



WEB COPY

W.P.(MD) No.3467 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.3467 of 2021

and

W.M.P.(MD) Nos.2808 & 2809 of 2021

1.R.Sugapriya

2.K.Vasuki

3.C.Poomayil

4.R.Leela

5.P.Senthilkumar

6.K.I.Aliece Vailat Nirmala

7.G.Ravichandiran

8.E.Nivedha

9.V.Jemi Thangamalar Sujatha

10.A.Arul Selvi

... Petitioners

-VS-



W.P.(MD) No.3467 of 2021

WEB COPY

- 1.The State of Tamil Nadu
rep.by its Principal Secretary
Department of School Education
St.George Fort, Chennai-600 009
- 2.The Director of School Education
Directorate of School Education
DPI Compound, College Road
Chennai-600 006
- 3.The Chairman
The Teachers Recruitment Board
4th Floor, EVK Sampath Maligai
DPI Campus, College Road
Chennai-600 006
- 4.The Project Director
Rashtriya Madhamik Shiksha
Abhiyan (RMSA)
DPI Compound, College Road
Chennai-600 006
- 5.Union of India
rep.by its Secretary to Government
Ministry of Human Resource Development
No.302-C, Shastri Bhawan, New Delhi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the second respondent to frame ad hoc rules in line with G.O.(Ms) No.28, dated 30.01.2015 providing for absorption of the petitioners on and from the date of their appointment on a time scale of pay on par with similarly placed Government teachers, within a time frame stipulated by this Court.



WEB COPY

W.P.(MD) No.3467 of 2021

For Petitioners : Mr.K.M.Ramesh

For Respondents : Mr.T.Amjad Khan
Government Advocate for R1, R2 & R4
Mr.V.R.Shanmuganathan
Standing Counsel for R3
Mr.S.Jeyasingh
Senior Panel Counsel
for Central Government of India for R5

ORDER

This writ petition has been filed for a mandamus seeking for a direction to the second respondent to frame ad hoc rules in line with G.O.(Ms) No.28, School Education Department (SE 5(2)) Department, dated 30.01.2015, providing for absorption of the petitioners on and from the date of their appointment on a time scale of pay on par with similarly placed Government teachers, within a time frame to be fixed by this Court.

2. The petitioners are Special Teachers taking classes for the disabled children. They claim that they are doing the said service for the past 20 – 25 years. According to them, despite their long tenure, till date, no Rules have been framed by the respondents for their absorption into Government



W.P.(MD) No.3467 of 2021

WEB COPY

service. According to them, for regular employees, Rules have been framed under G.O.(Ms) No.28, School Education Department (SE 5(2)) Department, dated 30.01.2015. They seek a direction to the respondents to frame similar Rules to them as well. Only under those circumstances, they have filed this writ petition.

3. Counter affidavit has been filed by the respondents, which is taken on record. The respondents claim that the petitioners are not entitled to be absorbed into Government service, as claimed in this writ petition. They are appointed only on consolidated basis and they are terminated from service on the 31st March of every calender year and reappointed after summer vacation.

4. It is brought to the notice of this Court by the learned counsel for the petitioners that similar writ petitions were filed by similarly placed teachers. It is also brought to the notice of this Court that in another writ petition filed by a similarly placed Teacher in W.P.(MD) No.15878 of 2018 seeking for the similar relief, as prayed for in this writ petition, a direction was issued by this Court, by order dated 14.12.2021, to the State to frame Rules,



W.P.(MD) No.3467 of 2021

WEB COPY

as envisaged in G.O.(Ms) No.28, School Education Department (SE 5(2)) Department, dated 30.01.2015, within a period of twelve weeks from the date of receipt of a copy of that order. The operative portion of the said order is extracted hereunder.

“18. In fine, a direction is issued to the State to frame Rules as envisaged in the above Government Order within a period of twelve weeks from today. The Rules must contain proper protection, and provisions for identification and absorption of those candidates who have the necessary credentials and have been appointed in government positions of Educator / Special Educator / Instructor for children with special needs, by whatever name or nomenclature called, even prior to the issuance of the aforesaid Government Order.

19. Simultaneous therewith, the petitioner's representation dated 05.07.2018 be considered, the petitioner heard and his appointment be regularized subject to verification of his educational qualifications and all other relevant considerations, within a period of twelve (12) weeks from today.”

5. Learned counsel appearing for the petitioners also seeks for a similar direction from this Court in this writ petition as the petitioners are



W.P.(MD) No.3467 of 2021

WEB COPY

similarly placed. It is also brought to the notice of this Court that a writ appeal has been filed by the State aggrieved by the order dated 14.12.2021, passed in W.P.(MD) No.15878 of 2018 (referred to supra). But, however, it is also brought to the notice of this Court that till date, no stay has been granted in the writ appeal insofar as the order dated 14.12.2021, passed in W.P.(MD) No.15878 of 2018 is concerned.

6. This Court is in agreement with the view taken by the learned Single Judge in respect of the writ petition filed by the similarly placed person, in the order dated 14.12.2021, passed in W.P.(MD) No.15878 of 2018. Therefore, this Court issues a similar direction, as was granted by the another learned Single Judge in her order dated 14.12.2021 passed in W.P.(MD) No. 15878 of 2018.

7. Accordingly, this Court directs the first respondent to frame Rules, as envisaged in G.O.(Ms) No.28, School Education Department (SE 5(2)) Department, dated 30.01.2015, within a period of twelve weeks from the date of receipt of a copy of this order. The Rules must contain proper protection, and provisions for identification and absorption of those candidates who have



W.P.(MD) No.3467 of 2021

WEB COPY

the necessary credentials and have been appointed in government positions of Educator / Special Educator / Instructor for children with special needs, by whatever name or nomenclature called.

8. Once the State Government frames Rules, as directed supra, the petitioners are directed to give a representation to the respondents seeking regularization of their service as per the new Rules and on receipt of such representation, the respondents shall pass final orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of the said representation from the petitioners.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

06.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

krk



W.P.(MD) No.3467 of 2021

WEB COPY

To:

- 1.The Principal Secretary,
Department of School Education,
State of Tamil Nadu,
St.George Fort, Chennai-600 009.
- 2.The Director of School Education,
Directorate of School Education,
DPI Compound, College Road,
Chennai-600 006.
- 3.The Project Director,
Rashtriya Madhamik Shiksha
Abhiyan (RMSA),
DPI Compound, College Road,
Chennai-600 006.
- 4.The Secretary to Government,
Ministry of Human Resource Development,
Union of India,
No.302-C, Shastri Bhawan,
New Delhi.



WEB COPY



W.P.(MD) No.3467 of 2021

ABDUL QUDDHOSE, J.

krk

W.P.(MD) No.3467 of 2021
and
W.M.P.(MD) Nos.2808 & 2809 of 2021

06.08.2024