

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2933 of 2012

1. C.Rajan
2. P.Vijaya ... Petitioners

vs.

1. The Secretary to Government,
School Education (D1) Department,
Fort St. George, Chennai - 9.
2. The Principal Secretary/State Project Director,
Sarva Shiksha Abhiyan,
College Road, DPI Compound,
Chennai - 6.
3. The Director of School Education,
College Road, DPI Compound,
Chennai - 6.
4. The Director of Elementary Education,
College Road, DPI Compound,
Chennai - 6.
5. The Chief Educational Officer,
Tiruvarur District,
Tiruvarur. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in G.O.Ms.No.104 School Education (D1), dated 12.07.2002 and the consequential order passed in G.O.Ms.No.39, School Education (D1), dated 21.03.2003 and quash the same and consequently direct the respondents to reserve one seat for each petitioner in the post of Technical Teachers Certificate who are obtaining certificates in the subject, Agriculture to the petitioners out of total sanctioned strength of 16,549 which are going to be filled up by the Government for the post of Technical Teachers in the Middle school or High school from the sanctioned post of 16,549 posts as per G.O.Ms.No.177, School Education (C-2) Department, dated 11.11.2011.

For Petitioners : Mr.C.Prakasam

For Respondents : Mrs.P.Kavitha,
Government Advocate

ORDER

Petitioners have come up with this Writ Petition challenging the impugned order passed by the 1st respondent in G.O.Ms.No.104 School Education (D1), dated 12.07.2002 and the consequential order passed in G.O.Ms.No.39, School Education (D1), dated 21.03.2003 and for a consequential direction to the Respondents to reserve one seat for each Petitioner in the post of Technical Teachers, who obtain Certificates in the subject, Agriculture, out of total sanctioned strength of 16,549 which are going to be filled up by the Government for the post of Technical Teachers in the Middle School or High School, as per G.O.Ms.No.177, School Education (C-2) Department, dated 11.11.2011.

2. When the matter 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-III)

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Sub Assistant Registrar

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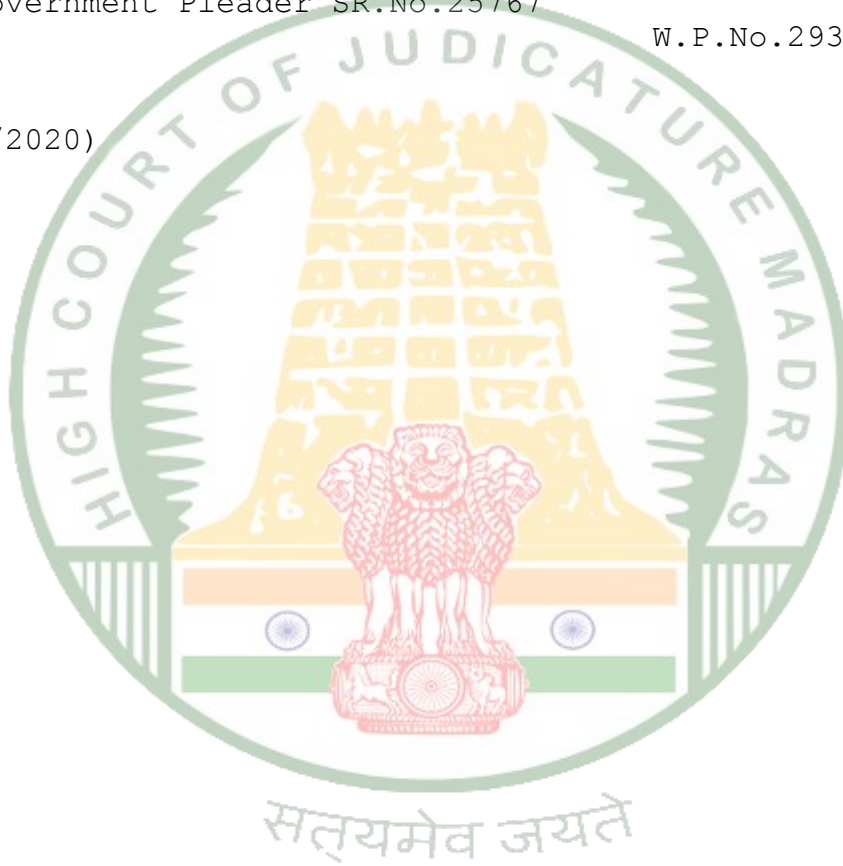
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+1cc to Government Pleader SR.No.25767

W.P.No.2933 of 2012

AJS (CO)
GMY (26/08/2020)



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