

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2020

CORAM :

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.12590 of 2020 and
W.M.P.Nos.15525 & 15526 of 2020

1.G.Sakthivel

2.M.Dhanasekar

3.D.Vijayan

4.A.Sudharsan

5.V.Chandrasekar

6.N.Nandakumar

7.G.Kuppusamy

8.B.Viswanathan

9.P.Malakondaiah

10.R.Murugan

11.M.Sivakumar

12.S.Saravanan

13.L.Thiruchendur Murugan

14.S.Mohan

15.R.Sreedharan

16.R.Nagarajan

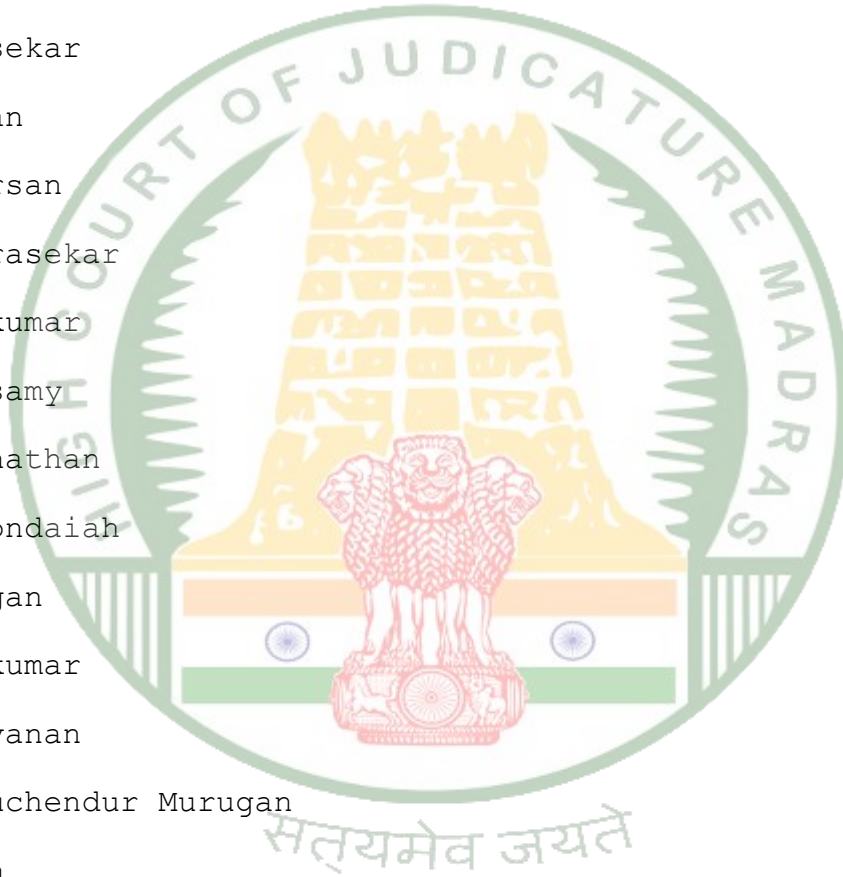
17.V.Anthony

18.G.Koteswara Rao

19.S.Prakash

20.E.Ravi

... Petitioners



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-Vs-

- 1.The Union of India,
Rep by Secretary to Government,
Personal, Public Grievances & Pension Department,
Sardar Patel Bhavan,
Parliament Street,
New Delhi 110001.
- 2.The Union of India,
Rep by the Secretary to Government,
Ministry of Shipping & Surface Transport,
Parivahan Bhavan,
No.1, Parliament Street,
New Delhi 110001.
- 3.The Chairman,
Chennai Port Trust,
Administrative Office,
Rajaji Salai,
Chennai 600 001.
- 4.The Chief Engineer,
Civil Engineering Department,
Chennai Port Trust,
Rajaji Salai,
Chennai 600 001.
- 5.The Regional Director,
Apprenticeship Training, Southern
Regional Circle,
Guindy, Chennai 600 032. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to frame a scheme for absorption of the petitioners who are full term trained apprentices under Chennai Port Trust in the light of the amendment made to section 22 of the Apprentices Act, 1971 vide Act 29 of 2014, with effect from 22.12.2014.

For Petitioners : Mr.A.R.Suresh

O R D E R

This writ petition has been filed to issue a writ of Mandamus directing the respondents 1 to 3 to frame a scheme for absorption of the petitioners who are full term trained apprentices under Chennai Port Trust in the light of the amendment made to section 22 of the Apprentices Act, 1971 vide Act 29 of 2014, with effect from 22.12.2014.

2. The petitioners have come up with the above prayer which in fact was the subject matter of earlier litigation filed by the same petitioners in W.P.Nos. 22076, 24092 and 40824 of 2015 etc. This Court has passed final order in the said writ petitions on 31.01.2020, by granting liberty to the petitioners herein to seek appropriate remedy before the Government for lifting of the ban on recruitment which has been in operation since 2001.

3. In fact, the learned Judge of this Court who passed the common order, had taken into consideration the ban in force and therefore, no relief was granted to the petitioners. The operative portion of the order passed by the learned Judge, is extracted hereunder:

"6. In view of the aforesaid statement made in the additional counter affidavit, the learned senior counsel appearing for the petitioner has submitted that liberty shall be granted to the writ petitioners to make representation to the authority concerned, for lifting the ban.

