



W.P.(MD)No.5715 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2024

CORAM

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.5715 of 2017

and

W.M.P.(MD)No.4570 of 2017

Association of B.T. & PGT IEDSS
Special Teachers For Differently Abled Children,
(Registration No.131/2014),
No.11/22, Lakshminarayanan Nagar,
Manapparai – 621 306,
Trichy District,
Represented by its President,
Mr.G.Peter Arockia Raj : Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Department of School Education,
Fort St. George,
Chennai – 09.

2.The Director of School Education,
Directorate of School Education,
Chennai – 06.



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3.The Joint Director of School Education,
(Personnel),
Directorate of School Education,
Chennai – 06.

4.The Chairman,
Teachers Recruitment Board,
EVK Sampath Maligai,
DPI Compound, College Road,
Chennai – 06.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Declaration, declaring the selection to the posts of B.T.Assistant (Inclusive Education for the Disabled at Secondary Stage) for RMSA (Rashtriya Madhyamik Shiksha Abhiyan) without regularizing the services of the members of the petitioner Association in the post of B.T.Assistant (Inclusive Education for the Disabled at Secondary Stage) for RMSA (Rashtriya Madhyamik Shiksha Abhiyan) as illegal and consequently to direct the respondents 2 and 3 to regularize the services of the 155 Special Teachers of the petitioner Association working as B.T.Assistants (IEDSS) for RMSA for more than 15 years within the time stipulated by this Court.



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For Petitioner : Mr.S.Louis
for M/s.T.Lajapathi Roy & Associates
For Respondents 1 to 3 : Mr.T.Amjad Khan
Government Advocate
For Respondent No.4 : Mr.VR.Shanmuganathan
Standing Counsel

ORDER

This Writ Petition has been filed for a Writ of Declaration, to declare the selection to the posts of B.T.Assistant (Inclusive Education for the Disabled at Secondary Stage) for RMSA (Rashtriya Madhyamik Shiksha Abhiyan) without regularizing the services of the members of the petitioner Association in the post of B.T.Assistant (Inclusive Education for the Disabled at Secondary Stage) for RMSA (Rashtriya Madhyamik Shiksha Abhiyan) as illegal and for a consequential direction to direct the respondents 2 and 3 to regularize the services of the 155 Special Teachers of the petitioner Association working as B.T.Assistants (IEDSS) for RMSA for more than 15 years within the time stipulated by this Court.

2.The members of the petitioner Association are Special Teachers taking classes for the disabled children. They claim that they are doing the said service for more than 15 years. According to them, despite their long tenure, till date, no Rules have been framed



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by the respondents for their absorption into Government 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 members of the petitioner Association 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 calendar year and reappointed after summer vacation.

4.It is brought to the notice of this Court by the learned counsel for the petitioner Association 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, as envisaged in G.O.(Ms)No.28, School Education Department (SE 5(2))



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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 petitioner Association also seeks for a similar direction from this Court in this writ petition as the members of the petitioner Association are similarly placed. It is also brought to the notice of this Court that a writ appeal has been



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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 [12] 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 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.



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8.Once the State Government frames Rules, as directed supra, the members of the petitioner Association are directed to give a representation to the respondents seeking regularization of their services 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 [12] weeks from the date of receipt of the said representation from the members of the petitioner Association.

9.With the above directions, this writ petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

23.08.2024

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



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To

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State of Tamil Nadu,
Department of School Education,
Fort St. George,
Chennai – 09.
- 2.The Director of School Education,
Directorate of School Education,
Chennai – 06.
- 3.The Joint Director of School Education,
(Personnel),
Directorate of School Education,
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ABDUL QUDDHOSE, J.

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