



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.10369 of 2020

(Through Video Conferencing)

WEB COPY

Hindu Primary School
Rep. by its Secretary
M.Balasubramanian

... Petitioner

Vs.

The District Employment Officer,
Thoothukudi
Thoothukudi District.

... Respondent

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondent to furnish the list of candidates under Schedule Caste (Arundhathiyar) category or to issue non availability certificate to the petitioner school by considering the proposal dated 09.10.2019 so as to enable the petitioner to fill up the post of Secondary Grade Teacher.

For Petitioner
For Respondent

:Mr.V.Panneer Selvam
:Mr.M.Karuppasamy
Government Advocate

ORDER

The prayer in the writ petition is for issuance of a writ of Mandamus to direct the respondent to furnish the list of candidates under Schedule Caste (Arundhathiyar) category or to issue non availability certificate to the petitioner school by considering the proposal dated 09.10.2019 so as to enable the petitioner to fill up the post of Secondary Grade Teacher.

2. The petitioner School is a recognized non minority School. In the said School, there is a Secondary Grade Teacher post vacant and in order to fill up the said post, though efforts have been taken, according to the petitioner, several times, by drawing list from Employment Exchange, the post could not be filled up, because the said post has to be filled up as per the communal rotation, only by a Scheduled Caste (Arundhathiyar) candidate and every time, though list have been furnished by the Employment Exchange, based on which, call letters were issued and also prior approval was given, there was no response and in one time, ie., on 04.10.2019 only one candidate, by name, Saraswathi appeared and her capacity with Blackboard management was testified, however, she was not qualified to be considered for appointment. Therefore, at this juncture, on



09.10.2019, the petitioner School has sent a request to the respondent either to send a list of fresh candidates or in alternative, if there is no candidate in the said category is available, to give a non - availability certificate. Since the said request dated 09.10.2019 also has not been considered, the petitioner School has approached this Court with the aforesaid prayer.

3. Heard the learned counsel for the petitioner, who would submit that, since the post has been kept vacant for long period, the imparting of education is getting affected. Therefore, in order to fill up the post early, suitable candidates are required and three times though such attempts have been made, the petitioner could not find any suitable candidate, as the response itself is very limited or lukewarm. Only in that circumstances, the present request has been made and therefore, it may be directed to be considered.

4. However, the learned Government Advocate appearing for the respondents would submit that, three times, the respondent Employment Exchange has sent list of names and despite the list of names of eligible candidates having been sent, the petitioner School still want further list consisting of more persons from that category and in this regard, the respondent office is ready and willing to send one more list with eligible candidates. He would further submit that, when eligible candidates are enough available in the roll of Employment Exchange ie., the respondent office, the question of giving non availability certificate does not arise. Therefore, the learned Government Advocate would submit that, the request of the petitioner dated 09.10.2019 would be considered, pursuant to which, eligible candidates from the particular communal category for the post of Secondary Grade Teacher to be considered at the petitioner School, would once again be sent.

5. The said submissions made by the learned counsel for the parties have been considered and after having perused the materials placed before this Court, this Court is inclined to dispose of this writ petition with the following order:

"That the respondent is hereby directed to consider the representation dated 09.10.2019 not for the purpose of issuance of non availability certificate, but only for the purpose of sending one more list of eligible candidates, ie., candidates with necessary qualification to be appointed as Secondary Grade Teacher belongs to Scheduled Caste (Arundhathiyar) community on seniority basis at the Employment Exchange Register and this time not less than 6 candidates can be sent by the respondent to the petitioner School within a period of four weeks from the date of receipt of a copy of this order.



(ii) On receipt of the same, it is open to the petitioner School to send call letters to those candidates and on receipt of the call letters, it is open to the candidates concerned to attend for the interview to be fixed by the School.

(iii) It is made clear that, the petitioner School Management shall keep all records as to when they received the list of candidates from the respondent office, pursuant to this order and when call letters individually sent to the list of candidates and the proof for such communication from the School to establish the said communication reached the individual candidates and pursuant to which, how many candidates turned for interview and the minutes of the interview conducted in this regard and the ultimate selection to be made shall also be kept by the petitioner School for reference at a later point of time.

6. With these observations and directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RR

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The District Employment Officer,
Thoothukudi
Thoothukudi District.

+1 CC to SPL GP (SR-15417[F] dated 31/08/2020)