



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2021

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 23678 of 2010

1. U.Syed Khader
2. D.Ravi
3. K.Thangavel
4. V.Selvam
5. R.Natarajan
6. K.Thangarajee
7. E.Paneer Selvam

...Petitioners

-vs-

1. The State of Tamil Nadu
rep. by its Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.
2. The Director of Non - Adult Education,
DPI Campus,
College Road,
Chennai - 600 006.
3. The Collector,
Salem District.
4. The Chief Educational Officer,
Salem.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus to direct the Respondents to appoint the Petitioners for the post of Block Project Co-ordinator for the scheme called Saakshar Bharat Scheme in the existing vacancies.

For Petitioners : Mr.S.Ilamvaludhi

For Respondents : Mr. C.Harsha Raj,
Additional Government Pleader



O R D E R
(through video conference)

Heard Mr. S. Ilamvaludhi, Learned Counsel for the Petitioners and Mr. C. Harsha Raj, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioners in this Writ Petition claim to have been engaged under the Adult Literacy Programmes of the Central and State Governments from the year 1988 onwards. According to the Petitioners, the Government of Tamil Nadu by G.O. Ms. No. 43, School Education Department dated 23.03.2010 had then proposed to implement Saakshar Bharat Scheme, 2012, which is centrally sponsored, in the Districts of Salem, Dharmapuri, Erode, Villupuram, where female literacy rate is 50% or below as per 2001 census. The grievance sought to be ventilated in this Writ Petition is that the Petitioners should be appointed for the post of Block Project Co-ordinator for Saakshar Bharat Scheme, 2012, in the existing vacancies in preferences to others, having due regard to their past services in the adult literacy programmes conducted in the State. The Fourth Respondent has filed Counter-Affidavit on behalf of the Respondents and has opposed the claim of the Petitioners by pointing out that appointments to the post under that scheme had to be made strictly in accordance with rules laid down in that regard, meaning thereby that the selections have to be made from the eligible persons as per the prescribed qualifications based on their inter se merit and there is no scope for extending any preferential treatment to the Petitioners merely because they had worked earlier in adult literacy programmes in the State.

3. The constitutional guarantee of equality of opportunity in employment under Articles 14 and 16 of the Constitution of India envisage that appointments to posts in public domain have to be based upon the rules and the assessment of the inter se merits of the candidates would have to be carried out in the selection process in conformity with the criteria laid down in that regard and there is no scope for extending any preferential treatment to any class of persons merely because they have served in some capacity under the State earlier. It is not in dispute that the period of employment of the Petitioners under earlier schemes in which they claimed to have served has lapsed and that the posts under the Saakshar Bharat Scheme, 2012, has prescribed its own qualifications for making appointment. As such, it is not possible to extend preferential treatment to the persons like the Petitioners, who had served in the adult literacy programmes in the State earlier, in the absence of any specific provision in that regard in the scheme itself.



4. Viewed from that perspective, if any preferential treatment is extended to the Petitioners at their mere asking on the representations made to suit their convenience because they happened to serve earlier in the adult literacy programmes in the State, it would defeat larger public interest and cannot be countenanced. It is evident that the Petitioners did not have any legally enforceable right to claim preferential employment under the Saakshar Bharat Scheme, 2012, and the Respondents did not have any legal obligation to be compelled to take any decision in their favour. In this backdrop, reference must be made to the Hon'ble Supreme Court of India in Director of Settlements, A.P. -vs- M.R.Apparao [(2002) 4 SCC 638], where the legal position has been explicated as follows:-

"17.One of the conditions for exercising power under Article 226 for issuance of a mandamus is that the Court must come to the conclusion that the aggrieved person has a legal right, which entitles him to any of the rights and that such right has been infringed. In other words, existence of a legal right of a citizen and performance of any corresponding legal duty by the State or any public authority, could be enforced by issuance of a writ of mandamus. "Mandamus" means a command. It differs from the writs of prohibition or certiorari in its demand for some activity on the part of the body or person to whom it is addressed. Mandamus is a command issued to direct any person, corporation, inferior courts or Government, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. A mandamus is available against any public authority including administrative and local bodies, and it would lie to any person who is under a duty imposed by a statute or by the common law to do a particular act. In order to obtain a writ or order in the nature of mandamus, the applicant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right must be subsisting on the date of the petition (Kalyan Singh -vs- State of U.P. [AIR 1962 SC 1183]). The duty that may be enjoined by mandamus may be one imposed by the Constitution, a statute, common law or by rules or orders having the force of law...."

As such, there is absolutely no justification for granting relief claimed by the Petitioners in this Writ Petition. However, it is clarified that such refusal shall not be construed as precluding the Petitioners, if they are otherwise



eligible and not disqualified, to be considered for appointments under the Saakshar Bharat Scheme, 2012, following the prescribed procedure.

In the result, the Writ Petition is dismissed with the aforesaid observations. Consequently, connected miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vjt/skr

To

1. The Secretary to the Government of Tamil Nadu,
School Education Department,
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2. The Director of Non- Adult Education,
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Salem.

+1cc to the Government Pleader, S.R.No.66593

W.P. No. 23678 of 2010

SJ(CO)
KKV/14/12/2021