



W.A.(MD) No.806 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.A.(MD) No.806 of 2016
and
C.M.P.(MD) Nos.4926 & 4927 of 2016**

G.Kayalvizhi

... Appellant

-VS-

- 1.The Chief Educational Officer
Thallakulam, Madurai
- 2.The District Educational Officer
Thallakulam, Madurai
- 3.The Secretary
Sethupathi Higher Secondary School
North Veli Street
Madurai
- 4.The Secretary
Madura College Higher Secondary School
Madurai



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W.A.(MD) No.806 of 2016

5.The Headmaster
Madurai College Higher Secondary School
Madurai

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 29.03.2016, passed in W.P.(MD) No.6155 of 2016, on the file of this Court.

For Appellant : Mr.T.Lajapathi Roy, Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.J.Ashok
Additional Government Pleader for R1 & R2
Mr.Isaac Mohanlal, Senior Counsel
assisted by Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers for R3 to R5

J U D G M E N T

[Judgment of the Court was made by S.M.SUBRAMANIAM, J.]

The writ appeal on hand has been instituted challenging the writ order dated 29.03.2016, passed in W.P.(MD) No.6155 of 2016.

2. The facts in nutshell required for consideration are that the appellant was appointed as B.T.Assistant (Science) in the fourth respondent –



W.A.(MD) No.806 of 2016

WEB COPY

Higher Secondary School. She is qualified for promotion to the post of P.G.Assistant (Zoology). She claims to be a seniormost teacher in the Department of Zoology and eligible for promotion to the post of P.G.Assistant (Zoology). One post of P.G.Assistant (Zoology) became vacant in the said School.

3. Mr.T.Lajapathi Roy, learned Senior Counsel appearing for the appellant would contend that under Rule 15(4)(ii) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974, the in-service candidates eligible for promotion are to be considered at the first instance and if no eligible candidate is available, then the School - Management has to go for the open competitive process to select the candidate. Despite the fact that the appellant is fully qualified and eligible for promotion to the post of P.G.Assistant (Zoology), a recruitment notification came to be issued on 01.03.2016.

4. However, the writ petition in W.P.(MD) No.9308 of 2015 came to be instituted by the appellant at the first instance seeking a writ of mandamus directing the respondents therein to promote her as P.G.Assistant (Zoology), at



W.A.(MD) No.806 of 2016

WEB COPY

Sethupathi Higher Secondary School, Madurai. Since a recruitment notification was issued by the School - Management during the pendency of the said writ petition, it was necessary for the appellant to file another writ petition in W.P.(MD) No.6155 of 2016 challenging the recruitment notification dated 01.03.2016, which was published on 02.03.2016. However, the learned Single Judge, without considering the fact that the reliefs sought for in both the writ petitions i.e., W.P.(MD) No.9308 of 2015 and W.P.(MD) No.6155 of 2016 are distinct and different, by the impugned order dated 29.03.2016, dismissed the writ petition in W.P.(MD) No.6155 of 2016 with costs of Rs. 2,000/- payable to the Chief Justice Relief Fund. Challenging the same, the present writ appeal came to be preferred.

5. Mr.Isaac Mohanlal, learned Senior Counsel, appearing for the respondent – School, would submit that pursuant to the recruitment notification dated 01.03.2016, a candidate was appointed in the post of P.G.Assistant (Zoology) and he is working for long years, without any approval of his appointment. More so, during the relevant point of time, the appellant informed the School – Management that she will not attend the interview, if the School – Management conducts the selection process. Therefore, the



W.A.(MD) No.806 of 2016

WEB COPY

School – Management had no other option, except to go for the direct recruitment. However, these issues are to be adjudicated in the writ petition filed by the appellant in W.P.(MD) No.6155 of 2016.

6. The learned Single Judge has not adjudicated the relative merits and the grounds raised between the parties. The learned Single Judge proceeded mainly on the ground that the appellant filed two writ petitions for the same cause of auction and dismissed the writ petition in W.P.(MD) No. 6155 of 2016 with costs of Rs.2,000/-.

7. In view of the fact that the relative merits between the parties have not been adjudicated by the learned Single Judge, it would be appropriate to remand the matter in W.P.(MD) No.6155 of 2016 back to the Writ Court for adjudication of the merits raised between the parties.

8. In view of the facts and circumstances of the case, this writ appeal is allowed and the writ order dated 29.03.2016, passed in W.P.(MD) No. 6155 of 2016, is set aside and the matter in W.P.(MD) No.6155 of 2016 is remanded back to the Writ Court for adjudication of the merits raised between



W.A.(MD) No.806 of 2016

WEB COPY

the parties and for disposal. The Writ Court is requested to dispose of the matter as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.]

[A.D.M.C., J.]

18.06.2025

(1/2)

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

- 1.The Chief Educational Officer,
Thallakulam, Madurai.
- 2.The District Educational Officer,
Thallakulam, Madurai.



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W.A.(MD) No.806 of 2016

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