



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.7705 of 2017 and
WMP. 20091 of 2020

Graduate Physical Education Teachers' Association,
No.5/13, Anandan Street, Chidambaram - 608 001
Cuddalore District
Rep. by its President R.Jayadevan

... Petitioner

Vs.

1. The State of Tamilnadu,
Represented by its Principal Secretary,
School Education Department,
Secretariat, Fort St. George, Chennai - 600 009.

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

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the Order of the 1st respondent passed in G.O.Ms.No.177, School Education [Pa.Ka.5(2)] Dept. dated 13.10.2016 and quash the same and consequently direct the respondents to pass appropriate Order in clarification as per the representation/objection submitted by the petitioner Associations dated 29.01.2016 for grant of incentive increment for the teachers in Physical Education, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Ms.V.Annalakshmi
Government Advocate

ORDER

Heard both sides and perused the records.

2.This writ petition has been filed by the petitioner / Graduate Physical Education Teachers Association, to quash the



order of the 1st respondent in G.O.Ms.No.177, School Education [Pa.Ka.5(2)] Department, dated 13.10.2016 and consequently direct the respondents to pass appropriate clarification order, pursuant to the representation/objection submitted by the petitioner Association dated 29.01.2016 with respect to grant of incentive increment for the teachers in Physical Education, within a time frame to be fixed by this Court.

3.Upon notice, the respondents filed a detailed counter affidavit, wherein, in paragraph no.9, it is specifically stated as follows:

"9.It is further submitted that the writ petition itself is liable to be dismissed as not maintainable on the principle that only the Association has filed the writ petition and not individual teachers. The Hon'ble Supreme Court has held in R.K.Jain v. Union of India and others, 1993 AIR 1769 : 1993 SCR (3) 802 that in service jurisprudence, it is settled law that it is for the aggrieved person to assail the legality of the offending action. Third party has no locus standi to canvas the legality or correctness of the action. Since the above writ petition has been filed by the Association and not by the individual teachers, the writ petition is liable to be dismissed."

4.In the light of the aforesaid averment made in the counter affidavit filed by the respondents, which appears to be bona fide, this Court, as agreed by the learned counsel for the petitioner, grants liberty to the members of the petitioner Association to approach the respondent authorities by way of filing fresh representation ventilating all their grievances, within a period of two weeks from the date of receipt of a copy of this order. On such representation being made, the respondent authorities shall consider the same and pass appropriate orders, on merits and in accordance with law and also in the light of G.O.Ms.No.324 dated 25.04.1995 and taking into consideration G.O.Ms.No.177 dated 13.10.2016, which is clarificatory in nature, within a period of six weeks thereafter.

5.Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar



1. The Principal Secretary,
School Education Department,
Secretariat, Fort St. George, Chennai - 600 009.

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

+1cc to Mr.G.Sankaran, Advocate SR.No.20951

+1cc to the Government Pleader SR.No.21019

W.P.No.7705 of 2017

CP(CO)
RLP(26/07/2021)