



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:	24.02.2021
DELIVERED ON:	29.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD)Nos.3356, 4302, 3599, 4011,

4592, 4594, 4598, 4600, 4601, 4603 of 2021

and W.M.P.(MD) Nos.2714, 2717, 2719, 3194, 3232, 3483, 2923, 3236,
3678, 3679, 3682, 3688, 3692, 3694 to 3698, 5342 of 2021

(Through Video Conference)

Dr.S.Pandiammal ... Petitioner in WP(MD) No.3356 of 2021
Saravanamuthukrishnan.K. S/o. K.Karuppiyah, 5/586, Thiruvalluvar
St., Sadasiva Nagar, Madurai- 625020
... Petitioner in WP(MD). 4302 of 2021

Dr.M. Ezhilvani W/o. Lakshmanan, V.I.P Nagar, Keeranur Post,
Kulathur Tk, Pudukkottai District
... Petitioner in WP(MD). 3599 of 2021

Periyavar.P S/o.M.Pandi, Kamarajar Street, Therkutheru Post, Melur
Tk, Madurai District -625 122.
... Petitioner in WP(MD). 4011 of 2021

Dr.A.Rajamohan S/o.M.Arumugam, No.123, Middle St, Allur Post,
Naducavery Via, Thiruvaiyaru Taluk, Thanjavur Dist
... Petitioner in WP(MD). 4592 of 2021

Dr.B.Jeevarani D/o.G.Balamurugandan, No.6, Muthaliyar St,
Karanthai, Thanjavur Town, Thanjavur Dist
... Petitioner in WP(MD). 4594 of 2021

Dr.U.Durai S/o.N.Uthirapathy , No.26/2494, Javuli Chetty Street ,
South Main Street , Thanjavur - 613009.
... Petitioner in WP(MD). 4598 of 2021

Dr.F.Elayaraja S/o.C.Francis, No.737, Main Road, Kandamangalam,
Thanjavur - 613104.
... Petitioner in WP(MD). 4600 of 2021

Manikumari.B S/o.A.Balasubramaniam, No.4 Royal Town, Nadupadugi
Main Road, Sriram Nagar, Thiruvaiyaru, Thanjavur - 613 204.
... Petitioner in WP(MD). 4601 of 2021

Vijayakumar.V S/o.R.Veeraiya, No.131 Pillaiyar Koil West St.,
Thenperambur, Thiruvaiyaru Tk., Vellamperambur Post, Thanjavur
District
... Petitioner in WP(MD). 4603 of 2021



Vs

- 1) The Principal Secretary to Government,
Higher Education Department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009
- 2) The Director,
The Director of Collegiate Education,
EVK Sampath Maaligai, DPI Campus,
Nungambakkam, Chennai 600 006
- 3) The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Campus, Nungampakkam,
Chennai 600 006 ... Respondents in WP(MD) No.3356 of 2021
- 4) Dr.K.M.Murugesan
- 5) Dr.B.Panchanathan
- 6) Dr.R.Pandimeenal
- 7) Dr.C.Jeyaveeragandhi
- 8) Dr.A.Pandi
- 9) N.P.Senthil Kumar
- 10) A.Murugan
- 11) T.Lakshmi Devi
- 12) S.Senthil
- 13) M.Paranthaman
- 14) Dr.R.Devaraj
- 15) Dr.K.Pushpalatha
- 16) Dr.D.Kamalakannan
- 17) P.Periyasamy
- 18) Dr.K.Arivukkarasi
- 19) Dr.R.Arulkumaran
- 20) V.Sathish
- 21) Dr.A.Karthikeyan
- 22) Dr.R.Sundarajan
- 23) Dr.S.P.Sakthimathan ... RR 4 to 23 Impleaded Respondents

in WP(MD) No.3356 of 2021

*** RR 4 to 23 impleaded vide order of this Court made in W.M.P. (MD) Nos. 3194 & 3232 of 2021 in W.P. (MD) No.3356/2021**

