

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5894 of 2021

&

W.M.P.No.6496 of 2021

(Heard through VC)

1. N.Shajahan
2. R.Merwin
3. P.Viswanath
4. M.Dhanavasuki
5. P.Murugan
6. P.Mathan Prabhu
7. E.Sam Kingsly Jacob
8. B.Shirly Jai Priya
9. J.Sheela Isabal Rani
- 10.G.Babu Rayar
- 11.P.Francisca
- 12.R.Maria
- 13.M.Pradeepa
- 14.R.Athavan
- 15.AR.Messiah Mary

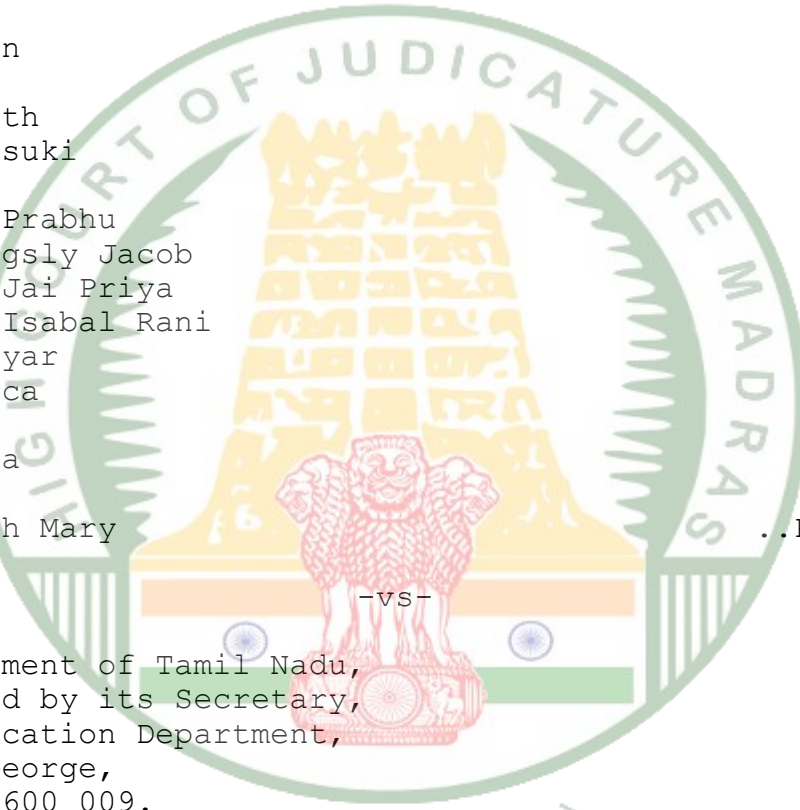
...Petitioners

-vs-

- 1.The Government of Tamil Nadu,  
Represented by its Secretary,  
School Education Department,  
Fort St. George,  
Chennai - 600 009.

- 2.The Director of School Education,  
DPI Campus,  
College Road,  
Chennai - 600 006.

- 3.The Director of Elementary Education,  
School Education,  
DPI Campus,  
College Road,  
Chennai - 600 006.



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4.The Commissioner of Social Defense Department,  
Department of Social Defense,  
No.300, Purasaivakkam High Road,  
Kellys, Chennai - 600 010.

..Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondents to sanction the incentive increment for passing the additional qualification in Physical Education to the petitioners in pursuance to the G.O.Ms.No.177 dated 13.10.2016, School Education Department by replacing the words namely first incentive increment for B.P.Ed and second incentive increment for PG Diploma in Yoga by the word one incentive each for possessing B.P.Ed degree and PG diploma in Yoga and for all consequential and monetary benefits arising thereof.

For Petitioners : Ms.V.Yamuna Devi  
For Respondents-1 to 3 : Mr.P.Raja  
Government Advocate  
For Respondent-4 : Mr.P.V.Selvakumar  
Additional Government Pleader

#### O R D E R

The petitioner has come forward with this writ petition seeking a direction to the respondents to sanction the incentive increment to the them for passing the additional qualification in Physical Education in pursuance to the G.O.Ms.No.177 dated 13.10.2016, School Education Department by replacing the words namely first incentive increment for B.P.Ed and second incentive increment for PG Diploma in Yoga by the word one incentive each for possessing B.P.Ed degree and PG diploma in Yoga and for all consequential and monetary benefits arising thereof.

