

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 07.03.2019

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.A Nos.2002, 1255, 1392, 1393, 1432, 1447, 1665, 1739 of 2018,
683 of 2019 and W.A(MD)Nos.751 to 753 of 2018
and connected Miscellaneous Petitions

W.A.2002/2018:

- 1.A.Kalaimani
- 2.H.Madurambal
- 3.V.R.Monikasri
- 4.R.Sakthivel
- 5.G.Umashankar
- 6.P.Shanthi Devi
- 7.S.Hemalatha
- 8.S.Sumathi
- 9.V.Annapoorani
- 10.N.Bharathi Priya
- 11.M.Hemavathi
- 12.R.Savitha
- 13.S.Suganya Lilian
- 14.S.Sivagami
- 15.H.Ambika
- 16.K.Archana
- 17.S.Karthiga
- 18.P.Ezhilarasu
- 19.G.Deepika
- 20.P.Rohinidevi
- 21.R.Preetha
- 22.S.Anitha
- 23.T.Sudhakar
- 24.C.Arivazhagan
- 25.R.Rajalakshmi
- 26.K.Sangeetha
- 27.P.Karthika
- 28.S.Soundharam
- 29.B.Chitra
- 30.M.Sivagami

...Appellants in W.A. 2002 of 2018.

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Higher Education Department,
Fort St.George, Chennai - 600 009.

..1st Respondent in W.A.2002, 1255,
1392, 1393, 1432, 1665/2018, 1739/2018.

..1st Appellant in W.A(MD)751 to 753/2018
..3rd Respondent in W.A. 1447/2018
..1st Respondent in W.A.683/2019.

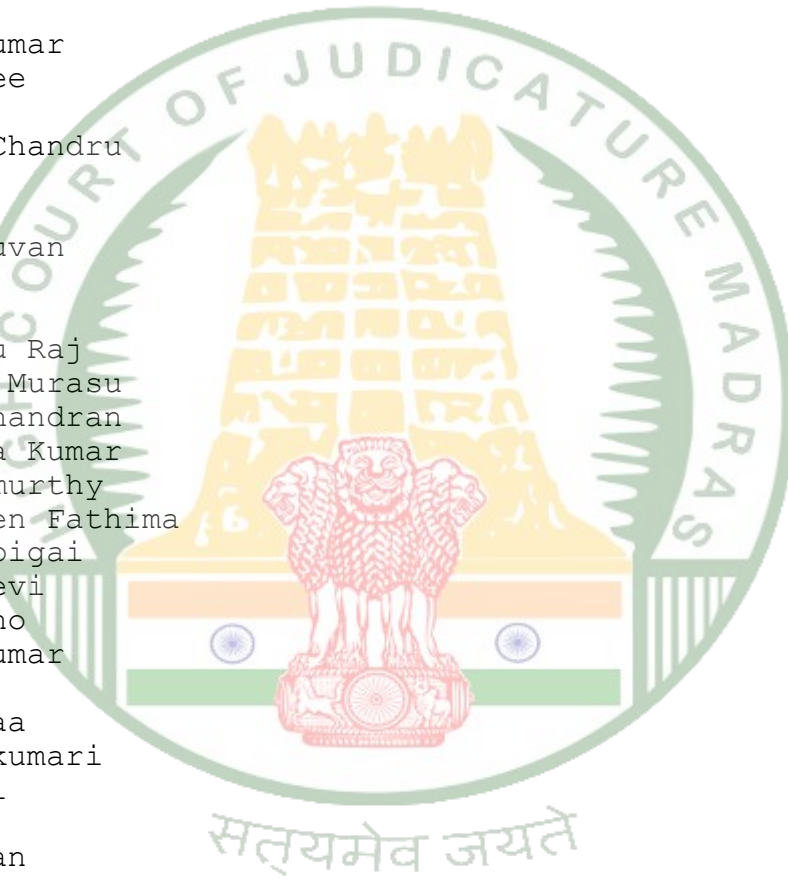
2.Teachers Recruitment Board,
Rep. by its Chairman/Member Secretary
4th Floor, EVK Sampath Maaligai
DPI Compound, College Road,
Chennai - 600 006.

..2nd Respondent in W.A. 2002, 1255, 1392,
1393, 1432, 1665/2018

..2nd & 3rd Appellant in W.A(MD) Nos. 751 to 753/2018
..1st & 2nd Respondent in W.A. 1447/2018.

3.E.Dhanyrashmi
4.R.Petchi Muthu Prakash
5.Jayasuhda
6.S.Meena
7.P.Baby
8.R.Valliammal
9.Kujani.T.
10.M.Thanigainathan
11.R.Saravanakumar
12.M.Prabha
13.K.V.Kayalvizhi
14.G.T.Abinaya
15.M.Prathebha
16.R.Vikram
17.S.Sakthivelan
18.N.Karthick Venkatesh
19.M.Vannia Raj
20.S.Dinesh
21.M.A.M.Mannar Thippu Sulthan
22.M.M.Mohamed Liyakathiali Khan
23.K.Vignesh
24.B.Sivakanth
25.M.Ganeshkumar
26.A.Arun Prasanth
27.R.Singaravelan
28.S.Lingeshwaran
29.M.Thanigaivel
30.S.Chandru
31.S.Nafeesa Farhana
32.M.Guna
33.A.Abdul Muthalif
34.S.Athikesavan

35.M.Magesh
36.R.Iyappan
37.G.Tamizharasan
38.G.Balamurugan
39.K.Mareeswari
40.C.Arvinth
41.R.Vijayaraj
42.R.Rahul
43.A.Darwin Anthony Sahaya Vivek
44.A.Kamesh
45.C.Saraswathy
46.S.Kalaimaran
47.A.Nirmala
48.S.Nanthakumar
49.J.Jeyashree
50.G.Karthi
51.V.Subash Chandru
52.K.Lenin
53.P.Iswarya
54.M.Senguttuvan
55.R.Bhaskar
56.R.Rajesh
57.G.A.Lourdu Raj
58.J.Vidiyal Murasu
59.K.Poornachandran
60.O.Prasanna Kumar
61.V.Krishnamurthy
62.M.Thahaseen Fathima
63.R.Lalidambigai
64.P.Sirnajeevi
65.S.Dhas Vino
66.S.Ashok Kumar
67.S.Manoj
68.V.M.Rupilaa
69.K.Krishnakumari
70.S.Subasini
71.K.Sujitha
72.M.Saravanan
73.A.Shivaranjaji
74.M.N.Rajaprabha
75.M.Sivakumar
76.G.Sathish Kumar
77.M.Mani
78.R.Vijayakumar
79.M.Karthikeyan
80.S.Bhuvaneswari
81.Prabhavathi
82.S.Sathish