7. In view of the above statement made in the additional counter affidavit filed by the second respondent, these writ petitions are disposed of, with liberty to the petitioners to seek appropriate remedy for lifting the ban. No costs. Consequently, connected miscellaneous petitions are closed."

4. Taking cue from the above liberty granted to the petitioners, they submitted the representations on 20.03.2020, highlighting the grievances and also the amendment brought in to the Apprentices Act in 2014. According to the petitioners, the amendment which was brought in 2014, mandating that every employer to frame a policy who are appointing the apprentices trained by them in their establishment. However, in view of the ban in force, the amendment could not be given effect.

5. As far as the present writ petition is concerned, despite the representations submitted by the petitioners as early as on 20.03.2020, no action has been forthcoming from the respondents and hence, the petitioners are once again before this Court, seeking the relief as stated supra.

6. This Court is unable to appreciate as to how the present writ petition could be entertained when the competent authority has not taken any decision in regard to the continuance of the ban on recruitment or not. In the opinion of this Court that unless a decision to that effect is taken by the Government one way or the other, the petitioners cannot have any cause of action for them to approach this Court once again at this

juncture.

7. In fact, the representations were given only in March 2020, i.e., after the common order was passed by this Court on 31.01.2020. During this pandemic times, the Government could not have taken any action towards lifting of the ban or continuance of the same. However, whatever be the move of the Government on the subject matter, the present writ petition appears to be premature and cannot be entertained, presently.

8. Therefore, this Court is of the considered view that this writ petition is not maintainable and the same is liable to be dismissed. However, this Court makes it clear that whenever a decision is taken by the Government on the ban on recruitment and if the same is adverse to the interest of the petitioners, the petitioners are given liberty to approach this Court at that point of time.

9. With the above observations, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

gsk

To

1.The Secretary to Government,
The Union of India,
Personal, Public Grievances & Pension Department,
Sardar Patel Bhavan, Parliament Street, New Delhi 110001.

2.The Secretary to Government,
The Union of India,
Ministry of Shipping & Surface Transport,
Parivahan Bhavan,
No.1, Parliament Street, New Delhi 110001.

3.The Chairman,
Chennai Port Trust,
Administrative Office,
Rajaji Salai, Chennai 600 001.

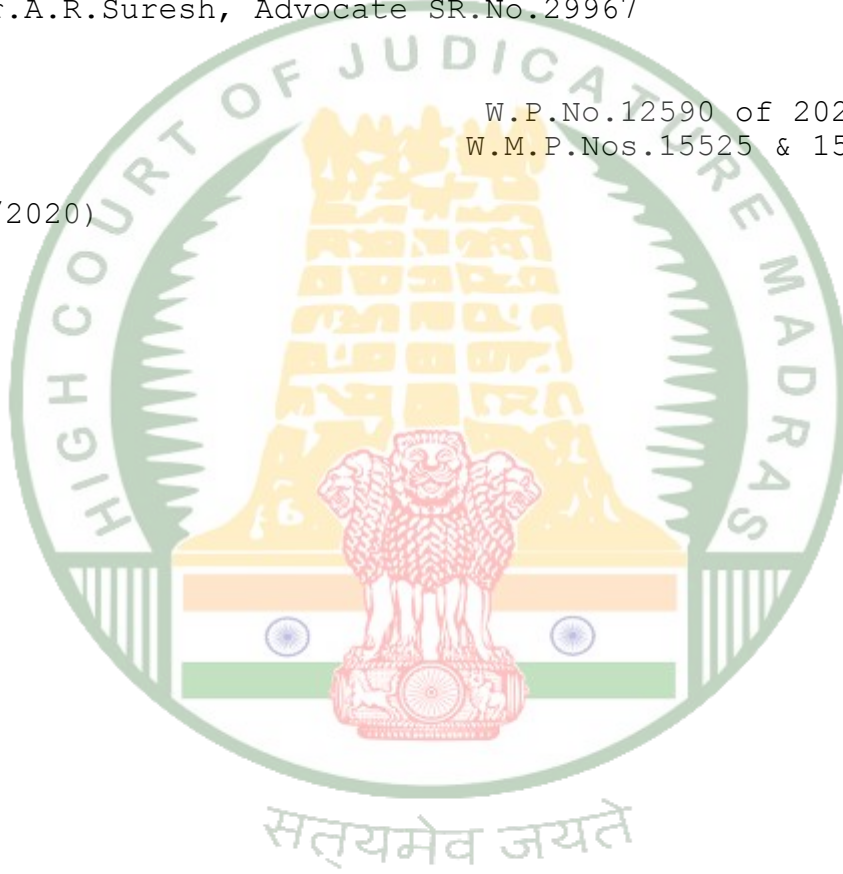
4.The Chief Engineer,
Civil Engineering Department,
Chennai Port Trust,
Rajaji Salai, Chennai 600 001.

5.The Regional Director,
Apprenticeship Training, Southern
Regional Circle,
Guindy, Chennai 600 032.

+1cc to Mr.A.R.Suresh, Advocate SR.No.29967

W.P.No.12590 of 2020 and
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SAI (CO)
GMY (21/10/2020)



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