

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.10000 of 2016

R.Periasamy
S/o.P.Raju,
No.36/62 Akshaya Colony,
Mugapair, Chennai-600 050. Petitioner

Vs.

The Joint Director of School Education (Personnel),
Office of the Director of School Education,
DPI Compound, College Road
Chennai-600 006. Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings dated 07.12.2015 signed on 08.12.2015 in Na.Ka.No.87059/ C2/E3/2010 on the file of the respondent herein and to quash the same and to direct the respondent to pass orders of superannuation of the petitioner from 31.01.2011 and pay the terminal benefits within a time frame as may be fixed by this Court.

For Petitioner : Mr.P.Raja
For Respondent : Mrs.P.Kavitha, G.A.

O R D E R

This Court in W.P.No.11798 of 2016, dated 26.9.2018, has observed as under:

''(iv) In many writ petitions, the respondents have not at all filed their counter affidavits and documents, if any, for more than five years and in some cases, more than seven or eight years.''

Pursuant to the aforesaid order, this Court directed the respondent department to file counter affidavit within a period of three months.

2. Pursuant to the aforesaid order passed by this Court, Chief Secretary has issued circular to all the heads of department to file counter affidavits within a period of three months time. Law department also issued circular to all the Principal Secretaries and all the heads of department for filing counter affidavits within a period of three months from the date of receipt of the circular and reason for such delay should be explained in the counter affidavit. Thereafter, several cases came up before this Court. This Court also noticed that counter affidavits were not filed in more than 30 to 40% of the cases. At this juncture, this Court directed the learned Advocate General and Government Pleader to assist the Court.

3. On earlier occasion, it is represented by the learned Government Pleader that he gave request to the Registrar (IT-cum-Statistics), Madras High court to furnish details with regard to the cases in which counter affidavits have not been filed in the writ petitions, pending against the local bodies, Corporation and pursuant to his request, the Registrar (IT cum Statistics) has also furnished statement showing subject-wise number of writ petitions in which counter affidavits were not filed by various departments, local bodies, T.N.E.B., Central Government and State Government, Universities, etc. which comes to around 65,553 cases. This Court also witnessed several cases wherein counter affidavits are not filed especially in old cases. The dates and events of the counter not filed cases are as follows:

COUNTER NOT FILED CASES - DATES AND EVENTS

Date	Directions issued by this Court
26.09.2018	The Hon'ble Thiru Justice S.M.Subramaniam in W.P.No. 11798 of 2016 directed the Registrar General to instruct the Registry that in the event of not filing the counter affidavits/documents by the respondents/litigants within the time limit of three months as stipulated in the above Rules, the litigants/ respondents shall explain the reason for such delay in the affidavits

Date	Directions issued by this Court
18.10.2019	The Hon'ble Thiru Justice D.Krishnakumar has directed the learned Government Pleader to apprise this Court as to how far the order dated 26.09.2010 is complied with and the proceedings dated 05.10.2018 issued by the learned Advocate General was given effect to. (W.P. No.15830 of 2010)
27.11.2019	Minutes of the Meeting of All Secretaries at Chief Secretary's Conference Hall - forwarded to the High Court. II. REVIEW OF COURT CASES: Chief Secretary stated that the counter affidavits should be filed in the High Court of Madras within 3 months. However there is a delay in filing counter affidavits. Chief Secretary therefore requested the Secretaries to personally review the pending court cases in which counter affidavits have to be filed.
05.12.2019	The learned Government Advocate has submitted before this Court that they have received the statement showing subject-wise number of writ petition cases from the Registrar (IT-cum-Statistics), totaling 65,553. However, the learned Government Advocate seeks time get some more additional particulars. At request adjourned to 18.12.2019 and permitted to make request to the Registrar (IT-cum-Statistics).
21.01.2020	The learned Advocate General reported before this Court that an High Level Committee headed by the Chief Secretary to Government has been constituted to this effect and requested time. At request adjourned to 30.01.2020.

Date	Directions issued by this Court
31.01.2020	The learned counsel appearing for the respondents and the Education Department requested further time for producing a copy of the order passed by the High Level Committee for monitoring the cases pending before this Court. At request, adjourned to 06.02.2020

4. Today, the learned Government Pleader reported before this Court that high level Committee has been constituted by the Government consisting Advocate General, Chief Secretary and the Government Pleader. Learned Government Pleader further submitted that based on the particulars furnished by the Registry, Government Pleader discussed with the Principal Secretary, Education department, High Level Committee headed by the Commissioner of School Education as Chairperson, the Consultant (Legal Matters), School Education Department, Special Government Pleader (Education), High Court, Madras are members and Law Officer, Directorate of School Education as Convener, has been formed to effectively monitor and handle the Court cases pending before this Court. To that effect, a letter in R.C. No.2301/N1/HLC/2020, dated 28.1.2020 addressed to the Special Government Pleader (Education) by the Director of School Education, Chennai has been produced before this Court. According to the Special Government Pleader (Education) they are conducting periodical meeting to monitor the Court cases to file counter affidavits in the writ petitions before this Court.

5. Learned Government Pleader also submitted that they are strictly following the orders passed by this Court and also they are monitoring the department for filing counter affidavits before this Court. It is also submitted by the learned Government Pleader that three teams have been formed for preparing draft counter affidavits and the Government also providing infrastructure facilities to the Government Pleader office by providing additional computers. Insofar as the other departments are concerned, the issue of pendency of writ petitions wherein counter affidavits were not filed was brought to the notice of the Chief Secretary and the same was placed before the High Level Committee for issuing directions to all the heads of department for taking steps to file counter affidavits and the authorities concerned shall submit a report

to the heads of department about the action taken by them pursuant to the circular issued by the Chief Secretary.

6. In view of the above, the Government is under active consideration by constituting a monitoring Committee for monitoring Court cases especially counter affidavits not filed cases. The statement made by the learned Government Pleader is accepted. This Court is of the firm view that the heads of department concerned, Corporations, localbodies, etc. have to file counter affidavits within a reasonable time in compliance of the order passed by this Court cited supra, otherwise, orders will be passed in individual cases, if there is default on the part of the respondent department.

7. Learned counsel appearing for the petitioner in the present case, submitted that the respondent has passed an order revoking the suspension order and the writ petitioner was reinstated in service and therefore, nothing survives for adjudication of the writ petition.

8. Recording the statement made by the counsel appearing for the petitioner, the writ petition stands dismissed as infructuous. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

The Joint Director of School Education (Personnel),
Office of the Director of School Education,
DPI Compound, College Road Chennai-600 006.

+1 cc to M/s.Government Pleader High Court Madras
sr 16213

+1 cc to Mr.P.Raja Advocate sr16987

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W.P.No.10000 of 2016

sj(co)
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