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...Respondents

W.A.1255/2018:

1 M. THANIGAINATHAN
2 M. PRABHA
3 G.T. ABINAYA
4 PRATHEBHA
5 N. KARTHICK VENKATESH
6 M A M MANNAR THIPPU SULTHAN
7 M M MOHAMED LIYAKATHALI KHAN
8 VIGNESH K
9 B. SIVAKANTH
10 M. GANESHKUMAR
11 A. ARUN PRASANTH
12 M. THANIGAIVEL
13 S. CHANDRU
14 S. NAFEESA FARTHANA
15 GUNA
16 ABDUL MUTHALIF
17 ATHIKESAVAN
18 MAGESH M
19 TAMIZHARASAN
20 BALAMURUGAN .G
21 SARASWATHY C
22 S KALAIMARAN
23 NIRMALA A
24 NANTHA KUMAR .S
25 KARTHI .G
26 SUBASH CHANDRU
27 LENIN K
28 ISWARAYA P
29 M.SENGUTTUVAN
30 LOURDU RAJ G A
31 VIDIYAL MURASU J R
32 M THAHASEEN FATHIMA
33 R. LALIDAMBIGAI
34 P SIRENJEEVI
35 S.ASHOK KUMAR
36 V.M.RUPILAA
37 KRISHNKUMARI K
38 S.SUBASHINI
39 SARAVANAN M
40 SIVAKUMAR M
41 SATHISH KUMAR G
42 MANI M
43 VIJAYAKUMAR
44 S.BHUVANESWARI
45 SATHISH S
46 E.DHANAYARASHMI
47 S.MEENA

..Petitioners in W.A. 1255/2018

Vs.

3 R.PETCHI MUTHU PRAKASH
4 JAYASUDHA R.
5 P.BABY
6 R.VALLIAMMAL
7 KUJANI.T.
8 A.KALAIMANI
9 SARAVANAKUMAR
10 H.MADHURAMBAL
11 KAYALVIZHI K V
12 MONIKASRI V R
13 R.VIKRAM
14 S.SAKTHISELVAN
15 VANNIA RAJ M
16 S.DINESH
17 SINGARAVELAN R
18 S.LINGESHWARN
19 IYAPPAN R
20 MAREESWARI K
21 ARVINTH C
22 VIJAYARAJ
23 R.RAHUL
24 A DARWIN ANTONY SAHAYA VIVEK
25 KAMESH A
26 SAKTHIVEL R
27 G.UMASHANKAR
28 P SHANTHI DEVI
29 S.HEMALATHA
30 S.SUMATHI
31 V ANNAPOORANI
32 JEYASHREE J
33 BHARATHI PRIYA N
34 HEMAVATHI M
35 BHASKAR R
36 RAJESH R
37 SAVITHA R
38 SUGANYA LILIAN S
39 SIVAGAMI S
40 POORNACHANDRAN K
41 PRASANNA KUMAR O
42 KRISHNAMURTHY V
43 H.AMBIKA
44 K.ARCHANA
45 S.KARTHIGA
46 DHAS VINO S
47 P.EZHILARASU
48 G.DEEPIKA
49 S.MANOJ
50 ROHINIDEVI P
51 PREETHA R

52 S.ANITHA
53 K SUJITHA
54 A SHIVARANJANI
55 M N RAJAPRABHA
56 T SUDHAKAR
57 ARIVAZHAGAN C
58 M.KARTHIKEYAN
59 RAJALAKSHMI R
60 SANGEETHA K
61 PRABHAVATHI
62 KARTHIKA P
63 SOUNDHARAM S
64 CHITRA B
65 SIVAGAMI M

...Respondents 3 to 65 in W.A.1255 of 2018

W.A.1665/2018:

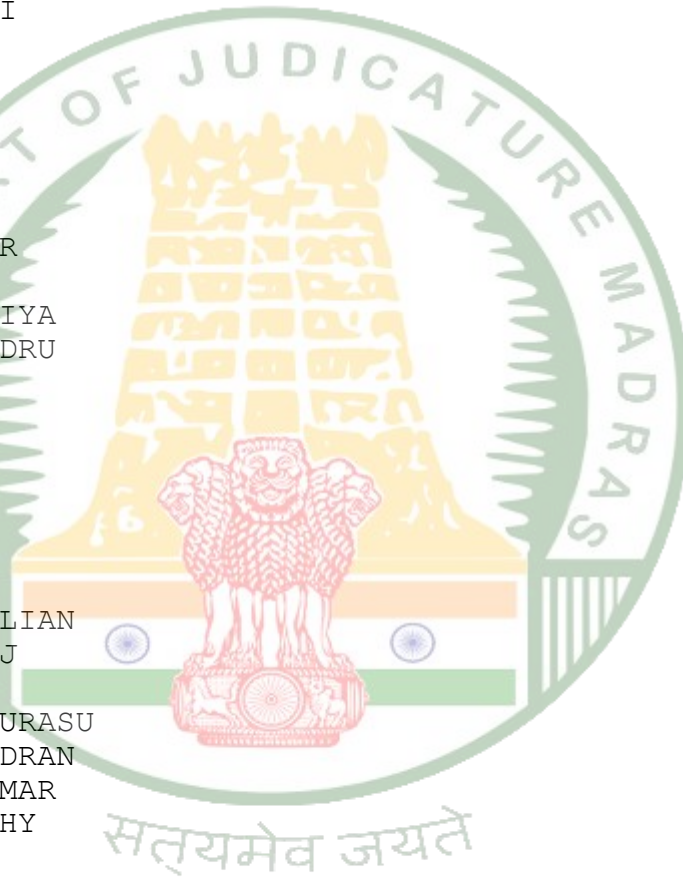
1 K.V.KAYALVIZHI
2 M.VANNIA RAJ
3 J.JEYASHREE
4 S.DHAS VINO
5 PRABHAVATHI

...Appellants in W.A.1665/2018.