1. State of Tamil Nadu Rep. by its
Prl. Secretary to the Govt.,
Higher Education Dept., Fort St.George,
Chennai-600 009
2. The Director of Collegiate Education,
College Rd, Chennai-600 006



3. The Chairman Teachers Recruitment Board,
4th Floor, Evk Sampath Maligai, Dpi Compound,
College Rd, Chennai-600 006

... Respondents in WP(MD). 4302 of 2021

1. The Prl.Secretary to Govt. Of Tamil Nadu,
Dept. of Higher Education, Secretariat, Chennai

2. The Principal Govt. Arts College For Women,
Pudukottai

... Respondents in WP(MD). 3599 of 2021

1. State of Tamil Nadu

Rep. by its Principal Secretary to
the Government, Higher Education Department,
Fort St. George, Chennai-600 009.

2. The Director of Collegiate Education, College Road,
Chennai-600 006.

3. The Chairman Teachers Recruitment Board,
4th Floor, Evk Sampath Maligai, Dpi Compound,
College Road, Chennai-600 006.

4. The Tamil Nadu All Government Colleges UGC Qualified Guest
Lecturer Association,,
Rep by its President, Mr.V.Thangaraj,
No.609, Thoppu Steet, Melsolankuppam
Village and Po

... Respondents in WP(MD). 4011 of 2021

1. The Principal Secretary to Govt, Higher Education Dept,
Govt of Tamil Nadu, Secretariat, Chennai-600 009

2. The Director of Collegiate Education, EVK Sampath Maaligai,
DPI Campus, Nungambakkam, Chennai-600 006

3. The Chairman Teachers Recruitment Board,
4th Floor, Evk Sampath Maaligai, Dpi Campus,
Nungambakkam, Chennai-600 006

... Respondents in WP(MD). 4592 of 2021

1. The Principal Secretary to Govt, Higher Education Dept, Govt of
Tamil Nadu, Secretariat, Chennai-600 009

2. The Director of Collegiate Education, EVK Sampath Maaligai, DPI
Campus, Nungambakkam, Chennai-600 006

3. The Chairman Teachers Recruitment Board, 4th Floor,
EVK Sampath Maaligai, DPI Campus, Nungambakkam,
Chennai-600 006

... Respondents in WP(MD). 4594 of 2021

1. The Principal Secretary to Govt, Higher Education Dept,
Govt of Tamil Nadu, Secretariat, Chennai-600 009

2. The Director of Collegiate Education,
EVK Sampath Maaligai, DPI Campus, Nungambakkam,



3. The Chairman Teachers Recruitment Board, 4th Floor,
EVK Sampath Maaligai, DPI Campus,
Nungambakkam, Chennai-600 006

... Respondents in WP(MD). 4598 of 2021

WEB COPY

1. The Principal Secretary to Govt, Higher Education Dept,
Govt of Tamil Nadu, Secretariat, Chennai-600 009

2. The Director of Collegiate Education,
EVK Sampath Maaligai, DPI Campus, Nungambakkam,
Chennai-600 006

3. The Chairman Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai, DPI Campus,
Nungambakkam, Chennai-600 006

... Respondents in WP(MD). 4600 of 2021

1. The Principal Secretary to Govt, Higher Education Dept,
Govt of Tamil Nadu, Secretariat, Chennai-600 009

2. The Director of Collegiate Education,
EVK Sampath Maaligai, DPI Campus, Nungambakkam,
Chennai-600 006

3. The Chairman Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai, DPI Campus,
Nungambakkam, Chennai-600 006

... Respondents in WP(MD). 4601 of 2021

1. The Principal Secretary to Govt, Higher Education Dept,
Govt of Tamil Nadu, Secretariat, Chennai-600 009

2. The Director of Collegiate Education, EVK Sampath Maaligai,
DPI Campus, Nungambakkam, Chennai-600 006

3. The Chairman Teachers Recruitment Board, 4th Floor,
EVK Sampath Maaligai, DPI Campus, Nungambakkam, Chennai-600 006

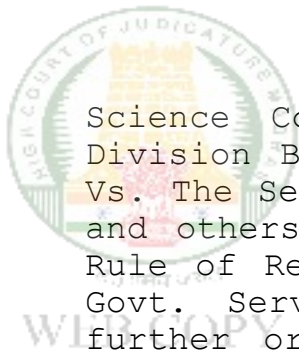
... Respondents in WP(MD). 4603 of 2021

