

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.A.No.1718 of 2019

1. A.SURESH KUMAR
2. M. MANIVANNAN ... appellants

Vs

- 1 THE SECRETARY TO GOVERNMENT
Commercial Taxes and Registration Department
Fort St. George Chennai 9 Chennai
- 2 THE INSPECTOR GENERAL OF REGISTRATION,
No.100 Santhome High Road
Mylapore Chennai - 28.
- 3 U. SHANMUGASUNDARAM ... respondents

Writ Appeal filed against the order in W.M.P.No.35665/2018 in WP.No.30580/2018 dated 23-04-2019.

Prayer in WMP No.35665 of 2018 in WP No.30580 of 2018 : Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to (i) to stay the operation of the impugned order of the 1st respondent in its impugned G.O (D) No.74 dated 19.04.2018 (in WMP No.35665/2018)and; ii) to vacate the interim order of status quo dated 20.11.2018 made in WMP No.35665/2018 in WP No.30580/2018 passed by this Court (in WMP No.35665/2018).

Prayer in WP No.30580 of 2018 : Writ Petition filed under Article 226 of the Constitution of India praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to issue a writ of certiorari direction in the nature of writ or order by calling for the records of the 1st respondent in its impugned G. O. (D) No.74 dated 19.4.2018 and quash the same (in WP No.30580/2018).

For appellant : Mr.V.Vijay Shankar

For Respondents : Mr.R.Dhanaram,
for M/s.G.Ethirajulu, for R-3

Mr.T.M.Pappiah, Spl.G.P.
For respondents 1 and 2

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

The learned Single Judge entertained the writ petition filed by the appellants in W.P.No.30580 of 2018 and by order dated 20 November 2018, directed the parties to maintain status quo. The interim order was subsequently vacated by order dated 23 April 2019, primarily on the ground that it would operate as a bar for granting promotion to the eligible candidates. Feeling aggrieved by the order dated 23 April 2019, the appellants have come up with this intra court appeal.

2. This Court, taking into account the prima facie case made out by the appellants, by order dated 15 May 2019, suspended the order dated 23 April 2019.

3. We have heard the learned counsel for the appellants, the learned Special Government Pleader appearing on behalf of the respondents 1 and 2 and the learned counsel for the 3rd respondent.

4. The Government Order in G.O.(D). No.74 dated 19 April 2018, was challenged by the appellants before the writ court with a grievance that the Government have revised the seniority in the cadre of District Registrar, by including the third respondent herein. The panel was for the year 2009-10. Since further proceedings would be taken for giving promotion, the appellants made a request before the writ court to maintain status quo. The learned Single Judge by order dated 20 November 2018, granted interim protection to the appellants by directing the parties to maintain status quo.

5. The respondents 1 and 2 herein appear to have made an application to vacate the interim order. The learned Single Judge took up the application and without arriving at the prima facie case, balance of convenience and irreparable injury on the basis of the materials placed by the parties, vacated the

interim order on the ground that such orders would stall the chances of promotion.

6. We have perused the impugned order in its entirety. In fact, we have directed the learned counsel for the third respondent to point out as to whether there is any discussion with regard to the merits of the matter, at least to make out a prima facie case in favour of any of the parties. The learned counsel fairly submitted that the learned single Judge indicated only the legal position and opined that keeping the post vacant would cause inconvenience to the public.

7. The order impugned in this appeal does not contain any indication that the merits of the matter was considered at least for deciding as to whether the earlier order of status quo requires to be vacated.

8. After hearing the learned counsel for the respective parties, we are of the view that interest of justice would be sub served by remitting the matter to the learned Single Judge either to decide the applications to vacate the interim order afresh or to dispose of the writ petitions itself on merits. Since we are setting aside the order dated 23 April 2019, the earlier interim order dated 20 November 2018 would be restored and the same would be in force, till orders are passed by the learned Single Judge either in the vacate stay petition or in the Writ Petition itself. The continuation of the order would depend upon the orders to be passed in the miscellaneous petition pending disposal of the writ petition.

9. The order dated 23 April 2019, is set aside. The miscellaneous petitions are restored to file.

10. We direct the Registry to post the miscellaneous petitions before the learned Single Judge as per roster, preferably during the first week of September 2019.

11. The intra court appeal is allowed as indicated above. No costs. Consequently, C.M.P.Nos.11496, 14347 of 2019 are closed.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

1. THE SECRETARY TO GOVERNMENT
Commercial Taxes and Registration Department
Fort St. George Chennai 9 Chennai
- 2 THE INSPECTOR GENERAL OF REGISTRATION,
No.100 Santhome High Road
Mylapore Chennai - 28.

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The Section Officer,
Writ Section, High Court, Maras-104

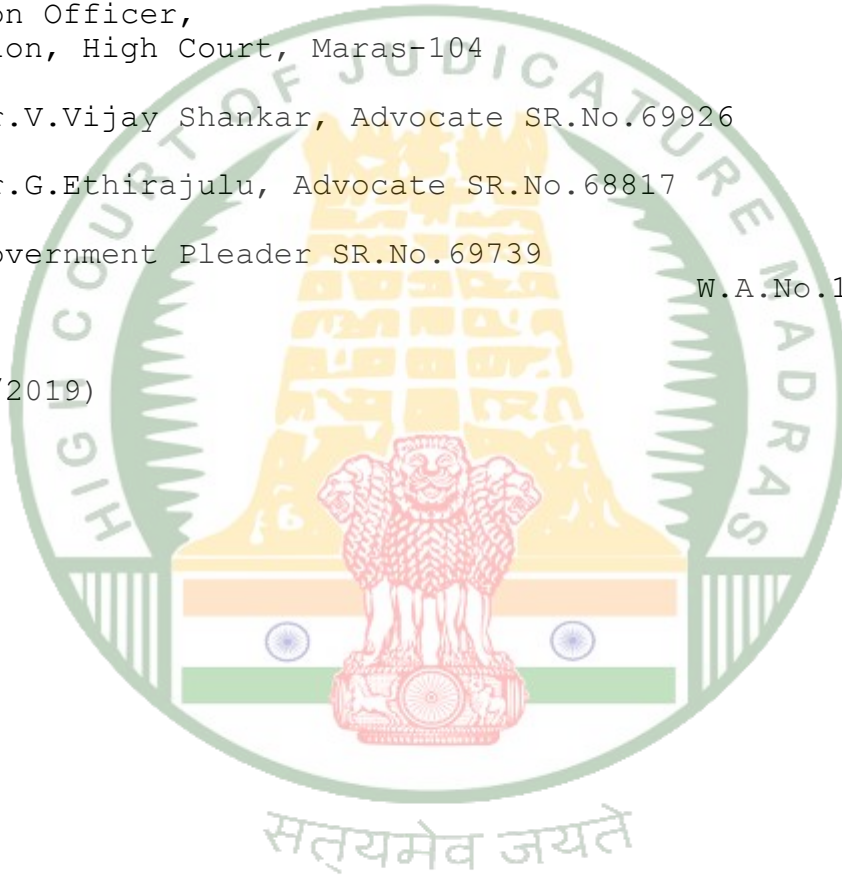
+1cc to Mr.V.Vijay Shankar, Advocate SR.No.69926

+1cc to Mr.G.Ethirajulu, Advocate SR.No.68817

+1cc to Government Pleader SR.No.69739

W.A.No.1718 of 2019

PA(CO)
GMY(16/09/2019)



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