Vs.

3 M.THANIGAINATHAN
4 A.KALAIMANI
5 R.SARAVANAKUMAR
6 M.PRABHA
7 H.MADHURAMBAL
8 G.T.ABINAYA
9 M.PRATHEBHA
10 V.R.MONIKASRI
11 R.VIKRAM
12 S.SAKTHISELVAN
13 N.KARTHIK VENKATESH
14 S.DINESH
15 M.A.M.MANNAR THIPPU SULTHAN
16 M.M.MOHAMED LIYAKATHALI KHAN
17 K.VIGNESH
18 B.SIVAKANTH
19 M.GANESHKUMAR
20 A.ARUN PRASANTH
21 R.SINGARAVELAN
22 S.LINGESHWARAN
23 M.THANIGAIVEL
24 S.CHANDRU
25 S.NAFEESA FARHANA
26 M.GUNA
27 A.ABDUL MUTHALIFF
28 S.ATHIKESAVAN

29 M.MAGESH
30 R.IYAPPAN
31 G.TAMIZHARASAN
32 G.BALAMURUGAN
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49 G.KARTHI
50 N.BHARATHI PRIYA
51 V.SUBASH CHANDRU
52 K.LENIN
53 M.HEMAVATHI
54 P.ISWARYA
55 M.SENGUTTUVAN
56 R.BHASKAR
57 R.RAJESH
58 R.SAVITHA
59 S.SUGANYA LILLIAN
60 G.A.LOURDU RAJ
61 S.SIVAGAMI
62 J.R.VIDIYAL MURASU
63 K.POORANACHANDRAN
64 O.PRASANNA KUMAR
65 V.KRISHNAMURTHY
66 H.AMBIKA
67 K.ARCHANA
68 S.KARTHIGA
69 M.THAHASEEN FATHIMA
70 R.LALIDAMBIGAI
71 P.SIRENJEEVI
72 S.ASHOK KUMAR
73 P.EZHILARASU
74 G.DEEPIKA
75 S.MANOJ
76 V.M.RUPILAA
77 P.ROHINIDEVI
78 R.PREETHA
79 S.ANITHA



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80 K.KRISHNAKUMARI
 81 S.SUBASHINI
 82 K.SUJITHA
 83 M.SARAVANAN
 84 A.SHIVARANJANI
 85 M.N.RAJAPRABHA
 86 T.SUDHAKAR
 87 C.ARIVAZHAGAN
 88 M.SIVAKUMAR
 89 G.SATHISH KUMAR
 90 M.MANI
 91 R.VIJAYAKUMAR
 92 M.KARTHIKEYAN
 93 S.BHUVANESWARI
 94 R.RAJALAKSHMI
 95 K.SANGEETHA
 96 P.KARTHIKA
 97 S.SOUNDHARAM
 98 S.SATHISH
 99 B.CHITRA
 100 M.SIVAGAMI ..Respondents 3 to 100 in W.A.1665/2018.

 1 C. ARAVINDHAN
 2 R. MANIKANDAN .. Appellants in W.A.1739/2018

 1 G.ANNIE LYDIA NISVI ..Appellants in W.A.1392/2018
 1 S.VIJAYA PRABHAVATHI ..Appellants in W.A.1393/2018
 1 E.SASIKUMAR ..Appellants in WA No.1432/2018
 1 V.LAKSHMIKANDHAN ..Appellants in W.A.1447/2018
 1 KANIMOZHI ..Appellants in W.A.683/2019

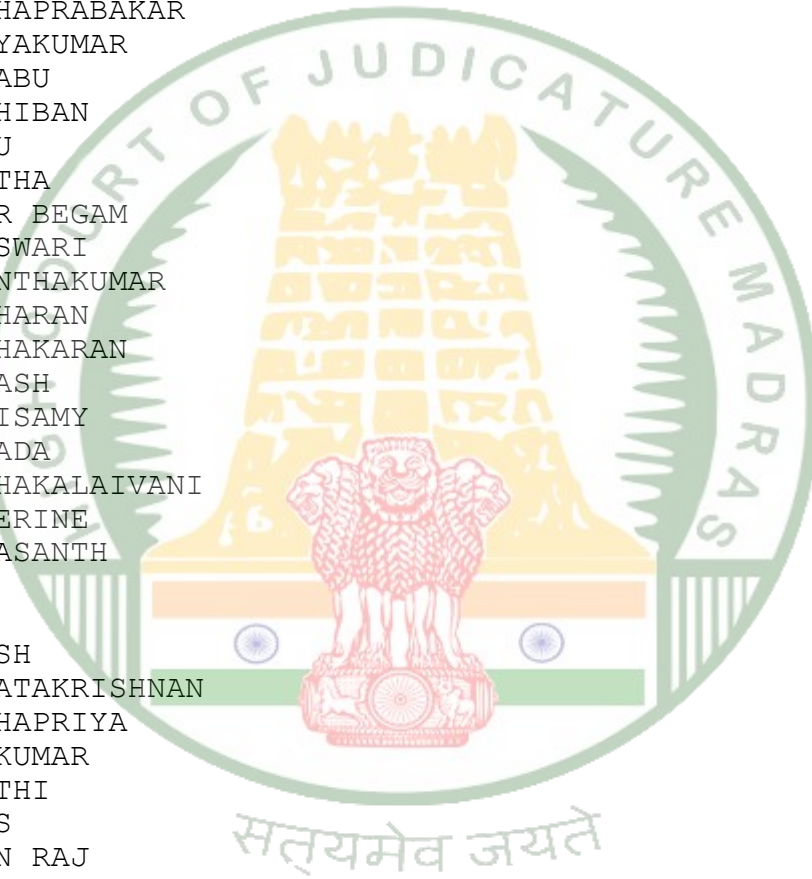
THE COMMISSIONER
 DIRECTORATE OF TECHNICAL EDUCATION(DOTE)
 53, SARDAR PATEL ROAD
 GUINDY, CHENNAI 600 025

CHIEF SECRETARY TO GOVERNMENT
 STATE OF TAMIL NADU
 FORT. ST. GEORGE CHENNAI 9.

