



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2018

CORAM:

WEB COPY

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A. (MD) .No.1586 of 2016

and

C.M.P. (MD) No.11843 of 2016

1.J.Siva

2.P.Murugeshwari

3.V.Kumar

4.K.Chandran

5.K.Suriyan

6.P.Munishkumar

... Appellants

Vs.

1.K.Ganesan

2.The Director of School Education,
DPI Complex, College Road,
Chennai-600 006.

3.The Chief Educational Officer,
Madurai District,
Madurai.

4.The District Educational Officer,
Madurai Educational District,
Madurai.

5.The District Educational Officer,
Melur Educational District,
Madurai.

6.The District Educational Officer,
Usilampatti Educational District,
Madurai.



7.P.Muthuselvi

8.M.Soundarajan

... Respondents

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, to set aside the order in W.P.(MD)No.14108 of 2013 dated 24.09.2014.

Prayer in WP(MD). 14108/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Certiorarified Mandamus, calling for the records of the 5th respondent dated 23.11.2012 pertaining to the selection process of appointments of basic servants in Government Schools within the Usilampatti Educational District, in particularly for the appointments of watchman and sweeper for the year 2012 and quashing the same as illegal and unconstitutional, and consequently directing the respondents to make fresh appointments in accordance with law and consider the name of the petitioner for the appointment of watchman.

For Appellants	: Mr.T.Lajapathi Roy
For Respondent No.1	: Mr.Balamurugan
For Respondents 2 to 6	: Mr.D.Muruganantham
	Additional Government Pleader

JUDGMENT

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

Heard Mr.T.Lajapathi Roy, learned counsel appearing for the appellants, Mr.Balamurugan, learned counsel appearing for the first respondent and Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents 2 to 6. The learned counsel for the appellants submits that he has given up respondents 7 and 8 and he has also made an endorsement in the memorandum of grounds of appeal, as they were also similarly placed persons, and that the appellant is not interested in prosecuting the case before this Court by way of writ appeal against the respondents 7 and 8.

2.The first respondent/writ petitioner had filed the writ petition, to quash the orders of appointment issued by the fifth respondent, District Educational Officer, Usilampatti Educational District, Madurai, as the appointment was totally illegal and done based on the recommendations given by the politicians, Ministers, M.L.A.s, etc, and the Court conducted a through exercise and found that the appointments are not sustainable. The appellants, though served notice in the writ petition, did not contest the writ petition and remained ex-parte. The Court, after taking into



consideration, the entire factual matrix, disposed of the writ petition by passing the following order/direction.

"45. In the result, the writ petition is disposed of in the following terms:

(i) The appointments of Respondents 7, 9, 10, 11, 12 and 13 are hereby set aside. The 5th respondent is at liberty to make fresh selection as against these vacancies and while doing so, the petitioner shall be considered for selection, on the basis of merit.

(ii) It is directed that Mr. Xavier Dhanraj, Superintendent of Police, Vigilance and Anti-Corruption (Southern Region), Tamil Nadu, shall hold Vigilance Enquiry into the above episode, more particularly about the selection of watchmen as well as sweepers, in the light of the recommendation letters which are available on file and submit a detailed Vigilance Enquiry Report to the Government in respect of the above episode and thereafter it shall be for the Government to take appropriate action against the officials against whom there are prima facie materials that they have committed misconduct. Mr. Xavier Dhanraj, the Superintendent of Police, will also be at liberty to initiate prosecution against the persons concerned, if it is found that they have committed any offence under the provisions of any penal law, including the 37 Prevention of Corruption Act. Such enquiry shall be completed by him within a period of six months and he shall submit a report to the Government within the said time frame.

46. The Registry shall keep the Report of the Enquiry Officer and the original file produced by the District Educational Officer, Usilampatti, returned by Mr. C.V. Sankar, I.A.S., Principal Secretary to Government, Industries Department, along with the copies of original file already taken and keep the same in a sealed cover, in a sealed Cover. Mr. Xavier Dhanraj, the Superintendent of Police, Vigilance and Anti-Corruption (Southern Region), Tamil Nadu, Chennai, is at liberty to approach the Registrar (Judicial) of this Court for return of all the documents, in which case, the Registrar (Judicial) shall take xerox copies of the Report of Mr. C.V. Sankar and the documents annexed thereto and then hand over the original report and the documents filed along with report, under acknowledgment. Similarly, on request, the Registrar (Judicial) shall return the original file of the District Educational Office, Usilampatti, returned by Mr. C.V. Sankar, to Mr. Xavier Dhanraj, under acknowledgement. Until then, all these records and documents shall be kept in a sealed cover by the Registrar (Judicial). After return of these records and documents to Mr. Xavier Dhanraj, the xerox copies of the Enquiry Report and the documents annexed thereto as well as the xerox copies of the original file of



the District Educational Office, Usilampatti, shall be kept in a sealed cover, 38 until further orders. No costs. Connected miscellaneous petitions are closed."

3. It is not known as to what is the final outcome of the direction issued by this Court. However, since the appellants did not contest before the Writ Court, they cannot canvass a fresh case before the appellate Court, especially when notice of proceedings was issued in the writ petition. In the light of the factual situation which was dealt by the writ Court, we are of the considered view that the order passed by the writ Court does not call for any interference.

4. Hence, for the above reasons, the writ appeal fails and is dismissed. However, taking note of the fact that the appellant stated to have worked for two years in Usilampatti Educational District, Madurai, as Sweeper/watchman, in future, if there is any appointment being made and if the out come of the enquiry report/enquiry by the Vigilance and Anti Corruption Department, does not indict the appellants in any manner, it is open to the appellants to approach the authorities for being considered for appointment. No Costs. Consequently, C.M.P.(MD)No.11843 of 2016 is closed.

Sd/-

Assistant Registrar (C.O)

/True Copy/

Sub-Assistant Registrar

To

1. The Director of School Education,
DPI Complex, College Road, Chennai-600 006.
 2. The Chief Educational Officer,
Madurai District, Madurai.
 3. The District Educational Officer,
Madurai Educational District, Madurai.
 4. The District Educational Officer,
Melur Educational District, Madurai.
 5. The District Educational Officer,
Usilampatti Educational District, Madurai.
- +One cc to The Special Government Pleader, SR.No.53296
+One cc to M/s.K.Sudalaiyandi, Advocate, SR.No.53398
+One cc to M/s.S.Balamurugan, Advocate, SR.No.53164
+One cc to M/s.T.Lajapathi Roy, Advocate, SR.No.53274

mrn

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