



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.13213 of 2013

and

M.P. (MD) .Nos.1 & 2 of 2013

K.Mohanraj

... Petitioner

-Vs-

1.The Union of India,
Represented by the Ministry of Labour,
and Employment,
South Block, New Delhi.

2.The Secretary,
Ministry of Women and Child Welfare,
Government of India,
New Delhi.

3.State of Tamil Nadu,
represented by the Chief Secretary,
Secretariat, St. George Fort,
Chennai.

4.The Secretary,
Department of Education,
Secretariat, St.George Fort,
Chennai.

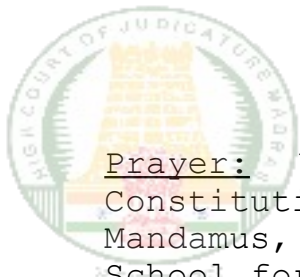
5.The Secretary
Department of Social Welfare,
Secretariat, St.George Fort,
Chennai.

6.The Commissioner,
Department of Labour,
D.M.S.Complex,
Teynampet, Chennai-6.

7.The District Collector/Chairman
Child Labour Advisory Board,
The District Collector Campus,
Virudhunagar District.

8.The Additional Commissioner of Labour,
D.M.S.Complex, Tenampet,
Chennai-6.

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondents from closing the Special School for Child Labour at Paraipatti, Sivakasi Taluk, Virudhunagar District without fully educating the last child labourer and terminating the services of the petitioner and consequently to direct the respondents to consider the appointment of the petitioner in the post of Secondary Grade Teacher in event of closing down the above said Special School for Child Labour taking note of the qualification and experience of the petitioner.

For Petitioner : Mr.T.Lajapathiroy
For R1 & R2 : Mr.C.Nandagopal
For R3 to R8 : Mr.D.Muruganantham
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to forbear the respondents from closing the Special School for Child Labour at Paraipatti, Sivakasi Taluk, Virudhunagar District, without fully educating the last child labourer and terminating the services of the petitioner and consequently to direct the respondents to consider the appointment of the petitioner in the post of Secondary Grade Teacher in event of closing down the above said Special School for Child Labour taking note of the qualification and experience of the petitioner.

2.The relief sought for in the present writ petition to forbear the respondents from closing the Special School for Child Labour cannot be granted. For opening of a Special School for Child Labour is the policy decision of the Government as well as the administrative prerogative, equally the closure of the School is also a policy decision and the administrative prerogative. The decisions regarding the opening of a School or the closure of a School has to be done by the Government with reference to the policy decision taken. The writ petitioner being employed as a Teacher cannot interfere with the policy decision to be taken by the Government. If at all a decision is taken by the Government to close the School, the permanent employees can be accommodated in any other School. As far as the temporary, casual or contract employees are concerned, they cannot claim any regularisation or permanent absorption in any other School.

3.In the present case on hand, the apprehension of the writ petitioner is that the respondents may close down the Special School for Child Labour at Parapatti, Sivakasi Taluk. Mere apprehension or otherwise cannot be a ground to entertain the writ petition. This apart, the writ petitioner being employed in the School cannot seek for such a direction, which is of public interest in nature. The various datas and details provided by the petitioner may not have any relevant with reference to his



grievance set out in the present writ petition. The alternative prayer sought for in the preset writ petition is to appoint the writ petitioner to the post of Secondary Grade Teacher, now the appointments to the post of Secondary Grade Teacher are done through the Teachers Recruitment Board and the eligible persons have to participate in the process of selection for securing appointment to the post of Secondary Grade Teacher.

4.Thus, if the writ petitioner is otherwise eligible and qualified in accordance with the rules in force, then he is at liberty to participate in the process of selection for the purpose of securing appointment to the post of Secondary Grade Teacher or to any other post. However, the relief sought for to forbear the respondents from closing the Special School for Child Labour cannot be granted and it is the administrative prerogative of the competent authority and the policy decision to be taken by the Government.

5.With these observations, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Ministry of Labour,
The Union of India,
and Employment,
South Block, New Delhi.

2.The Chief Secretary,
State of Tamil Nadu,
Secretariat, St. George Fort,
Chennai.

3.The Secretary,
Ministry of Women and Child Welfare,
Government of India,
New Delhi.

4.The Secretary,
Department of Education,
Secretariat, St.George Fort,
Chennai.



5.The Secretary
Department of Social Welfare,
Secretariat, St.George Fort,
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6.The Commissioner,
Department of Labour,
D.M.S.Complex,
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7.The District Collector/Chairman
Child Labour Advisory Board,
The District Collector Campus,
Virudhunagar District.

8.The Additional Commissioner of Labour,
D.M.S.Complex, Tenampet,
Chennai-6.

+1CC TO MR.T.LAJAPATHI ROY, Advocate Sr. No.71977
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.72198

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and
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KMK (CO)
TR (18.07.2019) 4P 11C