..Respondents 4 & 5 in W.A.1447/2018.

M.ILAMATHI .. Respondent in WA(MD) 751 /2018
 S.SABARIMALAI MADHA .. Respondent in WA(MD) 752/2018

- 1.A. CHRISROY
- 2.A SHAMIM BANU
- 3.A. MERCY VASAN
4. R.C.HEMESH
5. M. KARMUHILAN
6. C. SIVARAJAN
7. M. BHUVANESWARAN
8. C. DHIVYA
9. S. SREEDHAR
10. S. SANTHAKUMAR
11. T. SENTHILMURUGAN
12. M. AMUTHAPRABAKAR
13. M. VIJAYAKUMAR
14. D. RAJBABU
15. C. PARTHIBAN
- 16.P. PRABHU
17. B. PREETHA
- 18.J. GULZAR BEGAM
19. K. MAHESWARI
20. A. VASANTHAKUMAR
21. S. MANOHARAN
22. P. PRABHAKARAN
23. V. PRAKASH
24. A. DURAISAMY
25. B. NARMADA
26. C. AJITHAKALAIVANI
27. I. CATHERINE
28. M.P. PRASANTH
29. C.PRIYA
30. P.GOPI
31. R. HARISH
32. S. VENKATAKRISHNAN
33. M. SANTHAPRIYA
34. P. BALAKUMAR
35. N. REVATHI
36. K. MOSES
- 37.A. DAISON RAJ
38. P. KRISHNAVENI
39. C.R. KAVITHARANI
40. D. MAYAKANNAN
41. P. GANDHI
42. S.PACKIYARAJ
43. N. VIJAYA
44. M. ANNAM
45. K. MARIAPPAN
46. K. UDAYAKUMAR
- 47.S.V. ANANDHI
48. P. JAYALAKSHMI
49. C. PANDIYARAJAN
50. L. EMMANUVEL



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51. S. ANANTHAKRISHNAN
52. M.SOMU
53. V.SHARMILA
54. T.POONGOTHAI
55. G.S.RIZWAN BANU
56. L.MALATHI
57. J.JEYABHARATHI
58. V.RAMPABHA
59. S.GAYATHRI
60. A.SRIDEVI
61. K.TAMILARASAN
62. P. KISHOREJEE
63. P.DEEPA
64. C. KARTHIKA
65. T.KARTHIKEYAN
66. D.SANKAR
67. P.NIROSHA
68. M.MUTHUKANNAN
69. R.SATHYAPRIYA
70. P.LAKSHMIPRIYA

..Respondents in W.A(MD)753/2018.

W.A. Nos. 2002, 1255, 1392, 1393, 1432, 1447, 1665, 1739/2018 & 683/2019 and W.A.(MD) Nos. 751 to 753/2018:

Writ Appeal filed under clause 15 of Letters Patent, against the order dated 11.04.2018 in W.P.No.4155 of 2018, 4000/2018, 4001/2018, 4865/2018, 3905/2018, 3287/2018, 4701/2018, W.P(MD) 2942, 3457 & 3580/2018:

WP No.4155 of 2018:

Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records relating to the Press News of the second respondent dated 09.02.2018 cancelling the direct recruitment for the post of Lecturers in the Government Polytechnic Colleges notified in Advertisement No.6/2017 dated 28.07.2017 to quash the same and for a consequential direction directing the respondents to proceed with the selection as per the Advertisement No.6/2017 in whose case there is no mistake and by conducting re-certificate verification for all those successful candidates only based on the marks given in the OMRs (Optical Mark Recognition) uploaded by the second respondent and issue appointment orders and issue consequential orders.

W.P.No.Nos.4000 & 4001/2018:

Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the record relating to the order/press news of the second respondent issued through his press news dated 09.02.2018 and quash the same and direct the respondents to continue the selection process and appoint the petitioner as

lecturer in English in any one of the Government Polytechnic Colleges.

WP No.4865 of 2018

Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Declaration, declaring the Press news dated 10.02.2018 issued by the second respondent cancelling the entire recruitment examination conducted by Teachers Recruitment Board on 16.09.2017 for the direct recruitment of Lecturers in Government Polytechnic Colleges notified in Advertisement No.06/2017 dated 28.07.2017 is arbitrary violative of article 14 of the Constitution of India and vitiated by non application of mind and consequently direct the second respondent to fix an early date for conducting certificate verification for the candidates who have applied for the post of lecturer in Instrumentation and Control Engineering and Mathematics in Government Polytechnic Colleges pursuant to Notification No.06/2017 dated 28.07.2017 issued by Teacher Recruitment Board based on the Provisional list of candidates for Instrumentation and Control Engineering and Mathematics published on 07.11.2017 and issue appointment orders to the petitioner as Lecturers in Instrumentation and Control Engineering and Mathematics in Government Polytechnic Colleges.

WP No.3905 of 2018

Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the records relating to the impugned press news published through website by the first respondent on 09.02.2018 and quash the same as illegal, arbitrary, unconstitutional in respect of Mechanical Engineering Stream/Branch and Consequently direct the respondents herein to appoint the petitioner to the post of Lecturer in Government Polytechnic College based on the marks secured in the written examination process within the time stipulated by this Court.

WP No.3287 of 2018

Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Declaration, declaring the Press News dated 10.02.2018 issued by the second respondent cancelling the entire recruitment examination conducted by Teachers Recruitment Board on 16.09.2017 for the direct recruitment of Lecturers in Government Polytechnic Colleges notified in Advertisement No.06/2017 dated 28.07.2017 is arbitrary violative of Article 14 of the Constitution of India an vitiated by non application of mind and consequently direct the second respondent to fix an early date for conducting certificate verification for the candidates who have applied for the post of lecturer in Printing Technology in Government Polytechnic Colleges pursuant to Notification No.06/2017 dated 28.07.2017 issued by Teachers Recruitment Board based on the

Provisional List of candidates for Printing Technology published on 07.11.2017 and issue appointment orders to the petitioners as Lecturers in Printing Technology in orders to the petitioners as Lecturers in Printing Technology in Government Polytechnic Colleges.