PRAYER in W.P.(MD) No.3356 of 2021:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd Respondent pertaining to the impugned order in Na.ka. No.15867/D2/2018 dated 12.02.2021 and quash the same as illegal and arbitrary and consequently direct the Respondents to complete the certificate Verification and interview pursuant to the 3rd Respondent Notification No.12/2019 dated 28.08.2019 and 04.10.2019 and complete the selection process as per law within the time limit that may be stipulated by this Court.

Prayer in WP(MD). 4302 of 2021:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-6. To issue a Writ of Mandamus, forbearing the respondents from regularizing the Guest Lecturers who have rendered more than 5 years of service in the Govt. Arts and



Science Colleges in violation of the Judgment of the Hon'ble Division Bench of Madras High Court in M.Saravanakumar and others Vs. The Secretary to Govt. Education Dept., Fort St.George, Chennai and others reported in 2005 (3) L.W .329 and in violation of the Rule of Reservation enshrined in the Section 27 of the Tamil Nadu Govt. Servants Conditions of Service Act, 2016 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of this case and thus render justice.

Prayer in WP(MD). 3599 of 2021:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-6. To issue a Writ of Mandamus, directing the respondents No. 1 and 2 to regularise the services of the petitioners as Assistant Professor on par with others by considering the petitioners representation dt. 13.02.2021 and pass such further or other orders as this Hon'ble Court deems fit and proper in the circumstances of the case and thus render justice.

Prayer in WP(MD). 4011 of 2021:

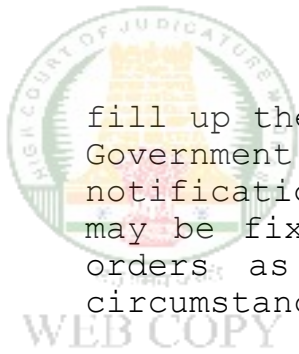
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-6. To issue a Writ of Mandamus, forbearing the respondents from regularizing the Guest Lecturers who have rendered more than 5 years of service in the Govt Arts and Science College in Violation of the of the judgment of the Hon'ble Division Bench of Madras High Court in M.Saravanakumar and others Vs The Secretary to Govt. Education Dept., Fort St.George, Chennai and others reported in 2005(3) L.W.329 and the Judgment of the Hon'ble Supreme Court in State of Karnataka V.Uma Devi reported in (2006) 4 SCC 1 within the time period stipulated by this Hon'ble Court and pass such further or other order as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WP(MD). 4592 of 2021:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-4. To issue a Writ of Certiorarified Mandamus to calling for the records relating to the impugned order of the 2nd respondent in Na.Ka.no.15867/D2/2018 dt 12.2.2021 quash the same and consequently to direct the 3rd respondent herein to fill up the notified 2340 public post of Assistant Professors in the Government Colleges under the 2nd respondent herein as per notification no. 12/2019 dt 28.8.2019 within a reasonable time as may be fixed by this Hon'ble Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice

Prayer in WP(MD). 4594 of 2021:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-4. To issue a Writ of Certiorarified Mandamus to calling for the records relating to the impugned order of the 2nd respondent in Na.Ka.no.15867/D2/2018 dt 12.2.2021 quash the same and consequently to direct the 3rd respondent herein to



fill up the notified 2340 public post of Assistant Professors in the Government Colleges under the 2nd respondent herein as per notification no. 12/2019 dt 28.8.2019 within a reasonable time as may be fixed by this Hon'ble Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice

