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W.A.No.1861 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2024

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.A.No.1861 of 2021 and

CMP No.11852 of 2021

1. Teachers Recruitment Board,
Rep. By its Chairman, EVK Sampath Maaligai,
DPI Campus, College Road, Chennai 600 006.

2. The Director of School Education,
Directorate of School Education,
DPI Campus, College Road,
Chennai 600 006.

... Appellants

Vs.

1. G.Arokia Jayaraj
2. K.Settu
3. V.Saravanan
4. A.Srinivasan
5. B.Stalin
6. G.S.Sivakumar
7. T.Udayakumar
8. D.Agilan
9. P.Giriraj
10. P.Pandimurugan

... Respondents



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent to set aside the interim order passed by this Court, dated 09.04.2021 in W.P.No.8897 of 2021 and allow the appeal.

For Appellants	: Mr.K.Neelakandan, Additional Advocate General, Assisted by Mr.K.Sathish Kumar Standing Counsel for first appellant Mr. U.M.Ravichandran, Spl.Govt.Pleader for Second appellant
For Respondents	: No appearance for the respondents

JUDGMENT

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This Writ Appeal has been filed by the Teachers Recruitment Board to set aside the interim order passed by this Court, dated 09.04.2021 in W.P.No.8897 of 2021, in and by which, the Board has been directed to receive the application to be submitted by the respondents herein, without



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insisting on age limit and keep the results of selection in a sealed cover.

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2. The brief facts leading to the filing of the present writ appeal is as follows.

The respondents/writ petitioners, who completed X and XII standard and qualified for the post of Physical Education Teacher, have crossed the age of 45 years. The first appellant/ Teachers Recruitment Board had issued notification No.05/2017, dated 26.07.2017, inviting applications for the post of Special Teachers (Physical Education, Drawing, Music, Sewing) in School Education and other Departments for the year 2012 to 2016. In the said Notification at Clause No.4, with regard to the age limit, it was stated that the candidates should not be over 57 years of age, as on 01.07.2017, as the age of superannuation is 58 years. The respondents/ writ petitioners belong to Backward Class and Most Backward Class and Scheduled Caste and they had applied for the post of Special Teachers in Physical Education Teacher and also wrote written examination and secured the minimum qualifying marks. Some of the writ petitioners were called for certificate verification also, however, they were not selected.



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2.1. Subsequently, the Board has issued advertisement No.02/2021, dated 26.02.2021, inviting applications to the post of Special Teachers, in which, age limit has been fixed as 45 years, as on 1.7.2021. The petitioners, who intend to apply for the above post, are apprehending that their applications will be rejected on account of age limit. According to the respondents/writ petitioners, when the age limit was fixed as not over 57 years in the earlier notification No.05/2017, dated 26.07.2017 and the government has increased the age of superannuation as 60 years, the impugned advertisement No.2/2021, dated 26.02.2021, fixing the age of 45 years is totally arbitrary. Therefore, the respondents/writ petitioners have filed the writ petition in W.P.No.8897 /2021 to quash the above notification No.2/2021, dated 26.02.2021, insofar as clause No.4, dealing with qualification for the post of Special Teachers in Physical Education, fixing the age limit as 45 years for B.C., MBC and SC candidates is concerned; and also to direct the Recruitment Board to fix the age limit for BC, MBC and SC for the post of Special Teachers in Physical Education as 57 years,



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under Advertisement No.02/2021, dated 26.02.2021, as stipulated in Notification No.5/2017, dated 26.07.2017.

2.2. In the above writ petition, this court, on 09.04.2021, has passed the interim order directing the appellant/ Teachers Recruitment Board to receive the application to be submitted by the respondents herein, without insisting on age limit and keep the results of selection in a sealed cover. Challenging the above interim order, the present writ appeal has been filed.

3. The learned Additional Advocate General, appearing for the Teachers Recruitment Board has submitted that, vide order dated 31.03.2021, launching of on-line application portal upon the notification No.02/2021, was postponed and till now, it has not been commenced. He further submitted that, as far as the age criteria is concerned, it is the policy decision taken by the government, fixing the age limit for appointment in public services. Following the order of the Government, the Teachers Recruitment Board has issued the said notification. Therefore, the respondents/ writ petitioners have no right to challenge the above notification. It is also reported by the learned Additional Advocate General



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that, more than 1325 posts for Special Teachers are still vacant from the year 2021.

4. This writ appeal has been filed as against the interim orders passed by the learned Single Judge. Further, till now, the Recruitment Board has not commenced the launching of on-line application portal, on the notification No.2/2021, dated 26.02.2021. In such circumstances, the contentions raised in the writ appeal cannot be accepted. Therefore, the Government as well as the Teachers Recruitment Board has to take appropriate decision either to launch on-line application portal, as per the above said notification; or to withdraw the said notification. If the appellants took decision to launch the application portal, as per the above advertisement/notification No.2/2021, dated 26.02.2021, then, the applications to be filed by the respondents/ writ petitioners will be entertained, as per the impugned interim order passed by the learned single Judge and the issues raised in the writ petition No.8897/2021, which is pending before the learned Single Judge, will be required for consideration. Likewise, if the appellants took decision to withdraw the above advertisement/ notification No.2/2021, dated 26.02.2021, then, no



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requirement will arise for considering the above writ petition.

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5. Therefore, considering the welfare of the students and also taking into account the fact that more than 1325 posts for Special Teachers are still vacant from the year 2021, we are inclined to pass the following order.

i) The Government as well as the Teachers Recruitment Board are directed to take decision, within six weeks from the date of receipt of a copy of this order, either to launch the on-line application portal, as per the above notification No.2/2021, dated 26.02.2021; or to withdraw the above notification, enabling to issue fresh notification inviting applications for filling up the post of Special Teachers in School Education and other Departments.

ii) If the appellants took decision to launch on-line application portal, as per the notification No.2/2021, dated 26.02.2021, the interim order passed by the learned Single Judge, dated 09.04.2021 in W.P.No.8897/ 2021, will remain in force only with regard to these 10 respondents/writ petitioners, till the disposal of the writ petition.



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6. With the above directions, this writ appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J.)

(K.B.J.)

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