WP No.4701 of 2018

Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records relating to the Proceedings (Press News) of the respondent issued through website dated 09.02.2018 cancelling the written examination conducted by the respondent board on 16.09.2017 for the Direct Recruitment of Lecturers in Government Polytechnic Colleges notified vide advertisement No.06 of 2017, dated 28.07.2017 and to quash the same as illegal and consequently direct the respondent to consider the petitioner's candidature for appointment to the post of Mathematics Lecturer as fully eligible as per the prescribed qualification of the respondent's Board by its Notification in Advertisement No.6/2017.

Prayer in WA(MD).751/2018 to 753/2018

To set aside the order dated 22.02.2018 in WP(MD).2942/2018, 3457/2018 and 3580/2018.

Prayer in WP(MD).2942/2018, 3457/18 and 3580/2018.

To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent vide his proceedings nil dated 09.02.2018 to quash the same as illegal and consequentially to make selection on the basis of the marks secured by the petitioner in the written examination pursuant to notification issued by the 2nd respondent in his proceedings notification No.06/2017 dated 28.07.2017 for appointment to the post of Lecturer in various disciplines in Govt. Polytechnic Colleges for the year 2017-2018.

For Appellants : Mr.Balan Haridas
in W.A.No.2002/2018

Mr.AjmalKhan, Senior Counsel
for M/s.Ajmal Associates in
W.A.No.1665/2018 and
W.A.(MD) Nos.751 to 753 of 2018

Mr.V.Krishnamoorthy,
in W.A.No.1392 and 1393 of 2018

Mr.N.G.R.Prasad, for M/s.Row & Reddy
in W.A.No.1255/2018

Ms.C.Uma, in W.A.Nos.1432 & 1739/2018

Ms.S.Deepika, in W.A.No.683 of 2019

Mr.V.Lakshmikanthan
Party-in-Person in
W.A.No.1447/2018.

For Respondents: Mrs.Narmadha Sampath
Additional Advocate General
Assisted by Mr.C.Munusamy
Special Government Pleader

C O M M O N J U D G M E N T

Introductory:-

The Teachers Recruitment Board (hereinafter referred to as the "Board") cancelled the competitive examination conducted for appointment to the post of Lecturers in various disciplines in the Government Polytechnic Colleges across the State for the year 2017-2018 on account of certain mal-practices committed by the outsourcing agency, entrusted with the work of evaluation, by using the scanned images of the OMR Sheets, notwithstanding the fact that the OMR sheets in original in the safe custody of the Board were intact and tampering took place only with regard to 196 scanned images of the OMR Sheets.

2. The learned single Judge at the Madurai Bench of this court allowed the writ petitions filed by the aggrieved candidates and set aside the notification cancelling the examination with a clear finding that it is possible to segregate the tainted candidates from the non-tainted ones. However, similar writ petitions were dismissed by another learned single Judge of the Principal Bench subsequently, even after taking cognizance of the judgment rendered by the co-ordinate Bench at Madurai on the very same issue.

The appeals:-

3. Feeling aggrieved by the order passed by the learned single Judge at the Madurai Bench setting aside the notification cancelling the selection process, the Board has come up with the intra court appeals in W.A.(MD)Nos.751 to 753 of 2018.

4. The subsequent order passed by the learned single Judge of the Principal Bench dismissing the writ petitions even after taking note of the decision of the co-ordinate Bench is under challenge at the instance of the unsuccessful writ petitioners in W.A.Nos.2002 of 2018 etc. batch.

Brief facts:-

5. The Board issued a Notification bearing No.6/2017 dated 28 July 2017 calling for applications for appointment to the post of Lecturers in various disciplines in the Government Polytechnic Colleges for the year 2017-18. The applicants (hereinafter commonly called as "Writ Petitioners") submitted applications pursuant to the notification issued by the Board. The Board conducted written examination on 16 September 2017. The writ petitioners were provisionally selected. When the Board was in the process of certificate verification, complaints were made about certain malpractices in respect of the scanned copies of OMR Sheets, entrusted for evaluation to an external agency. The Board immediately thereafter canceled the entire selection. The notification cancelling the selection was challenged before the Madurai Bench in W.P.(MD)No.2942 of 2018 and etc., batch.

6. The learned single Judge found that the originals of the OMR Sheets were in tact with the Board. The Board for the purpose of evaluation took scanned copies of the OMR Sheets and handed over to M/s.Datatec Methodex Pvt. Ltd., a Noida based company for evaluation and preparing the final list of candidates qualified for certificate verification. The agency conducted evaluation and the list was sent to the Board. It was only at that point of time, a complaint was made by a person to the Prime Ministers' office alleging certain mal-practices, which resulted in cancelling the very selection. The Board at all point of time maintained that only the scanned copies were available with the outsourcing agency and the original OMR Sheets were all in its safe custody. The learned single Judge was therefore of the view that it is possible to segregate the tainted candidates from the non-tainted ones.

7. The Board preferred a police complaint resulting in registering a case by the Central Crime Branch. The Central Crime Branch seized the original OMR Sheets in respect of 196 candidates from the Board and it was sent for analysis. The learned single Judge therefore opined that after cancelling the candidature of 196 candidates, it would be possible for the Board to proceed further. The writ petitions were therefore allowed.

8. Thereafter, another set of writ petitions came up for consideration before a learned Single Judge of the Principal Bench in W.P.Nos.3287 of 2018 etc., batch. The writ petitioners have placed reliance on the order passed by the learned single Judge of the Madurai Bench setting aside the notification issued by the Board cancelling the selection process. The learned single Judge took note of the decision rendered by the co-ordinate Bench. However, without following the said order or taking any action for reference to a Division Bench, on account of the disagreement to the views expressed by the Madurai Bench,

the learned single Judge dismissed the writ petitions on the ground that the sanctity of the selection process should be maintained by all concerned.

