



WEB COPY

W.P.No.34486 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.34486 of 2014

and

M.P.No.1 of 2014

K.Gandhinesan

... Petitioner

Vs.

1. The Chief Educational Officer,
Nagapattinam District,
Nagapattinam.
2. The District Educational Officer,
Nagapattinam District,
Nagapattinam.
3. The Secretary,
National Higher Secondary School,
Nagore - 611 002.
4. Tmt.K.Padmavathi

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notification issued by the third respondent published in the Newspaper Dina Thanthi in proceedings No.Nil, dated 25.04.2014 insofar as inviting application for appointment to the post of P.G. Assistant (Biology) is concerned and to quash the same as illegal and consequently to direct the



third respondent to appoint the Petitioner as P.G. Assistant (Biology) by promotion with effect from 01.01.2006 taking into account of the educational qualification and seniority and in terms of Rule 15(4)(ii)(i) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974.

For Petitioner : M/s.K.C.Karl Marx

For R1 & R2 : Mr.K.H.Ravikumar,
Government Advocate

For R3 : Mr.Ravichandran

For R4 : Mr.L.Chandrakumar

ORDER

This writ petition has been filed seeking a writ of certiorarified mandamus, calling for the records in connection with the impugned notification issued by the Respondent No.3, published in Thinathanthi newspaper, dated 25.04.2014, insofar as inviting the applications for the post of P.G. Assistant (Biology) is concerned and to quash the same as illegal and arbitrary and also sought for a consequential direction to fill up the said post by promotion with effect from 01.01.2006 in terms of Rule 15(4)(ii)(i) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974.

2. The petitioner herein is one of the candidates, who participated in the recruitment process pursuant to the impugned notification dated 25.04.2014.



It is only after the petitioner emerged as an unsuccessful candidate and the Respondent No.4 was selected, the petitioner approached this court by filing the present writ petition, challenging the very same notification on the ground that the post of 'P.G. Assistant (Biology)' is required to be filled up at the first instance by way of promotion from the Teachers working in the Respondent No.3/ School in terms of Rule 15(4)(ii)(i) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974 and it is only in case of non-availability of the internal candidates, the said post is required to be filled up by way of direct recruitment.

3. This court, after having heard Mr.K.C.Karl Marx, learned counsel for the petitioner at length as well as Mr.Ravi Kumar, learned Government Advocate appearing for the respondents 1 and 2, Mr.Ravichandran, learned counsel for the Respondent No.3 and Mr.L.Chandrakumar, learned counsel for the Respondent No.4, is of the considered view that an elaborate adjudication of this writ petition is not necessary for the following reasons:-

3.1. Firstly, the writ petition challenging the impugned notification dated 25.04.2014 cannot be entertained for the simple reason that the petitioner is one of the candidates, who participated in the recruitment



process, pursuant to the impugned notification dated 25.04.2014 and emerged as an unsuccessful candidate. Hence, the petitioner is *estopped* from challenging the notification.

3.2. Secondly, the petitioner is not entitled for the relief sought for in the present writ petition, as the order by which the Respondent No.4 is appointed is not under challenge, nor the proceedings approving such appointment issued by the Respondents 1 and 2 is under challenge. In the absence of any challenge to the order of appointment issued in favour of the Respondent No.4, the question of interfering with the impugned notification and the consequential appointment of Respondent No.4 does not arise.

3.3. Thirdly, it is the specific contention of the Respondent No.3 that the petitioner was never appointed by the Management of the Respondent No.3 School and she was only appointed by the Parent Teacher Association and therefore, she cannot be treated as the Teacher working in any of the feeder category to the post of 'P.G. Assistant (Biology)', in order to claim for filling up the post in question. As against the specific contention raised by the Respondent No.3 as above, this court has though granted sufficient time to the petitioner to produce the order of appointment issued by the Respondent



No.3/ School, appointing the petitioner as a Teacher in the Respondent No.3/ School, the petitioner is not in a position to produce any appointment order showing that he was appointed in the Respondent No.3/ School by its Management. Therefore, the question of petitioner claiming the benefit under Rule 15(4)(ii)(i) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974 and to attack the impugned notification dated 25.04.2014 on the ground of non-compliance with such Rule does not arise.

5. In the circumstances, this court does not find any merit in the writ petition and the same is accordingly dismissed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

19.11.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Chief Educational Officer, Nagapattinam District, Nagapattinam.
2. The District Educational Officer, Nagapattinam District, Nagapattinam.
3. The Secretary, National Higher Secondary School, Nagore - 611 002.



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