



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)Nos.12873 & 12874 of 2018

and

W.M.P. (MD) Nos.11765, 11766 & 11768 of 2018

(Through Video Conference)

V. Thiruneelakanda Boopathy,
Educational District
Coordinator-Paramakudi,
Rashtriya Madhyamik Shiksha Abhiyan,
Chief Education Office,
Ramanathapuram District.

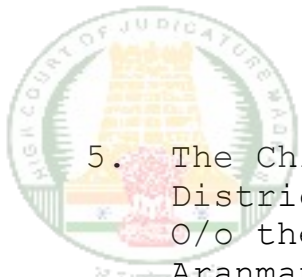
... Petitioner in W.P. (MD)
No.12873 of 2018

A.Ramesh Kanna,
Educational District
Coordinator-Ramanathapuram,
Rashtriya Madhyamik Shiksha Abhiyan,
Chief Education Office,
Ramanathapuram District.

... Petitioner in W.P. (MD)
No.12874 of 2018

Vs

1. The State of Tamil Nadu,
Rep. By its Secretary to Government,
School Education Department,
Fort St.George, Chennai 600 009
2. The Director of School Education,
Nungambakkam, Chennai 600 006
3. The Joint Director of
School Education (Personnel),
O/o the Joint Director of School Education,
Chennai 600 006
4. The Joint Director of
School Education (Higher Secondary),
O/o the Joint Director of School Education,
Chennai 600 006



5. The Chief Educational Officer /
District Programme Coordinator,
O/o the Chief Education Office,
Aranmanai, Ramanathapuram,
Ramanathapuram District.

... Respondents in both W.P.'s

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 4th respondent in his proceedings Na.Ka.No.35476/W1/,1/2018 dated nil.06.2018 (published in the internet on 11.06.2018) and quash the same as illegal.

For Petitioners	: Mr.Ajmal Khan, Senior Counsel For Mr.Mohammed Imran
For Respondents	: Mr.A.Thiyagarajan, Government Advocate

C O M M O N O R D E R

Since the issue involved in both the writ petitions are one and the same, they are disposed of by this common order.

2. Through the impugned order dated nil.06.2018, the respondents herein, had called for the petitioners as well as other Educational District Coordinators, who had completed three years, to compulsorily take part in the counselling process, by restricting themselves to apply for the same only through 'online mode' on or before 11.06.2018 before 6:30 p.m.

3. Apparently, the present impugned order cannot be sustained for two reasons namely, (i) the date restricting the petitioners to apply for counselling had expired and therefore, no effective orders can be passed against the present impugned order; and (ii) the principles governing counselling is in the nature of bilateral talks, whereby the concerned employees express their willingness to be transferred to a place of their choice and therefore, the respondents cannot compel such an employee to compulsorily undergo the process of counselling.

4. Though counselling process cannot be made compulsory, it is needless to point out that, if at all, the respondent Department intends to transfer any of its employees on administrative exigencies, it is always open to them to effect such transfers. However, compelling the employees to participate in the counselling would be impermissible.



5. In the light of the above, the impugned order passed by the 4th respondent in his proceedings in Na.Ka.No.35476/W1/,1/2018 dated nil.06.2018 (published in the internet on 11.06.2018) stands quashed and the writ petition stands ordered accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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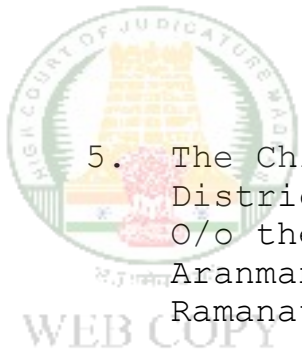
Sub Assistant Registrar(CS)

sts/DP

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 Secretary to Government,
State of Tamil Nadu,
School Education Department,
Fort St.George, Chennai 600 009
2. The Director of School Education,
Nungambakkam, Chennai 600 006
3. The Joint Director of
School Education (Personnel),
O/o the Joint Director of School Education,
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4. The Joint Director of
School Education (Higher Secondary),
O/o the Joint Director of School Education,
Chennai 600 006



5. The Chief Educational Officer /
District Programme Coordinator,
O/o the Chief Education Office,
Aranmanai, Ramanathapuram,
Ramanathapuram District.

+1 CC to M/s.GP (SR-4013[F] dated 09/02/2021)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-3904[F] dated
09/02/2021)

Common Order made in
W.P. (MD)Nos.12873 & 12874 of 2018
08.02.2021

VB (30/04/2021) 4P / 8C