Rival submissions:-

9. The learned Senior Counsel for the appellants in W.A.No.1665 of 2018 and the other counsels for the writ petitioners who are the appellants in the appeals filed against the order passed by the learned single Judge at the Principal Bench and the respondents in the appeals preferred by the Board challenging the order passed by the learned single Judge at the Madurai Bench, contended that even as per the records produced by the Board, it is very clear that the OMR Sheets are even now in the safe custody of the Board. According to the learned counsel for the respective parties, only the scanned copies were sent to the outsourcing agency. The manipulation took place only in respect of 196 scanned copies of the OMR Sheets. According to the learned counsel, it would be very easy for the examination agency to segregate the 196 OMR sheets from the remaining original OMR sheets and to complete the selection process. The order passed by this Court taking into account the submission made by the Investigating Officer was also relied on to contend that the Police seized only 196 OMR Sheets of the tainted candidates and only those sheets were sent for analysis making it clear that there was no act of tampering with the OMR Sheets of others.

10. The learned Additional Advocate General appearing on behalf of the Board fairly conceded that the original OMR Sheets are still in the safe custody of the Board. The learned Additional Advocate General contended that though only 196 candidates were involved in the Scam, it would not be possible for the Board to proceed further with the selection process as the sanctity of the examination has to be preserved at any cost. The learned Additional Advocate General further contended that the investigation is pending and the agency is yet to receive the analysis report in respect of 196 candidates.

The issue:-

11. The core question is as to whether the Board was correct in cancelling the selection on the ground that the outsourcing agency fabricated the records in respect of the scanned images of the OMR Sheets relating to 196 candidates notwithstanding its consistent case that there was no act of tampering with the records in respect of any of the original OMR Sheets and it was kept in the safe custody of the Board at all point of time.

Discussion:-

12. The Board issued a notification dated 28 July 2017 inviting applications for appointment to the post of Lecturers in various disciplines in the Government Polytechnic Colleges

for the year 2017-2018. The Board received 1,70,366 applications, as against the notified vacancies of 1058. The Board conducted written examination on 16 September 2017 and it was attended by 1,33,568 candidates. The Board after retaining the original OMR Sheets in its safe custody, took scanned copies and it was handed over to a private agency for evaluation. It was found later that some of the employees of the private agency colluded with 196 candidates and corrected the marks in the scanned images of the OMR Sheets. The outsourcing agency submitted the report of evaluation to the Board. The Board thereafter invited 2109 candidates for certificate verification.

The material dates relating to examination :-

13. The tentative keys were released on 6 October 2017. The final key, merit list, C.V. List at the ratio of 1:2 was released on 7 November 2017. The Board issued call letters to 1390 Engineering subject candidates and 719 non engineering candidates for certificate verification. The published results were withdrawn on 11 December 2017.

14. While so, the Board received complaints regarding malpractices that took place during the process of evaluation. The Board therefore issued a notification in its website on 11 December 2017 discontinuing the certificate verification process and requested the candidates to submit their written representations on or before 18 December 2017. The Board in the mean time lodged a complaint to the Commissioner of Police resulting in registering a case in Crime No.468 of 2017 on 21 December 2017. It was only thereafter, and more particularly on 8 February 2018, the Board took a decision to cancel the entire competitive examination.

15. The Board while permitting the candidates to appear for the test notified that they should retain the carbon copy of the OMR sheets and the same should be produced during the time of certificate verification. Therefore, it is very clear that the candidates are in possession of the carbon copy of the OMR Sheets.

16. In order to verify the steps taken by the Board before canceling the selection, we have summoned the entire file. The file produced by the Board relating to the cancellation of selection, including the minutes of the meeting held on 8 February 2018, does not contain any indication that a meaningful discussion was held to find out as to whether tainted candidates could be separated from the non-tainted ones. The Board simply took a decision to cancel the selection without considering the issue in an objective manner. In short, there was no conscious decision taken by the Board on the basis of relevant materials for canceling the selection.

17. The decision to cancel the direct recruitment examination conducted on 16 September 2017 was taken by the Board at its Special Meeting held on 8 February 2018. Even in the minutes of the meeting, there is a clear indication that OMR Sheets from districts were received by the Board and were kept in Chairman's room in safe custody. Subsequently, from 19 November 2017 to 23 November 2017, scanning was done and the scanned OMRs were put into ordinary covers and sealed by the Member Secretary and kept in safe custody. The Minutes proceeds as if after obtaining information with regard to the awarding of marks by the outsourcing agency, the Member Secretary obtained copies of the OMR Sheets of the candidates mentioned in the petition from the processing agency and it was compared with the hard disk of the scanned images. On such comparison, it was found that the scanned images were varying and there were manipulation in data. The Minutes of the meeting therefore very clearly shows that the original OMR sheets were intact and there was no act of tampering with the data. The correction was made only in respect of the scanned images of the OMR Sheets. While canceling the examination, this fundamental aspect was not considered by the Teachers Recruitment Board.

18. Since the Board in its counter affidavit took up a contention that only after the completion of investigation, it would reveal as to whether others were also involved, the Investigating Officer of the Crime Branch was summoned to appear before this Court along with the entire records.

19. The Investigating Officer appeared before us on 20 February 2019 and submitted that the investigation revealed that more marks were awarded to 196 candidates by using the scanned images of OMR sheets and that the originals of the entire OMR sheets are in the safe custody of the Board.

20. Subsequently, the Additional Deputy Commissioner of Police, CCB, Chennai, who is the Investigating Officer submitted a Memo, wherein, it was stated that after the examination, all the answer sheets were collected and it was kept in the safe custody of the Board at its DPI Campus, Chennai. The Additional Deputy Commissioner further stated that there was tampering in respect of 196 scanned images of OMR sheets of candidates and it was verified by comparing the original OMR sheets retained with the Board and the scanned copies seized from the outsourcing agency.

21. The Chairman of the Board, Chennai, by communication dated 26 February 2019, informed the Additional Commissioner of Police, CCB that the entire OMR Sheets except the 196 sheets seized by the police are kept under its safe custody at its office and those OMR sheets are intact and not tampered with. The communication dated 26 February 2019 is part of the records

produced by the Additional Commissioner of Police, CCB.