2. Mr.P.Raja, learned Government Advocate takes notice on behalf of the respondent Nos.1 to 3. Mr.P.V.Selvakumar, learned Additional Government Pleader takes notice on behalf of the respondent No.4.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. The case of the petitioners is that the petitioners were appointed as a Physical Education teachers in Government and Government aided schools. According to them they have passed the certificate course in physical education and completed PG

diploma in Yoga and therefore they are entitled for incentive increment as per the Government orders for possessing higher education qualification. In G.O.Ms.No.42, Education Department dated 10.01.1969, the Government have already accepted in principle that incentive payments and award should be given to the teachers in schools, who acquire higher educational qualifications. However, the G.O. did not contain several other degrees and diploma courses like Yoga etc. According to them, the respondents-Government failed to implement the benefits of G.O.Ms.No.42, Education Department dated 10.01.1969 to the teachers, who have acquired higher qualification like the certificate course in Physical Education and Post Graduate Diploma in Yoga as per G.O.Ms.No.177 dated 13.10.2016. Hence, the petitioners have submitted individual representations dated 23.11.2020 seeking to sanction the incentive increment for passing PG Diploma in Yoga.

5. However, at the time of arguments, the learned counsel for the petitioners submitted that the petitioners have sent individual representations dated 23.11.2020 to the respondents, but the same is yet to be disposed of by the respondents. Learned counsel submitted that it would suffice, if the said representations made by the petitioners are directed to be considered and disposed of by the respondents on merits.

6. Considering the facts and circumstances of the case and taking into account the fact that the petitioners' representations are already pending with the respondents, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondents herein to consider the representations submitted by the petitioners dated 23.11.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioners and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 90 days from the date of receipt of a copy of this order.

ii) In case the petitioners are unable to appear for personal hearing, the petitioners are entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioners can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioners fail to appear or file a written submissions in time, the respondents shall pass orders based on the available records and the petitioners, cannot at a

later point of time take a stand that opportunity of being heard is not given to the petitioners;

iv) The petitioners shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representations dated 23.11.2020 and this order, to the respondents forthwith;

v) The respondents are directed to communicate the decision taken on the representations, to the petitioners 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 petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. 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 petitioners, later on, will not take a plea that the petitioners are not aware of the order. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

rsi

To

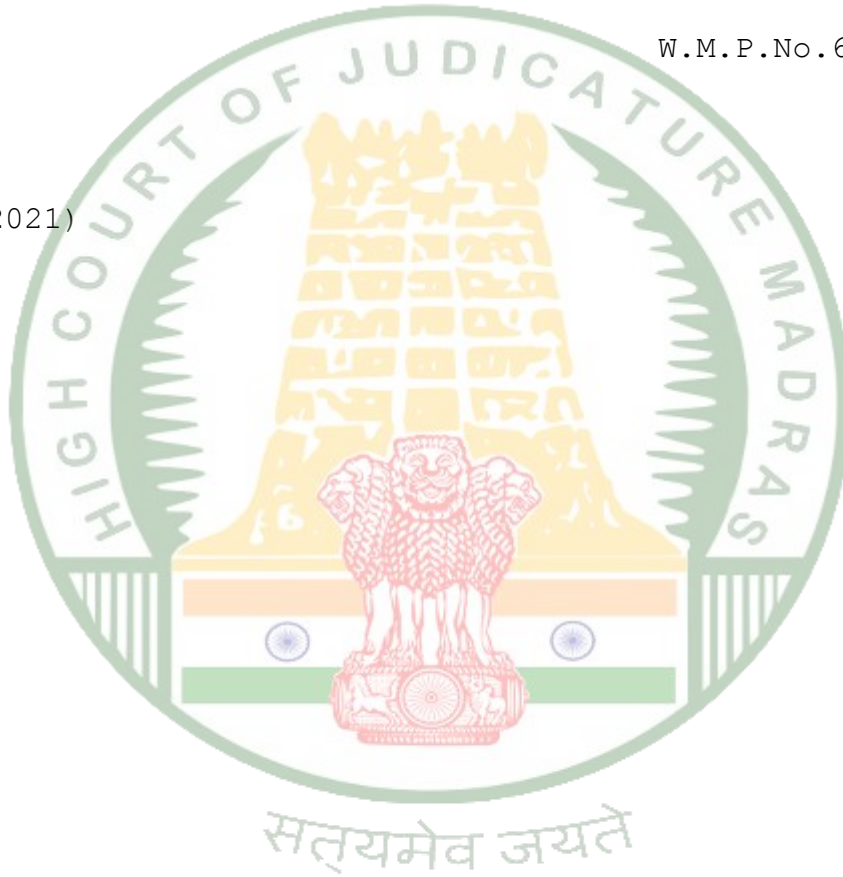
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4. The Commissioner of Social Defense Department,  
Department of Social Defense,  
No.300, Purasaivakkam High Road,  
Kellys, Chennai - 600 010.

+5 Ccs to Mr.S. Mohana Vadivelan, Advocate sr 15503.  
+1 Cc to The Government Pleader sr 15400, 16094.

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&  
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AJB (CO)  
SP (09/07/2021)



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