



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2020

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No. 5353 of 2015

and

M.P. (MD) No. 3 of 2015

WEB COPY

1.J.Arul George Peter

2.S.Mohammed Rabbek

3.S.Selwyn

4.C.Srinivasan

5.W.Benzam

6.A.N.Venkatasamy

7.PL.Alagappan

8.S.P.Seenivasan

9.M.Anantaraaj

10.A.Kotaiandal

11.M.Manivannan

12.D.Packiam

13.G.K.Murugesan

14.G.Thanalakshmi

15.T.Prabakaran

16.R.Muthukrishnan

17.P.So.Kesavan

18.C.G.Elangovan

19.A.Sevarkodiyon

20.K.Vedharaja Balson

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21.A.Nallamuthu

22.N.Rajendran

23.R.Rajasekar

24.N.Baby

25.K.Kannaki

26.S.Selvi

27.K.Manonmani

28.R.Beucan

29.S.Babu

30.R.Amutha

... Petitioners

Vs.

1.The Secretary to the Government
School Education Department,
Fort.St.George,
Chennai-6.

2.The Directorate of Teacher Education,
Research and Training,
College Road,
Chennai -6.

3.The Chairman
Teachers Recruitment Board,
EVK Sampath Maligai,
College Road,
Chennai-6.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the advertisement No.03, dated 31.12.2011 issued by the third respondent published in Daily Thandhi Newspaper dated 31.12.2011 and quash the same and consequently, direct the respondents herein to fill up the vacancies in the post of Senior Lecturers for District Institutes of Education and Training under Directorate of Teacher Education Research and Training by following the G.O.(Ms)No.133, School Education Department, dated 14.06.2007 within the time stipulated by this Court.



For Petitioners : Mr.D.Sadiq Raja
For R1 & R2 : Mr.C.M.Mari Chelliah Prabhu
Additional Government Pleader
For R3 : Mr.V.R.Shanmuganathan

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ORDER

The relief sought for in the present writ petition is to quash the Daily Thanthi Newspaper publication dated 31.12.2011 and direct the respondents to fill up the vacancies in the post of Senior Lecturers.

2.The impugned notification was issued by the Teachers recruitment board for recruitment to the post of Senior Lecturers for District Institutes of Education and Training under Directorate of Teacher Education Research and Training. The petitioners filed the writ petition only on 07.04.2015 and challenged the recruitment notification issued in the Daily Thanthi Newspaper on 31.12.2011. In other words, the 2011 recruitment notification is challenged by some petitioners in the year 2015 after a lapse of four years from the date of issuance of the recruitment notification. The recruitment would have been completed long back and the petitioners have chosen to file the writ petition after the recruitment process is setting in motion and after completion of the process of selection.

3.The selection procedures adopted by the respondents are narrated in Paragraph Nos.7 and 8 of the counter affidavit filed by the respondents and the same reads as under:-

"7.It is respectfully submitted that aggrieved over the same one A.Senthil Raj & others have filed petition in W.P.No.4877 of 2013 before the Hon'ble Court of Madras directing the respondents to issue the order of appointment to the post of Senior Lecturer in favour of the petitioner based on the selection in pursuant to the notification issued by the second respondent in Advertisement No.3, dated 31.12.2011. The Hon'ble High Court has writ petition on 12.03.2013, with the following observation:-

The operation portion of the observation is as detailed below:

The Hon'ble Supreme Court in Dir.S.C.T.I., for Medical Science and Technology Vs.M.Pushkaran (2008 (1) SCT 298), was pleased to lay down that a person in the select list does not have any legal right to seek appointment.

The Constitutional Bench of Hon'ble Supreme Court in Shankarsan Dash Vs.Union of Inda (199) (3) SCC 47 held that:

It is not correct to say that if a number of vacancies are notified for appointment and adequate number of



candidates are found fit, the successful candidates acquire an indefeasible right to the appointed which cannot be legitimately denied. Ordinarily, the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the state has the license of action in an arbitrary manner. The decision not to fill up the vacancies has to be taken bonafide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test and no discrimination can be permitted. Thus, the correct position has been consistently followed by this Court and we do not find any discordant note in the decision in State of Haryana Vs. Subhas Chander Marwahs (AIR 1973 SC 2216), Neelima Shangla Vs. State of Haryana (AIR 1987 SC 169).

The Law is settled that the selectee has not legal right and a superior Court in exercise of its power of judicial review will not ordinarily direct issuance of any writ in absence of any pleading and proof of malafides or arbitrariness on the part of employer. Each case therefore, has to be considered on merits. The pleading in this case do not show any malafide on the part of the respondents nor the action can be said to be arbitrary, which may call for judicial review.

Therefore, this is not a fit case for interfere by this Court in exercise of writ jurisdiction. No merits. Dismissed.

8.It is respectfully submitted that aggrieved by the same, the petitioners A.Senthilraj and four others have filed W.A.No.1012 of 2013 in W.P.No.4877 of 2013 against the impugned order to grant an order of interim stay staying in the operation of the orders passed in W.P.No.4877 of 2013, dated 12.03.2013."

4.In view of the fact that the petitioners have not established even as semblance of legal right, the relief as such sought for cannot be granted and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

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/ /2020

Sub Assistant Registrar(CS)



1.The Secretary to the Government
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Fort.St.George,
Chennai-6.

2.The Directorate of Teacher Education,
Research and Training,
College Road,
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3.The Chairman
Teachers Recruitment Board,
EVK Sampath Maligai,
College Road,
Chennai-6.

+1 CC to M/s.GP (SR-23108[F] dated 27/11/2020)

+1 CC to M/s.D. SADIQ RAJA, Advocate (SR-23199[F] dated
27/11/2020)

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