22. The issue therefore is whether the entire notification should be quashed, more so, when it is clearly made out that except 196 scanned copies of the answer sheets all the remaining scanned images and the original OMR Sheets are still intact and kept in the safe custody of the Board without any kind of mal-practices.

Decided cases on the point :-

23. (a) In *Joginder Pal and Others v. State of Punjab and others* [(2014) 6 SCC 644], the issue before the Supreme Court was as to whether the State Government was correct in setting aside the appointment of Executive Officers after the Chairman of the Public Service Commission was accused of receiving money from the prospective candidates, the raid in his house and the seizure of Rs.16 crores. The High Court ratified the action taken by the Government and dismissed the writ petitions. The High Court was of the view that it would not be possible to segregate the tainted from non-tainted ones leaving no option for the State but to cancel the entire selection process.

(b) The Supreme Court placed reliance on the earlier judgment in *Inderpreet Singh Kahlon v. State of Punjab* [(2006) 11 SCC 356]. In the said case, the Hon'ble Supreme Court indicated the parameters to be considered by the Courts for terminating the services of appointees on the ground of mal-practices in the selection process. The Supreme Court in *Inderpreet Singh* (supra) made it clear that the illegalities committed must go to the root of the matter, and it should vitiate the entire selection process and the appointees in majority must be found to be part of the fraudulent purpose or the system itself must be found to be corrupt.

(c) The Supreme Court framed a question as to whether the entire process could be labelled as vitiated because of the purported manipulations, forgery and fraud? or, to put it otherwise, once the non-tainted persons are segregated from tainted ones, would it still be justified to quash the entire selection, even when non-tainted persons made into the service because of their merit.

(d) The Hon'ble Supreme Court was of the view that a distinction must exist between a proven case of mass cheating and unproven imputed charge of corruption and only in case, tainted cases are found to be impossible or highly improbable, en masse order of termination could be issued. The Supreme Court in the said case found that it was possible to separate the tainted from non-tainted ones and as such, opined that the Government was not correct in cancelling the entire selection.

24. The Hon'ble Supreme Court in Union of India and others v. Rajesh P.U., Puthuvalnikathu and another [(2003) 7 SCC 285] made it clear that in case it is possible to weed out the beneficiaries of irregularities, or illegalities, from the select list, there would not be any justification to deny appointment to the selected candidates whose selection was not vitiated in any manner. The relevant observation reads thus:-

"In the light of the above and in the absence of any specific or categorical finding supported by any concrete and relevant material that widespread infirmities of an all-pervasive nature, which could be really said to have undermined the very process itself in its entirety or as a whole and it was impossible to weed out the beneficiaries of one or the other irregularities, or illegalities, if any, there was hardly any justification in law to deny appointment to the other selected candidates whose selections were not found to be, in any manner, vitiated for any one or the other reasons. Applying a unilaterally rigid and arbitrary standard to cancel the entirety of the selections despite the firm and positive information that except 31 of such selected candidates, no infirmity could be found with reference to others, is nothing but total disregard of relevancies and allowing to be carried away by irrelevancies, giving a complete go-by to contextual considerations throwing to the winds the principle of proportionality in going farther than what was strictly and reasonably to meet the situation. In short, the competent authority completely misdirected itself in taking such an extreme and unreasonable decision of cancelling the entire selections, wholly unwarranted and unnecessary even on the factual situation found too, and totally in excess of the nature and gravity of what was at stake, thereby virtually rendering such decision to be irrational."

25. In the subject case, there is absolutely no difficulty to reject the candidature of the tainted candidates. The entire 133568 OMR Sheets were with the Board at all point of time. Even now except 196, the remaining OMR Sheets in original are intact. The tainted 196 OMR Sheets were taken out of 133568 OMR Sheets and seized by police taking into account the correction of marks in respect of the scanned images of those 196 OMR Sheets. The Board has no case that even the original OMR Sheets were given to the outsourcing agency. It is the consistent case of the Board and the Police that only the scanned images were forwarded to the outsourcing agency. The records were tampered with only

in respect of the 196 scanned copies. There was no corresponding alteration in respect of the original OMR Sheets. In fact, the Board succeeded in verifying the manipulation only by comparing the original OMR Sheets with the scanned images. The investigation conducted by the Police also revealed that only the scanned images were subjected to alteration and it was also confined to 196 OMR sheets alone.

26. The Board without making any attempt to separate the tainted from non-tainted, abruptly cancelled the entire selection. In fact, the certificate verification was done partly and it was only at that point of time certain reports appeared with regard to the alteration of marks in the scanned images of the OMR Sheets. The Board on apprehension that its name would also be tarnished, immediately cancelled the entire selection process without considering the case of the candidates, who were not party to any such malpractices. When it is possible to separate the tainted candidates from the non-tainted, the Board was not correct in cancelling the examination and the entire selection.

27. The learned single Judge at the Principal Bench while dismissing the writ petitions virtually overruled the views taken by a co-ordinate Bench. It is not as if the earlier decision was not brought to the notice of the learned single Judge. The learned single Judge took note of the order passed by the co-ordinate Bench at Madurai. However, without following the said judgment, or making a reference to the Division Bench, the learned Single Judge straight away dismissed the writ petitions. It is not as if that it would be difficult to follow the views taken by the learned single Judge at Madurai Bench on account of the contrary views taken by the Hon'ble Supreme Court. The Supreme Court also held that if it is possible to segregate the tainted candidates from non-tainted, there is no need to cancel the entire selection. The learned Judge therefore ought to have referred the matter to the Hon'ble Chief Justice for posting it before the Division Bench.

28. There is one more aspect which goes to the root of the matter. The learned Single Judge at the Madurai Bench quashed the notification issued by the Board cancelling the selection. The decision was not confined to the Writ Petitioners alone. The entire notification was quashed. The benefit of such decision would accrue even to those who were not parties to the Writ Petitions. When it was brought to the notice of the learned Single Judge that the Madurai Bench of the High Court has already quashed the very same notification, there was nothing to be adjudicated in the Writ Petitions filed before the Principal Bench. The earlier decision of the Coordinate Bench at Madurai is binding on the Coordinate Bench at Chennai on the very same issue. It was not proper for the latter Coordinate Bench to

ignore the judgment rendered by a Coordinate Bench of equal strength on the very same question. The only course open to the latter Coordinate Bench is to request the Hon'ble Chief Justice to refer the matter to a larger Bench and in the subject case, to a Division Bench.

