

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.NO.26664 OF 2012

C.Gopi

... Petitioner

vs.

1. The Secretary to Government,
Education Department,
Fort St. George, Chennai - 9.
2. The Principal Secretary/State Project Director,
Sarva Siksha Abhiyan,
Chennai - 6.
3. The Director of School Education,
Chennai - 6.
4. The District Educational Officer,
Vellore District.
5. The Chief Educational Officer,
Vellore District.
6. The Elementary Education Officer,
Vellore District.
7. Sampanki ... Respondents in all W.Ps.

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 of the 5th respondent, who issued appointment order to the list of candidates for selection of 1117 Part-time Instructors in Vellore District to the Government Schools for Std. VI to VIII under Sarva Shiksha Abhiyan in G.O.Ms.No.177 dated 11.11.2011 and quash the same and direct the 5th respondent to appoint the petitioner as part-time Instructor in Vellore District.

For Petitioner : Mr.M.Selvam
For Respondents : Mrs.P.Kavitha,
Government Advocate

ORDER

Petitioner has come up with the present Writ Petition challenging the impugned order passed by the 5th respondent as regards issuance of appointment order to the list of candidates for selection of 1117 Part-time Instructors in Vellore District to the Government Schools for Std. VI to VIII under Sarva Shiksha Abhiyan Scheme in G.O.Ms.No.177 dated 11.11.2011 and for a consequential direction to the 5th Respondent to appoint them as Part-time Instructors in Vellore District.

2. When the Writ Petition was taken up for hearing, learned Government Advocate appearing for the Respondents, placing reliance on G.O.(Ms) No.177, School Education (C2) Department, dated 11.11.2011, submitted that, the issue in question is squarely covered by an order dated 06.09.2012 passed by this Court in W.P.(MD) No.722 of 2012. For better appreciation, relevant paragraphs of the said judgment are extracted hereunder:

"16. The G.O.(Ms)No.177 School Education (C2) Department, dated 11.11.2011, on which reliance has been placed, itself shows that no post of Agriculture Instructor was advertised or sanctioned by the Project Approval Board. The petitioners, therefore, can have no grievance to non-inclusion of Agriculture in the advertisement. The petitioners also cannot have any grievance for not being called for interview, as they are not holding the qualification for the posts advertised by the Government.

18. This contention of the learned Counsel for the petitioners, is again misconceived. The petitioners have not been disqualified for being appointed as Part Time Instructors to allege discrimination. The petitioners were found ineligible to compete for this selection for want of vacancies in Agriculture. As and when the vacancies in Agriculture are advertised, the petitioners will be entitled to compete for the posts, where candidates with other qualifications in the Art and Music will not be eligible.

19. It is the settled law that equality cannot be claimed by inequality. The petitioners on the basis of having the qualification of T.T.C in Agriculture, cannot claim discrimination for appointment as Drawing Instructor with those who hold T.T.C in Drawing as they form a separate class.

20. This Court, in exercise of writ jurisdiction, cannot issue any direction to the respondents to create a particular post or to exclude a particular post, as it is the prerogative of the State Government to sanction and fill up the posts as per the requirements. The Courts have no role to play in this process.

21. The writ petition therefore not only lacks merit but is totally misconceived.

22. No merit. Dismissed."

3. In the light of the said decision, this Court is of the view that, no direction can be issued to the Respondents to create a particular post or to exclude a particular post, as it is the prerogative of the State Government to sanction and fill up the posts as per the requirements.

4. Accordingly, this Writ Petition is dismissed, as it is devoid of merits. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

(aeb/jas)

To:

1. The Secretary to Government,
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JP(CO)
CS/09/12/2020



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