



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 13123 of 2021
and W.M.P. No.13923 & 13929 of 2021

1.K.Stalin
2.R.Mani Bharathi
3.N.Parimala
4.S.Manjula
5.N.Sathish

.. Petitioners

Versus

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

2. Teachers Recruitment Board,
Rep. by its Chairman,
4th Floor, EVK Sampath Maaligai,
College Road, Chennai - 600 006.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondents to comply with the order of this Hon'ble Court dated 26.06.2018 in W.P. Nos.27692 of 2017 etc. and consequently direct the respondents to call the petitioners for Certificate Verification for the post of PG Assistants and issue appointment orders as PG Assistants in their respective subjects pursuant to Notification in Advertisement No.03/2017 dated 09.05.2017 issued by the second respondent.

For Petitioners : Ms. Nalini Chidambaram
for Mr. Kanchi Kailasam, C.Uma

For Respondent-1 : Mr. C.Kathiravan
Government Advocate

R 2 : No appearance



O R D E R

This Writ Petition is filed for issuance of writ of mandamus to direct the respondents to comply with the order of this Court dated 26.06.2018 in W.P. Nos.27692 of 2017 etc. and consequently direct the respondents to call the petitioners for Certificate Verification for the post of PG Assistants and issue appointment orders as PG Assistants in their respective subjects pursuant to Notification in Advertisement No.03/2017 dated 09.05.2017 issued by the second respondent.

2. Learned senior counsel appearing for the petitioner states that the second respondent issued a recruitment notification dated 09.05.2017 calling for the application for Post Graduate Assistants / Physical Education Directors Grade - I, in school education and other departments for the year 2016-2017 against a total vacancy of 1663. He further states that the petitioners also have applied for the post of P.G.Assistants pursuant to the notification dated 09.05.2017. It is admitted that the written examination was held by the second respondent on 02.07.2017 and that all the petitioners have appeared in the written examination. The second respondent has also published the tentative answers for all the questions on the board's website on 19.07.2017. It appears that the petitioners have some grievance about the right answers. Later the petitioner submitted their objections regarding the key answers. Since the same was not considered, the petitioners filed a batch of writ petitions for issuing a writ of mandamus directing the respondents to award one mark each to question Nos.6, 23, 25, 34 & 93 in question Set A in the examination conducted. Learned senior counsel further states that the petitioners also sought for a consequential direction to the respondents to appoint the petitioners in the post of Post Graduate Assistants. During the pendency of the writ petition, the second respondent Board published the provisional result of the written competitive examination on 11.08.2017. By a common judgment dated 26.06.2018, the writ petitions filed by the petitioners in W.P. No.27692 to 27695 of 2017 and 24184 to 24192 of 2017, were allowed by a learned single Judge of this Court. The respondents were directed to conduct the certificate verification for the petitioners herein who are the petitioners in W.P. Nos.27692, 24189, 24190, 24191 & 24187 of 2017, after holding that the petitioners have secured over and above the cut-off mark fixed by TRB.

3. Aggrieved by the judgment of the learned single Judge in batch of writ petitions, the respondents filed a batch of writ appeals with a delay of 278 days. By a common order in all the batch cases, the petitions to condone the delay of 278 days were dismissed by a Division Bench of this Court. The Writ Appeals



were also consequently rejected. Against the order of dismissal, the respondents filed a Special Leave Petition before the Hon'ble Supreme Court in S.L.P. Nos.25262 to 25271 if 2019. On 22.11.2019, the Hon'ble Supreme Court passed an order of stay of operation of the impugned judgment. It is to be seen that the interim order of stay of operation does not affect the direction of this Court by the learned Single Judge in the writ petitions. The impugned judgment that was referred to in the order of Hon'ble Supreme Court is the judgment of Division Bench dismissing the petition to condone the delay of 278 days in filing the writ appeals and rejecting the appeals. It is in the said background, the above writ petition has been filed to direct the respondents to comply with the order of this Court earlier in the batch of writ petitions.

4. Considering the facts narrated by the learned senior counsel appearing for the petitioners and the learned Government Advocate appearing for the first respondent, this Court is of the view that the writ petition can be disposed of on the facts admitted and narrated. Despite the respondents having preferred an appeal as against the order dismissing the respondents' petition to condone the delay of 278 days in preferring the appeals, the respondents cannot refuse to comply with the direction of this Court in the writ petition where they are parties. In view of the context in which the present writ petition is filed, this Court is unable to find any reason for not complying with the direction in the absence of any stay. Since a positive direction is issued against the respondents, this Court is able to see that the conduct of respondents is nothing but contumacious.

5. In the present case, the order passed by the learned single Judge allowing the writ petition filed by the petitioners is dated 26.06.2018. After a period of three years, the only excuse comes from the respondents is pendency of the Special Leave Petition which is only against the order dismissing the petition to condone the delay of 278 days in preferring the appeal. The order passed in the batch of writ appeals is in the appeal yet to be numbered. Therefore, this Court may not consider the writ appeals as something to keep alive the litigation between the parties. It is a still born appeal and hence cannot be considered as a reason or excuse for the respondents to disobey the direction of learned single Judge of this Court which was about three years back. In the present state of affairs, this Court has no other option but to issue directions which is only in the nature of implementing or giving effect to the verdict of this Court earlier in a batch of writ petitions.

6. This writ petition is allowed with the direction to the



respondents to comply with the order of this Court dated 26.06.2018, within a period of four weeks from the date of receipt of a copy of this order. However, liberty is preserved to the respondents to pursue the case before Hon'ble Supreme Court and thereafter, the appeal they have preferred in writ appeal if they succeed before the Hon'ble Supreme Court. In other words, without prejudice to the rights of the respondents to prosecute the Special Leave Petition, the direction of this Court by the learned single Judge dated 26.06.2018 can be implemented. It is open to the respondents to revoke selection process pursuant to this order in case they are successful before the Hon'ble Supreme Court and thereafter, before the Division Bench to set aside the order of learned single Judge dated 26.06.2018. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of School Education,
Directorate of School Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
College Road, Chennai - 600 006.

+1cc to Ms.C.Uma, Advocate, S.R.No.34426
+1cc to the Government Pleader, S.R.No.35001

W.P. No. 13123 of 2021

GPL(CO)
CT(24/08/2021)