Coordinate Bench decision binding on latter Coordinate Bench:-

29. The Hon'ble Supreme Court in *Sant Lal Gupta v. Modern Coop. Group Housing Society Ltd.*, (2010) 13 SCC 336 held that the earlier decision of the Coordinate Bench is binding on the latter Coordinate Bench deciding the same or similar issue.

The Supreme Court said :-

"17. A coordinate Bench cannot comment upon the discretion exercised or judgment rendered by another coordinate Bench of the same court. The rule of precedent is binding for the reason that there is a desire to secure uniformity and certainty in law. Thus, in judicial administration precedents which enunciate the rules of law form the foundation of the administration of justice under our system. Therefore, it has always been insisted that the decision of a coordinate Bench must be followed. (Vide *Tribhovandas Purshottamdas Thakkar v. Ratilal Motilal Patel* [AIR 1968 SC 372], *Sub-Committee of Judicial Accountability v. Union of India* [(1992) 4 SCC 97] and *State of Tripura v. Tripura Bar Assn.*

18. In *Rajasthan Public Service Commission v. Harish Kumar Purohit* [(2003) 5 SCC 480 : 2003 SCC (L&S) 703] this Court held that a Bench must follow the decision of a coordinate Bench and take the same view as has been taken earlier. The earlier decision of the coordinate Bench is binding upon any latter coordinate Bench deciding the same or similar issues. If the latter Bench wants to take a different view than that taken by the earlier Bench, the proper course is for it to refer the matter to a larger Bench.

19. In the instant case, the position before us is worse as the latter Bench has taken a divergent view from an earlier coordinate Bench, particularly taking note of the earlier decision holding otherwise, without explaining why it could not follow the said precedent even while extensively quoting the same. Judicial propriety and discipline are not served by such conduct on the part of the Division Bench. Thus, in view of the above, it was not permissible for the High Court to take the course which it has adopted and such a course cannot be approved."

30. The law laid down by the Hon'ble Supreme Court in Sant Lal Gupta relating to binding nature of the decisions rendered by the Coordinate Bench would apply with full force to the subject case, as the facts are similar.

31. The learned Judge of the Madurai Bench has given cogent reasons while quashing the notification, cancelling the selection process. However, in the judgment delivered at the Principal Bench, the learned single Judge concentrated more on the probity in the selection process without considering the basic issue as to whether OMR Sheets were intact with the Board and as to whether the tampering with the records confined only to the scanned images of the OMR sheets.

Conclusion:-

32. The Board without doing any kind of homework or detailed study to decide as to whether it would be possible to segregate the tainted candidates from the non-tainted ones, cancelled the examination and the very selection to the detriment of those who were not in any way responsible for tampering with the scanned copies of the OMR Sheets. We are of the considered view that the learned single Judge at the Madurai Bench was correct in the finding that the Board should have segregated the tainted candidates from non-tainted candidates and proceeded with the selection process, instead of canceling the entire examination. The learned Single Judge at the Principal Bench was not justified in taking a view contrary to the view taken by a Coordinate Bench in the very same subject matter.

Disposition:-

33. We confirm the order passed by the learned single Judge at the Madurai Bench. We set aside the order passed by the learned single Judge of the Principal Bench in W.P.No.Nos.3287 of 2018 and etc., batch. We quash the notification issued by the Teacher's Recruitment Board pursuant to the decision taken on 8 February 2018 for canceling the examination conducted on 16 September 2017 on the basis of the notification No.06/17 dated 28 July 2017.

34. We direct the Board to reject the candidature of 196 candidates who were accused of tampering with the scanned images of the OMR Sheets and take out the remaining OMR Sheets in original of the non-tainted candidates and proceed further with the selection process. The entire exercise relating to selection, including the issuance of orders of appointment by the Government, should be completed by 30 April 2019.

35. In the upshot, we allow the intra court appeals in W.A.Nos. 2002, 1255, 1392, 1393, 1432, 1447, 1665, 1739 of 2018, 683 of 2019 and dismiss the appeals filed by the Teacher's Recruitment Board in W.A(MD) Nos.751 to 753 of 2018. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

tar/svki

To

1. THE STATE OF TAMIL NADU
REP BY ITS SECRETARY TO GOVERNMENT
HIGHER EDUCATION DEPARTMENT
FORT. ST. GEORGE
CHENNAI 9.
 2. TEACHERS RECRUITMENT BOARD
REP BY ITS CHAIRMAN 4TH FLOOR EVK SAMPATH
MAALIGAI DPI COMPOUND, COLLEGE ROAD,
CHENNAI 600 006
 3. THE CHAIRMAN/MEMBER SECRETARY
TEACHERS RECRUITMENT BOARD
4TH FLOOR, EVK SAMPATH ROAD
COLLEGE ROAD
CHENNAI 6.
 4. THE CHIEF SECRETARY TO GOVERNMENT
STATE OF TAMIL NADU
FORT. ST. GEORGE
CHENNAI 9.
- +1 CC to M/s. Row and Reddy, advocate sr 21724.
+1 CC to M/s. Balan Haridass, Advocate sr 21866.
+1 CC to Govt. Pleader sr 21757.
+2 Ccs to M/s.P.Ebenezer Paul, Advocate sr 21601.
+2 Ccs to M/s.C.Uma, Advocate sr 21921 & 21922
+5 Ccs to Mr.V.Lakshmi Kandhan, Advocate sr 21590.
+3 Ccs to M/s.Ajmal Associates sr 21636.
+1 CC to M/s.S. Deepika, Advocate sr 21706.

W.A Nos.2002, 1255, 1392,
1393, 1432, 1447, 1665,
1739 of 2018, 683 of 2019 and
W.A(MD)Nos.751 to 753 of 2018

SAI (CO)
SP(11/03/2019)