Prayer in WP(MD). 4598 of 2021:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-4. To issue a Writ of Certiorarified Mandamus to calling for the records relating to the impugned order of the 2nd respondent in Na.Ka.no.15867/D2/2018 dt 12.2.2021 quash the same and consequently to direct the 3rd respondent herein to fill up the notified 2340 public post of Assistant Professors in the Government Colleges under the 2nd respondent herein as per notification no. 12/2019 dt 28.8.2019 within a reasonable time as may be fixed by this Hon'ble Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice

Prayer in WP(MD). 4600 of 2021:

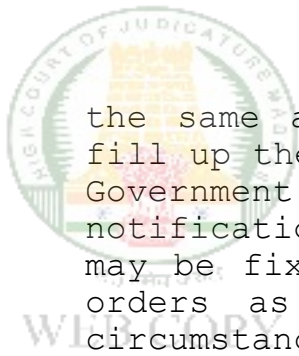
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-4. To issue a Writ of Certiorarified Mandamus to calling for the records relating to the impugned order of the 2nd respondent in Na.Ka.no.15867/D2/2018 dt 12.2.2021 quash the same and consequently to direct the 3rd respondent herein to fill up the notified 2340 public post of Assistant Professors in the Government Colleges under the 2nd respondent herein as per notification no. 12/2019 dt 28.8.2019 within a reasonable time as may be fixed by this Hon'ble Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice

Prayer in WP(MD). 4601 of 2021:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-4. To issue a Writ of Certiorarified Mandamus to calling for the records relating to the impugned order of the 2nd respondent in Na.Ka.no.15867/D2/2018 dt 12.2.2021 quash the same and consequently to direct the 3rd respondent herein to fill up the notified 2340 public post of Assistant Professors in the Government Colleges under the 2nd respondent herein as per notification no. 12/2019 dt 28.8.2019 within a reasonable time as may be fixed by this Hon'ble Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice

Prayer in WP(MD). 4603 of 2021:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-4. To issue a Writ of Certiorarified Mandamus to calling for the records relating to the impugned order of the 2nd respondent in Na.Ka.no.15867/D2/2018 dt 12.2.2021 quash



the same and consequently to direct the 3rd respondent herein to fill up the notified 2340 public post of Assistant Professors in the Government Colleges under the 2nd respondent herein as per notification no. 12/2019 dt 28.8.2019 within a reasonable time as may be fixed by this Hon'ble Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice

For Petitioner: Mr.Tha Kanagamuthu
For RR 1 & 2 : Mr.M.Sricharan Rangarajan,
Additional Advocate General
Assisted by
Mrs.J.Padmavathy Devi,
Special Government Pleader

For R-3 : Mr.VR.Shanmuganathan,
Standing counsel.

For Impleaded : Mr.M.Ajmal Khan,
Respondents Senior Counsel & Mr.R.Gandhi
(RR 5 to 24)

C O M M O N O R D E R

By notification dated 04.10.2019, the Teachers Recruitment Board had invited applications for direct recruitment of 2331 posts of Assistant Professors for Government Arts and Science Colleges and Colleges of Education in Tamil Nadu Collegiate Educational Services for the year 2018-2019. The petitioners herein are the aspirants to these posts and claimed to have applied to these posts.

2.1.On 12.02.2021, the Director of Collegiate Education had addressed the Principals of all the Government Colleges to register the names of all the guest faculties, who had completed their Ph.D/SET/SLET/NET/CSIR, as on 30.09.2019 and who have put in more than five years of service as Guest Lecturers, for the purpose of regularizing their services. The petitioners are aggrieved against the proposal to regularize the Guest Lecturers, on the ground that their scope of being considered for the post of Assistant Professors, through direct recruitment, would be affected and the total number of vacancies could be reduced owing to the regularization of these Guest Lecturers. Since the grievance of all these petitioners are one and the same, these writ petitions are disposed of through this common order.

2.2. The brief facts of the case are that there are about 5200 vacancies for the post of Assistant Professors in the Government Arts and Science Colleges and College of Education, which post is the entry level post. Out of these vacancies, 2331 vacancies upto the year 2016-17 were sought to be filled up through direct recruitment conducted by the Teachers Recruitment Board and according to a notification came to issued on 04.10.2019. The



recruitment process, though commenced, yet to be completed.

