

IN The HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2021

CORAM:

The HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7477 of 2021

and

WMP No.7997 of 2021

K.Mahalakshmi

... Petitioner

-vs-

1. The Chief Electoral Officer,
Tamilnadu State Election Commission,
CMBT, Arumbakkam, Chennai 600 106.
2. The Secretary to Government,
School Education Department,
Government of Tamil nadu,
Fort St. George, Chennai - 600 009.
3. The Teacher Recruitment Board,
DPI Campus, College Road,
Chennai - 600 006.
4. The Commissioner,
Kallar Reclamation, BC-MBC Department,
Chepauk, Chennai - 600 005.
5. The Commissioner,
Chennai Corporation (Schools)
Chennai - 600 003.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 2nd and 4th respondents to consider the representation of the petitioner, dated 09.11.2020 (Ref No.2020/1131278/DV, 2020/1131277/HE & 2021/1161391/WW) within a time frame.

For Petitioner : Mr.R.Ganesan

For Respondents: Mr.P.Raja,

Government Advocate for R2

Mr.M.Ganesan for R5

O R D E R

This Writ petition is filed, seeking a direction to the 2nd and 4th respondents to consider the representation of the

petitioner, dated 09.11.2020 (Ref No.2020/1131278/DV,2020/1131277/HE & 2021/1161391/WW) within a time frame.

2.Mr.P.Raja, learned Government Advocate takes notice for R2 and Mr.M.Ganesan, learned counsel takes notice for R5. By consent, the Writ Petition is taken up for final disposal at the admission stage.

3. It is the case of the petitioner that he has been working as PG Assistant (Tamil) in Government Kallar Higher Secondary School, Perumalpatti, Madurai from 13.06.2014. Now, the petitioner has given willingness to get transfer from Kallar Reclamation School to the Greater Chennai Corporation Schools. In this circumstance, the 5th respondent directed the petitioner to get NOC from the 4th respondent for consideration and hence the petitioner submitted a representation through CM Cell online petition (2020/1131278/D, 2020 /1131277/HE & 2021/1161391/WW) on 09.11.2020. The petitioner also prays for an interim relief that the 3rd respondent may be restrained from considering the deployment of Post Graduate Assistant (Tamil) from Government run Schools to be transferred to the Corporations Schools run by the 5th respondent until the representation submitted by the petitioner to be considered by the 2nd and 4th respondent. But as there is no response on the representation made by the petitioner, the petitioner is before this Court by filing the present Writ Petition.

4. The learned Government Advocate appearing for the 2nd respondent submitted that the representation of the petitioner may be considered after the General Election to be held on 06.04.2021.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the 2nd respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 2nd respondent herein to consider the representation preferred by the petitioner dated 09.11.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 120 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is 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 petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 2nd respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 09.11.2020 and this order, to the 2nd respondent forthwith;

v) The 2nd respondent is 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 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 petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Electoral Officer,
Tamilnadu State Election Commission,
CMBT, Arumbakkam, Chennai 600 106.
2. The Secretary to Government,
School Education Department,
Government of Tamil nadu,
Fort St. George, Chennai - 600 009.

3. The Teacher Recruitment Board,
DPI Campus, College Road,
Chennai - 600 006.
4. The Commissioner,
Kallar Reclamation, BC-MBC Department,
Chepauk, Chennai - 600 005.
5. The Commissioner,
Chennai Corporation (Schools)
Chennai - 600 003.

+2cc to Mr.AK.Gopalan, Advocate, S.R.No. 18920
+1cc to the Government Pleader, S.R.No. 19166

W.P.No.7477 of 2021 and
WMP No.7997 of 2021

PL(CO)
GN(04/05/2021)



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