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W.A.No.2579 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 26.09.2022

Judgment Pronounced on : **30.09.2022**

CORAM :

**THE HON'BLE MR. JUSTICE PARESH UPADHYAY
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.A.No.2579 of 2021 and CMP.No.16824 of 2021

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.

... Appellants

Versus

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

... Respondents

Prayer in W.A.No.598 of 2022: Writ Appeals have been filed under Section 15 of Letter of Patent, to allow the Writ Appeal and set aside the order dated 19.07.2021 passed in W.P.No.13123 of 2021.



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For Appellants : Mr.R.Neelakandan, AAG,
Assisted by
Mrs. S.Mythreye Chandru, Spl.,Govt.Pleader and
Mr. K. Sathish Kumar, Standing Counsel for TRB.

For Respondents : Mrs. Nalini Chidamabaram, Senior Counsel,
for Mrs. C. Uma.

JUDGMENT

(The Judgment was made by Mr.Justice.D.Bharatha Chakravarthy)

This Writ Appeal is filed against the order of the learned Judge, dated 19.07.2021, in and by which, W.P.No.13123 of 2021, filed by the respondents 1 to 5/writ petitioners for a Mandamus, directing the appellants herein to comply with the order of this Court, dated 26.06.2018 in W.P.No.27692 of 2017 etc., in respect of them also and to call them for certificate verification to the post of Post Graduate Assistant was allowed by the learned Judge.

2.The brief facts of the case are that by a notification, dated 09.05.2017, applications were called for for appointment by way of direct recruitment to the post of Post Graduate Assistants/Physical Education Directors Grade-I. The respondents 1 to 5/writ petitioners also applied to



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the said post in the discipline of English. After the publication of the results, since the respondents/writ petitioners did not come within the cut-off marks, they were not called for for certificate verification. However, in respect of the very same examinations, about ten persons, filed writ petitions in W.P.No.27692 of 2017 etc., and a Learned Judge found merit in the Writ Petitions filed by them and held that in respect of the two questions, namely question Nos.34 and 93, two marks have to be given to the candidates and directed the candidates, who are only less by one mark or two marks to be called for for certificate verification and thereafter, to issue appointment. The respondents/writ petitioners were also falling short only by one or two marks. Therefore, after the judgment of the learned Single Judge, they made a representation to the appellants to implement the said order in respect of them also. Since the appellants did not implement the said order, the present Writ Petition was filed.

3.The learned Single by the Judgment under appeal dated 19/07/2021, found that as against the earlier order of the learned Judge allowing the writ petitions, the appellants herein had filed Writ Appeal along with applications to condone the delay, which was dismissed by this



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Court and the Special Leave Petitions filed by them before the Hon'ble Supreme Court of India was pending. Therefore, pending the S.L.P, reserving their right to take a call, if they succeeded in the Special Leave Petition, the learned Judge directed implementing the order in respect of the respondents/writ petitioners also. Aggrieved by the same, the present Writ Appeal is filed.

4.Heard *Mr.R.Neelakandan*, the learned Additional Advocate General for the appellants and *Mrs.Nalini Chidambaram*, the learned Senior Counsel for the respondents/writ petitioners.

5. It can be seen that after the order of the Learned Single Judge in the present Writ Petition, the Special Leave Petition filed by the appellants were allowed by an order dated 03.02.2022, in and by which, the Hon'ble Supreme Court set aside the order of this Court, condoned the delay and remitted the Letters Patents Appeal to the file of this Court with a direction to dispose off the same on merits at an early date. Today, by a separate order, Writ Appeals in W.A.Nos.598,600, 602 to 609 of 2022, filed against the order of the learned Judge, dated 26.06.2018 in



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W.P.No.27692 of 2017etc., are allowed by us holding that the Writ Petitions filed are untenable in the absence of any challenge to the Select List and that the exercise of the jurisdiction under Article 226 of the Constitution of India is in the realm of substituting the opinion of this Court to the expert opinion and thus unsustainable. Therefore, when the Order dated 26.06.2018 which is sought to be implemented by the present Writ Petition itself having been set aside, this Writ Appeal also deserves to be allowed.

6. In the result, this W.A.No.2579 of 2021 is allowed. The order of the learned Single Judge in W.P.No.13123 of 2021 dated 19.07.2021 stands set aside and consequently, Writ Petition No.13123 of 2021 stands dismissed. However, there will be no orders as to costs. Consequently, the connected miscellaneous petition is closed.

(P.U., J.) (D.B.C., J.)
30.09.2022
(2/2)

Index : Yes/No
Speaking/Non-Speaking order

grs/klt



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**PARESH UPADHYAY, J.,
and
D.BHARATHA CHAKRAVARTHY, J.,**

grs

Pre-Delivery Judgment in
W.A.No.2579 of 2021 and CMP.No.16824 of 2

**30.09.2022
(2/2)**