2.3. In the meantime, the Principals of the various Government Colleges were authorised to appoint Guest Lecturers, considering the interest of the students and in accordance with the guidelines and procedures prescribed through various Government Orders and accordingly, several Guest Lecturers came to be appointed in all the Government Colleges.

2.4. Through G.O. Ms.No.56, Higher Education (F2) Department dated 21.03.2020, a policy decision was taken to regularize the service of Guest Lecturers for 1146 vacancies notified for the year 2017-18 and 2018-19 for the post of Assistant Professors. These 1146 vacancies are exclusive of the 2331 vacancies, for which the notification for direct recruitment was called for on 04.01.2019. The petitioner's herein, now seek for forbearing the respondents from regularizing the services of the Guest Lecturers.

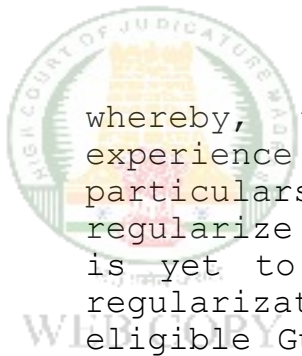
3. Heard the learned counsel for the petitioners, impleading respondents and the Additional Advocate General for the respondents.

4. While the common grievance of the petitioners seems to be that the scope for their consideration in the direct recruitment for the post of Assistant Professors would be reduced if the services of the Guest Lecturers are regularized for the 1146 vacancies, the learned Additional Advocate General would submit that the 2300 vacancies that have been called, for which the notification for direct Recruitment has been issued, does not include the 1146 posts, whereby, the services of the Guest Lecturers are sought to be regularized.

5. The petitioners herein, are all applicants in the direct recruitment process for the post of Assistant Professors. They are either persons, who claim to be qualified to apply for the post of Assistant Professors or Guest Lecturers, or are not eligible for regularization, as per the conditions laid down in G.O.Ms.No.56 Higher Education Department dated 21.03.2020.

6. While that being so, this Court had raised a preliminary doubt to the petitioners' locus to challenge the respondents' proposal to regularize the Guest Lecturers, serving under the various Government Colleges. The response of the petitioners to such an objection was that their scope for consideration would reduce, if 1146 vacancies are filled up through regularization of the Guest Lecturers and hence, they have locus to challenge the proceedings of the Director of Collegiate Education, dated 12.02.2021 or seek for restraining the Department from regularizing their services.

7. At the outset, it is to be noted that the proceedings dated 12.02.2021 is an inter-departmental proceedings between the Director of Collegiate Education and the Principals of various Arts Colleges



whereby, the details with regard to the qualifications and experience of the Guest Lecturers are sought for. Though these particulars have been sought in connection with the proposal to regularize these Guest Lecturers, the proceedings dated 12.02.2021 is yet to culminate into a cause of action. The proceedings of regularization needs to undergo various stages of identifying the eligible Guest Lecturers, which is a lengthy procedure. On an overall perspective of the grounds raised in these writ petitions, maintainability of these writ petitions appear to be faulted on three aspects: (i) Firstly, the inter-departmental communication is pursuant to the policy decision of the Government of Tamil Nadu taken in G.O.Ms.No.56 Higher Education (F2) Department dated 21.03.2020 and this Government order has not been put under challenge in all these writ petitions; (ii) Secondly, the petitioners are neither Guest Lecturers nor are such Guest Lecturers, eligible for regularization and therefore, are not aggrieved parties; and (iii) Thirdly, though the petitioners have sought for prayers to refrain the Authorities from regularizing the Guest Lecturers, such affected Guest Lecturers have not been made as parties in these writ petitions.

