

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.01.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.1445 of 2021 and
W.M.P. No.1618 of 2021

I.Thangamariappan

... Petitioner

Vs

1. The Government of Tamil Nadu,
represented by its
Secretary to the Government,
Education Department,
Secretariat, Chennai-600 009.
- 2.The Director,
Directorate of School Education,
DPI Compound,
Chennai 600 006.
- 3.The Director,
Directorate of Primary School Education,
DPI Compound,
Chennai 600 006.
- 4.The District Educational Officer,
Office of the District Educational Officer,
Town hall, Coimbatore 641 001.
- 5.The Chief Educational Officer,
Office of Chief Educational Officer,
Raja Street, Coimbatore 641 001.
- 6.The Block Educational Officer,
Office of the Block Educational Officer,
Thondamuthur Block,
Coimbatore District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the second respondent to consider the petitioners' representation dated 28.12.2020 and forbearing the respondents from issuing transfer orders to B.T.Assistant teachers who are working in Government Schools, unless conducting the General Counselling of teachers in pursuant of the Hon'ble High Court

order in W.P. (MD) No.23772 of 2018 by an order dated 13.03.2019.

For Petitioner : Mr.P.Saravanan

For Respondents : Mr.P.Raja,
Government Advocate

ORDER

By consent, the writ petition is taken up for final disposal during the time of admission. Mr.P.Raja, learned Government Advocate takes notice for respondents.

2.The writ petition has been filed, seeking a direction to the second respondent to consider the petitioners' representation dated 28.12.2020 and forbearing the respondents from issuing transfer orders to B.T. Assistant teachers, who are working in Government Schools, unless conducting the General Counselling of teachers in pursuance of the order passed by this Court in W.P. (MD) No.23772 of 2018 by an order dated 13.03.2019.

3.The case of the petitioner is that he has completed D.T.Ed. in First Class and has been appointed as Secondary Grade Teacher at Union Panchayat School, Thoondamuthur Union. After getting permission from the higher authorities to study B.Sc. Chemistry through correspondence course in Manonmaniam Sundaranar University, the petitioner studied B.Sc. (Chemistry) and he has also completed B.Ed. in IGNOU, Delhi. Though the petitioner is cited as senior of B.T. Assistant panel in the year 2020, due to pandemic situation, there was no general counselling for Teachers conducted by the respondents. The grievance of the petitioner is that if general counselling would be conducted by the respondents, he would have been appointed as B.T. (Assistant) Teacher in Union Panchayat Schools in Thondamauthur Block, Coimbatore. It is also stated that one K.K.Ramesh has filed W.P. (MD) No.23772 of 2018 to conduct enquiry by considering his representations dated 07.08.2018 and 31.10.2018. By an order dated 13.03.2019, this Court held that no transfer could be made by the respondents without counselling. Based on the above judgment, the first respondent has issued G.O. (1D) No.218 dated 20.06.2019, relating to transfers through general counselling. Thereafter, the first respondent has published G.O. Ms. No.12, School Education (EE1 (1)) dated 30.01.2020 relating to special rules for the Tamil Nadu Elementary Education Subordinates Service. It is further stated that based on the above rules, if counselling could have been made by the respondents, the petitioner would have been eligible for promotion to the post of B.T. Assistant in

Thondamuthur Union, Coimbatore District. In the meantime, the second respondent has given a letter dated 05.11.2020 stating that one R.Valarmathi, who is working as B.T. Assistant, was appointed on deputation basis from Karamadai Union, Neelampathy Union Middle School to Thondamuthur Union, Pommanampalayam Union Middle School until further orders. In this regard, the petitioner has given a representation dated 28.12.2020 to all the respondents seeking issuance of transfer order to B.T. Assistant Teachers, who are working in Government Schools in Thondamuthur Union, in pursuance of the order dated 13.03.2019 passed by this Court in W.P. (MD) No.23772 of 2018. However, due to no response on the side of the respondents, the petitioner has come forward with this present writ petition.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. In view of the limited prayer sought for by the petitioner and if the Petitioner's representation is pending with the authorities concerned and, not disposed of earlier, this Court directs the second respondent to consider the representation of the petitioner dated 28.12.2020 and pass appropriate orders, in accordance with law, after affording an opportunity of hearing to all parties concerned, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

6. The petitioner shall furnish his phone number, email ID, if any, etc., along with a copy of the representation dated 06.10.2020 and this order, to the respondents forthwith. The respondents are directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the parties to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the parties, they will have to face the civil imprisonment in case of contempt proceedings and, if they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the parties, at a later point of time, will not take a plea that he is not aware of the order.

7. With the above direction, the writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vum

To

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+1 cc to Mr.P.Saravanan Advocate sr4384

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