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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1087 of 2016

Chellandi

... Petitioner

–Vs. –

1. The State Project Officer,
Sarva Shiksha Abhiyan,
DPI Campus,
College Road, Chennai 6.
2. The District Collector,
Thoothukudi District,
Thoothukudi.
3. The Additional Chief Educational Officer,
Sarva Shiksha Abhiyan,
Government Higher Secondary School,
Thevarpuram Road,
Thoothukudi Post & District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 2nd Respondent in his proceedings in



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Ma.O.3/1119/உள்ளடங்கிய கல்வி/அகதி/2013, dated 27.04.2015 and quash the same as illegal and consequently directing the 2nd respondent herein to pass approval order on the selection list submitted by the 3rd Respondent herein thereby appointment in the post of Special Teacher with all monetary service benefits.

For Petitioner : Mr.S.Srinivasaraghavan

For Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

This writ petition has been filed for Writ of Certiorarified Mandamus to quash the impugned order, dated 27.04.2015 with a consequential relief to approve the selection list submitted by the 3rd respondent and appoint the petitioner in the post of Special Officer with monetary benefits.

2. Heard Mr.S.Srinivasaraghavan, the Learned Counsel appearing for the petitioner and Mr.V.Om Prakash, the Learned Government Advocate appearing for the respondents and perused the material documents placed on record.



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3. The petitioner has completed B.A. (History) at Madurai Kamaraj University in the year 1991. Under Sarva Shiksha Abhiyan Scheme there are 385 Community Development Blocks and 27 Urban Blocks are functioning. Under the control of the 1st respondent 285 Block Resource Centers are functioning in 29 Districts. Based on the petitioner's qualification he was appointed on 01.12.2006 as “Care Giver” on consolidated pay. The qualification for appointment of Special Education Teacher is concerned, the Rehabilitation Council of India issued circular on 11.01.2012 and as per the said Circular the petitioner is fully eligible to be appointed as Special Education Teacher.

4. The 3rd respondent, vide letter, dated 16.12.2013 requested the 2nd and 3rd respondents to fill up one post of Physiotherapist and one post of Occupational/Speech Therapist and the District Collector has also permitted the 3rd respondent to fill up the above posts. Under the 3rd respondent, the Selection Committee was constituted, consisting of 5 members. On receipt of the call letter, the petitioner has appeared before the Selection Committee on 22.01.2014. After completion of selection process, the 3rd respondent vide letter, dated 24.01.2014



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requested the 2nd respondent to approve the selection list. However, the 2nd respondent has not approved. On receipt of the appointment order, the petitioner has approached the 2nd respondent and requested to permit to join in the post. However, the 2nd respondent has not permitted and directed the petitioner to wait. Based on the selection, the petitioner's name was removed from the seniority in the Employment Exchange. Since the 2nd respondent has not permitted to join in the service, he has filed a writ petition in W.P(MD)No.943 of 2015 for Mandamus. This Court, vide order, dated 05.02.2015, directed the respondents to consider and pass orders within the stipulated time. Based on the order, the impugned order was passed.

5. The contention of the respondents is that the said selection was never ever happened. It is stated in the proceedings of the District Collector, Thoothukudi, that one Mr.Kuruvaiah, Headmaster, Government Higher Secondary School, Virudhunagar District, that even though he was named as one of the Committee Member he never participated in the selection process and the selection process was not conducted. The District Collector has come to the conclusion that the selection process was never happened. Since it was not



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conducted properly because of this the petitioner's claim cannot be accepted and rejected the same. Therefore, the respondents prayed to dismiss the writ petition.

6. On perusal of the impugned order, it has been categorically stated that the Selection Committee was formed with five members and one of the committee member's names was mentioned as Mr.Kuruvaiah. He has deposed before the District Collector that he never ever participated in the selection process and the selection process never happened at all. The selection process was not conducted but some forged documents were created. Therefore, the respondents are absolutely right in come to the conclusion that the selection process was not properly conducted.

7. On written instructions the Learned Government Advocate submitted that selection process would be conducted as and when the approval is obtained from the District Collector. The petitioner is at liberty to participate in the selection process as and when it is conducted.



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8. Hence the petitioner cannot seek a positive direction to issue appointment order and hence the prayer cannot be granted. Accordingly, this Writ Petition stands dismissed. There shall be no order as to Costs.

Index : Yes / No
Internet : Yes
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S.SRIMATHY, J

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**Order made in
W.P.(MD)No.1087 of 2016**

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