



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
W.P(MD)Nos. 21583, 21586, 21590, 21591,
21630, 21639, 21645 of 2019

and
Connected miscellaneous petitions

The Secretary,
Kayalpatanam-Arumuganeri Higher Secondary School,
Arumuganeri,
Thoothukudi District-628 202.

... Petitioner
(in all cases)

vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George,
Chennai-600 009.
2. The Director of School Education,
College Road,
Chennai-600 009.
3. The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.
4. The District Educational Officer,
Thiruchendur,
Thoothukudi District.

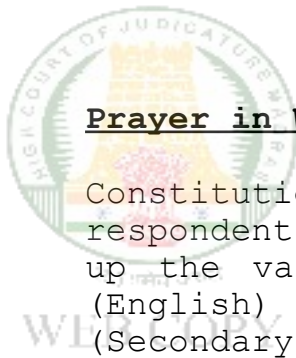
... Respondents
(in all cases)

PRAYER in W.P(MD)No.21583 of 2019:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court directing the 3rd respondent Chief Educational Officer to give permission for filling up the vacant post of Physical Education Teacher in the petitioner school.

Prayer in WP(MD). 21586/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court directing the 3rd respondent Chief Educational Officer to give permission for filling up the vacant post of PG Assistant (Commerce) in the petitioner school



Prayer in WP(MD). 21590/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court directing the 3rd respondent Chief Educational Officer to give permission for filing up the vacant post of Secondary Grade teacher with BT Assistant (English) Teacher in the petitioner school in terms of G.O.Ms.No.79 (Secondary Education-U1) dt.14/06/2002

Prayer in WP(MD). 21591/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court directing the 3rd respondent Chief Educational Officer to give permission for filing up the vacant post of Secondary Grade Teacher with BT Assistant (English) Teacher in the petitioner school in terms of G.O.Ms.No.79 (Secondary Education-U1) dt 14/06/2002,

Prayer in WP(MD). 21630/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court directing the 3rd respondent Chief Educational Officer to give permission for filing up the vacant post of BT Assistant (Science) in the petitioner school.

Prayer in WP(MD). 21639/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court directing the 3rd respondent Chief Educational Officer to give permission for filing up the vacant post of Physical Education Teacher in the petitioner school.

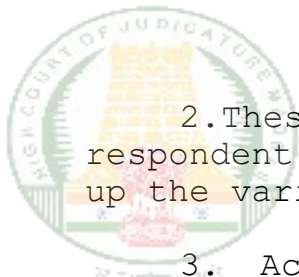
Prayer in WP(MD). 21645/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court directing the 3rd respondent Chief Educational Officer to give permission for filing up the vacant post of Pre-Vocational Instructor (Sewing) in the petitioner school.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers
For Respondents : Mr.M.Karuppasamy,
Government Advocate

COMMON ORDER

Since the issues involved in these Writ Petitions are one and the same, these Writ Petitions are heard together and disposed of by way of this common order.



2. These writ petitions are filed for a direction to the third respondent Chief Educational Officer to give permission for filling up the various vacant posts in the petitioner school.

3. According to the petitioner, the vacancy arose in the petitioner's School in the following posts of Physical Education Teachers, PG Assistant (Commerce), Tamil Pandits, PG Assistant and Pre-Vocational Instructor (Sewing) due to the death of then incumbent namely B.Ariramachandran, on 24.05.2017 and due to retirement of N.M.Sahabudeen on 31.05.2014, I.Rajapushpam on 30.04.2012, R.Esther Ponmani on 31.05.2011, C.Arumugam Pillai on 31.05.2012, S.Joy Jancy Rani on 31.05.2017 and M.Kamala on 31.05.2014. All these posts are sanctioned posts. The petitioner sent proposals to the respondents 3 & 4 for permission to fill up the said vacancies. The fourth respondent has returned the proposals dated 30.07.2019, stating that as per the guidelines issued by this Court in W.A.(MD)Nos.76 of 2013 etc., batch, no fresh appointment shall be made in aided schools, if there are surplus teachers working in other aided schools in the same District and in the other schools under the same Management. In view of the same, proposals seeking permission to fill up the posts cannot be considered now. The petitioner's school resubmitted the proposals.

4. The learned counsel appearing for the petitioner further submitted that this Court, in the very same writ appeal, by the order dated 20.09.2019, held that the directions issued by this Court, by order dated 09.04.2019, relied on by the fourth respondent, may not be appropriate and directed the respondents to consider each case separately. Hence, the petitioner has come out with the present writ petitions for a direction to the third respondent to give permission to fill up the vacancy posts.

5. Heard the learned counsel appearing for the petitioners and the learned Government appearing for the respondents and perused the materials available on record.

6. In this context, it is relevant to extract below paragraph 3 of the order of the Division Bench of this Court made in W.A(MD) No.76 of 2019 etc. batch, dated 20.09.2019:-

"3. Admittedly, the Writ Court took note of the decisions of the various Hon'ble Judges and considering the facts of each of the Writ Petitions, giving reasons and issuing directions, allowed the Writ Petitions. The appellant State Government also filed the Writ Appeals raising several grounds, some of which could be common and some of them pertains to the peculiar circumstances of the case. When these Writ Appeals were entertained, a direction was issued by the Division Bench on 09.04.2019 and we find from the said order that the scope of the Writ Appeals was extended and took a colour of Public Interest



filed by the Government against individual orders passed in the individual Writ Petitions, we are prima-facie of the view that the scope of the Writ Appeals could not be extended to that of a Public Interest Litigation. The arguments advanced by the learned counsel appearing for the respondent teachers have been noted by the Division Bench, wherein they stick to justify the order impugned in the respective appeals by assigning individual reasons. Therefore, we are of the considered view that the directions issued by this Court by order dated 09.04.2019 germane to the appeals may not be appropriate."

7. Considering the materials on record and the order passed by the Division Bench of this Court in W.A.(MD)Nos.76 of 2019 etc. batch, dated 20.09.2019, without deciding the issue on merits, the petitioner school is directed to resubmit the proposals to the third respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said proposals, the third respondent is directed to consider the same and pass orders on merits and in accordance with law, within a period of eight weeks thereafter.

8. With the above direction, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

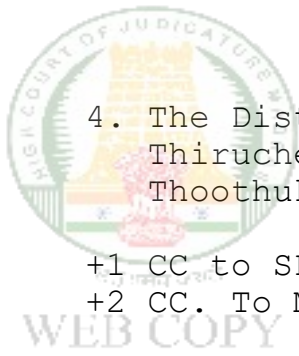
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Secretary,
Department of School Education,
Fort St. George,
Chennai-600 009.
2. The Director of School Education,
College Road,
Chennai-600 009.
3. The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.



4. The District Educational Officer,
Thiruchendur,
Thoothukudi District.

+1 CC to SPL GP., SR-92137,92142, 92134, 92139, 92138
+2 CC. To M/s.Isaac Chambers, Advocate in SR No.92193

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