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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.5615 of 2018

and

W.M.P.Nos.6940 & 32078 of 2018

1.K.Sampath
2.D.Karthikeyan
3.K.S.Nagendran
4.G.Nithya
5.P.Saravanan
6.S.Ramesh
7.P.Prem Anandh
8.G.Senthil
9.B.Sankar

.. Petitioners

Vs.

- 1.The Secretary to the Government
Department of Elementary Education and Literacy,
Ministry of Human Resources Development,
Government of India, New Delhi – 200 000.
- 2.The State of Tamil Nadu,
Rep.By the Secretary to Government,
School Education Department,
Chennai – 9.
- 3.The State Project Director,
Sarva Shiksha Abhiyan,
District Primary Education Programme,
Chennai – 2.



4.The Chief Educational Officer/
District Project Co-ordinator,
Sarva Shiksha Abhiyan,
Thiruvallur,
Thiruvallur District.

5.The Chief Educational Officer/
District Project Co-ordinator,
Sarva Shiksha Abhiyan,
Krishnagiri,
Krishnagiri District.

6.The Chief Educational Officer/
District Project Co-ordinator,
Sarva Shiksha Abhiyan,
Thiruvannamalai,
Thiruvannamalai District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to regularize the service of the petitioners with effect from the date of their appointment in the post of Civil Engineers engaged to carry on Sarva Shiksha Abhiyan Programme aimed to attain the mandate of Article 21A of the Constitution and compliance with the exception carved out in Para No.53 of the Uma Devi case (2006) 4 SCC 1 CB by considering their representation dated 10.01.2018.

For Petitioner	.. Mr.N.Manokaran
For R1	.. Mr.R.Rajesh Vivekananthan, Deputy Solicitor General of India
For R2 to R6	.. Mr.S.Ravikumar, SGP.

**ORDER**

This writ petition has been filed in the nature of Mandamus seeking a direction to regularize the service of the petitioners with effect from the date of their appointment in the post of Civil Engineers to carry on Sarva Shiksha Abhiyan Programme to attain the mandate of Article 21A of the Constitution and compliance in accordance with the exception carved out in Paragraph No.53 of the *Uma Devi case* reported in **2006 (4) SCC 1 CB** by considering the representation dated 10.01.2018.

2. Even before proceeding further, since the learned counsel for the petitioners placed reliance on Paragraph No.53 of the judgment reported in **2006 (4) SCC 1 CB**, which he calls as *Uma Devi case*, but the citation is, *the Secretary, State of Karnataka and others Vs. Uma Devi and others* has to be examined. It had been held that the State Governments should take steps to regularize those who had been working for 10 years or more, within a period of six months from the date of said judgment. The judgment in *Uma Devi case*, was delivered on 10.04.2006. The petitioners had filed the



writ petition on 06.03.2018 nearly 12 years after the said judgment. In paragraph No.53 of the said judgment, a direction was given that such regularisation should be within a period of six months. The petitioners seek that such relief should be granted to them after the period of ten years. On that one ground itself, the relief of the petitioners can never be acceded to by this Court. But even otherwise, the issue of regularisation, can never be adjudicated by this Court. It is purely within the zone of consideration by the respondents.

3.It is contended by the learned Special Government Pleader that the scheme itself has been abolished and therefore, there cannot be any regularisation under the said scheme of Sarva Shiksha Abhiyan and it is stated that, as on date, there is no such scheme in force.

4.There are two orders of this Court, which relate to similar reliefs sought.

5.The first one is dated 27.02.2018 in ***W.P(MD)No.13678 of 2013, D.Aramvalarthan and others Vs. The Secretary to Government,***



Government of Tamilnadu, School Education Department, Chennai and

others. In that particular writ petition, the petitioners therein also sought a Mandamus for continuation of service under the Sarva Shiksha Abhiyan Scheme or to give them alternate employment. A learned Single Judge of this Court had dismissed the writ petition.

6. There is yet another order of a learned Single Judge dated 10.09.2019 in ***W.P.No.5616 of 2018, M.Velmurugan Vs. the Secretary to Government, Department of Elementary Education and Literacy, Government of India, New Delhi***, wherein, the learned Single Judge had taken a straight forward approach, since the writ petition was only for a Mandamus seeking a direction to the respondents to examine a representation given by the petitioners, a direction was issued to examine the representation within a period of six weeks keeping in mind, the relevant decisions of both the Hon'ble Supreme Court and this Court. But in the course of the said order, there is no reference to the earlier order of the learned Single Judge in ***W.P(MD) No.13678 of 2013 (D.Aramvalarthan)*** referred *supra*.



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7.It is highly doubtful, that the exception stated in Paragraph No.53 of the said judgment reported in **2006 (4) SCC 1 (CB), Uma Devi case** referred *supra* which in fact is not an exception can be applied to the facts of this case.

8.In view of conflicting decisions of this Court, a Mandamus can never be issued.

9.Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

10.However, the respondents are at liberty to consider the representation. If they take a decision to consider the representation, they must do so within a period of sixteen weeks from the date of receipt of a copy of this order. The Court however is not issuing any such Mandamus in this regard.

21.09.2023

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Index:Yes/No

Internet:Yes/No

Neutral Citation:Yes/No

Speaking order:Yes/No



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C.V.KARTHIKEYAN,J.

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