8. Before advertng further on this aspect, it would be appropriate to quote the views of the Hon'ble Division Bench of this Court, with regard to the Government's policy decision to regularise the Guest Lecturers, who have been retained for considerable period in the Adhoc appointment. In the case of **M.Saravana Kumar vs. the Secretary to Government, Education Department and others** in W.A. (MD) No. 1350 of 2005... etc batch, it was held as follows:

"23. Keeping the above considerations in mind we may carefully consider the judgment of the Supreme Court in *State of Haryana Vs. Piara Singh (supra)*. The facts in that case (as stated in paragraph - 2 of the said decision) reveal that temporary appointees had been initially appointed for 6 months or so, but had continued for 10 years or more, and had not been regularised, since there was no selection board in existence then in the State of Haryana. Hence, the State Government issued orders from time to time for regularization of such employees subject to certain conditions. In pursuance of the said orders some persons who satisfied the conditions prescribed in those orders were regularized, but many could not be regularised as they did not satisfy one or the other conditions prescribed. However, they had been allowed to continue in service. It is such persons who filed writ petitions praying for regularisation. In those circumstances, the Supreme Court was of the view that if a person who has been given a temporary or ad hoc appointment and continued for a long time, the court presumes the need or warrant for regular posts and



often directed regularization.

24. The Supreme Court referred to its own decision in *Dharwad District P.W.D. Literature Daily Wage Employees Association Vs. State of Karnataka*, AIR 1990 SC 883, *Jacob Vs. Kerala Water Authority*, AIR 1990 SC 2228, etc."

The aforesaid observations are self-explanatory and thus, the policy decision of the Government to regularize these Guest Lecturers, whose services have been retained for a considerable length of time, cannot be found fault with.

9. In view of the discrepancies, referred to in the preceding paragraphs, the petitioners lack locus to file these writ petitions. However, I do not intend to venture any further into these aspects, since these writ petitions also deserve to be rejected on the ground that the apprehension of these petitioners, seem to be misplaced, pursuant to the clarifications made by the respondents.

10. The only apprehension of these petitioners is that the proposal to regularize the services of the Guest Lecturers, in respect of 1146 vacancies, may affect the 2331 vacancies called for in the notification for direct recruitment. This anxiety of the petitioners has now been clarified by the respondents, stating that the 2331 vacancies under the notification for direct recruitment, are exclusive of the 1146 vacancies, which is sought to be filled through regularization of the services of the Guest Lecturers. The petitioners herein, have chosen to participate in the recruitment process for only 2331 vacancies and therefore, the regularization of the Guest Lecturers, which vacancies do not form a part of the notification, may not affect their chances for consideration in any manner. Even assuming that if a policy decision is taken to fill up the 1146 vacancies through direct recruitment, such vacancies do not form a part of the present notification and on this count also, the petitioners cannot be aggrieved. In view of the clarifications made by the respondents in the counter affidavit, the writ petitions do not deserve consideration.

11. For the foregoing reasons, all the Writ Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



sts

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To:

- 1) The Principal Secretary to Government,
Higher Education Department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009
- 2) The Director,
The Director of Collegiate Education,
EVK Sampath Maaligai, DPI Campus,
Nungambakkam, Chennai 600 006
- 3) The Chairman,
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4th Floor, EVK Sampath Maaligai,
DPI Campus, Nungampakkam,
Chennai 600 006
- 4) The Director of Collegiate Education,
College Rd, Chennai-600 006
- 5) The Principal Govt. Arts College For Women,
Pudukottai

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-14468[F] dated 31/03/2021)
+1 CC to M/s.THA.KANAGAMUTHU, Advocate (SR-14225[F] dated 29/03/2021)
+1 CC to M/s.S.LOUIS, Advocate (SR-14468[F] dated 31/03/2021)
+1 CC to M/s.R.GANDHI, Advocate (SR-14468[F] dated 30/03/2021)
+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-14503[F] dated 30/03/2021)
+1 CC to M/s.SPL GP (SR-14905[F] dated 31/03/2021)

Common Order made in
**W.P. (MD) Nos. 3356, 4302, 3599, 4011,
4592, 4594, 4598, 4600, 4601, 4603 of 2021**
Dated: 29.03.2021

SSS (CO)
TR(03.08.2021) 11P 12C