ of Mandamus, directing the respondents therein, namely, the respondents 1 and 2 to appoint the petitioners in the existing vacancies for the post of Part-time Art Instructors in the District upon consideration of their candidature, the learned counsel appearing for the petitioners submitted that a direction may be issued to consider the petitioners' representation, dated 01.02.2017. Accepting the limited sope of the prayer in the said writ petition, this Court, without expressing any opinion on the merits of the matter, directed the representation of the petitioners dated 01.02.2017 to be disposed of within a period of eight weeks. Pursuant thereto, the present impugned order has been passed on 04.05.2017 by the State Project Director, Chennai.

(ii) Secondly, a perusal of the impugned order shows that as per Right to Education Act 2009, 159 Part Time Instructor posts were initially sanctioned to Madurai District for the year 2011-12, based on students strength at the time as stipulated in Right to Education, Act. These were reduced to 133 in the year 2014-2015 by MHRD. The order further shows that Part Time Instructors were appointed in Government Schools, according to Students strength, in 6 to 8 classes, duly following the recruitment process in force. As no permission was granted by the Ministry of Human Resources Development, thereafter, further recruitment was not done, after February 2013 till date.

https://hcservices.ecourts.gov.in/hcservices/1
Accordingly, the filing up of the vacancies can be ordered by the State Government, after arriving at the vacancies, as per



Rules and Norms from time to time. The first respondent/the State Project Director, while considering the representation of the petitioner, came to the conclusion that there are no vacancies for the post of Part-time Instructors at Madurai District, at present. On this basis, rejected the request of the petitioner.

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7. In view of the foregoing reasons and pursuant to the order passed in W.P.(MD)No.3455 of 2017, dated 09.03.2017, this Court is not inclined to revisit the same prayer, which was already considered by this Court. Therefore, this writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To

1.The Principal Secretary / State Project Director,
Sarva Shiksha Abhiyan,
D.P.I. Campus,
College Road,
Nungambakkam,
Chennai-600 006

2.The Chief Educational Officer,
O/o. the Chief Educational Officer
Madurai-625 002.

+One cc to Mr.T.Lajapathi Roy, Advocate, SR.No.64774

+One cc to The Special Government Pleader, SR.No.64982

Mrn/RR

RL/5c/3p/KK/SAR1/10/11/2017

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and

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