

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30-11-2007

CORAM:

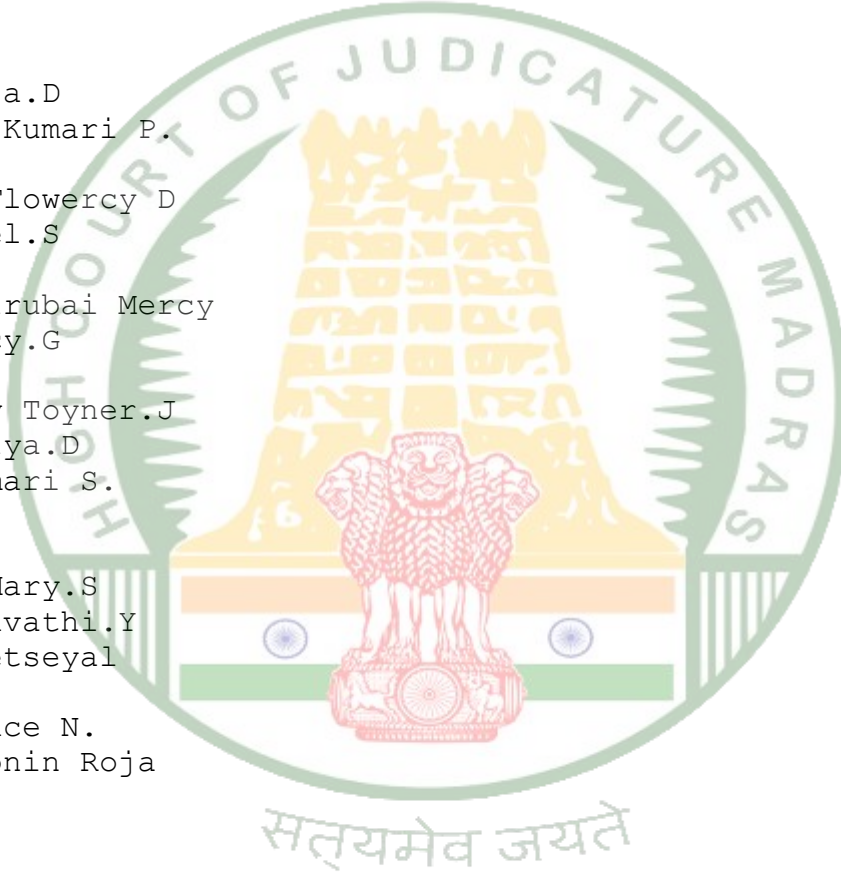
THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

W.P.Nos.29589, 32137 & 34843 of 2007

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M.P.Nos.1 & 1 of 2007

- 01.D.Anbarasi
- 02.Bestymonolisa.D
- 03.Beulah Inba Kumari P.
- 04.Caroline D
- 05.Christinal Flowercy D
- 06.Christy Angel.S
- 07.Elamathi M
- 08.W.Easther Kirubai Mercy
- 09.Flancia Nancy.G
- 10.Freeda.A
- 11.Hannah Nancy Toyner.J
- 12.Helen Synthiya.D
- 13.Ida Jaya Kumari S.
- 14.Iiakkiya D
- 15.Jamuna.A
- 16.Jansy Jain Mary.S
- 17.Jesi Rathinavathi.Y
- 18.Y.Kerline Getseyal
- 19.Kiruba.G.
- 20.Leena Florence N.
- 21.P.Lilly Saronin Roja
- 22.Malathi.P
- 23.Mary Angel.S
- 24.M.Megala
- 25.Mercy Gunaseell.E
- 26.Nancy.A
- 27.Nirmala.M
- 28.Pauline.P
- 29.Regina.S
- 30.Rita Jabarani J
- 31.S.Roselin Marget
- 32.Sathiya Priya A
- 33.D.Sheeba Santha Kumari
- 34.E.Sipora Shalina
- 35.Stella S.



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36.Stella Y
37.D.Stella Mary
38.G.Usha Grace
39.Vijakala.S

. . Petitioners in all the petitions

Vs.

1.The Government of Tamil Nadu
Rep by the Secretary to Government,
Education Department, Fort St. George,
Chennai.

2.The Director of Teacher Education,
Research and Training, College Road,
Chennai.

3.The District Institute of Education
and Training Kalayampooni,
Kancheepuram District.

4.The Director of
Government Examinations
DPI Campus, College Road,
Chennai.

5.Gnanodhaya Teacher Training Institute
rep by its Principal and Correspondent
1/60 Pollwells Road,
St.Thomas Mount, Chennai

. . Respondents in all the
petitions

W.P.No.29589 of 2007:

The writ petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the fourth respondent to forthwith publish the results of the petitioners of the 1st year examination held in December 2006 of the Two Year Diploma Course in Teachers Training.

W.P.NO.32137 of 2007

The writ petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to permit the petitioners to appear for the II year exams of the Two Year Diploma Course in Teachers Training and publish the results and issue mark sheets.

This Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondents to conduct the Teaching Practice for the year 2nd year, Commission (internal) for 1st and 2nd year and award marks/Diploma Certificate for the same and take all other necessary steps to enable the petitioners to complete the second year Diploma in Teachers Training Course.

For Petitioners : Mr.V.Vijay Shankar
For Respondents : Mrs.Dhakshayani Reddy for R1 to R4
Government Advocate

COMMON ORDER

The petitioners, who are stated to be the students of the fifth respondent Teaching Training Institute, have joined in the two year Diploma in Teachers Training Course for the academic year 2005-2007.

2. The fifth respondent institution is a recognised institution and it is one of the oldest institution established in the year 1926. In respect of total number of seats namely 40 for the said course, 20 students have to be filled up by the Government and the remaining students are to be filled up under the Management quota. The fifth respondent is stated to have admitted 20 students under the Management quota as permissible in the regulations governing admission. However, in respect of twenty students to be sent by the Government, the Government has not sent the list of students to the fifth respondent institution which resulted the fifth respondent, by deeming it the same as the lapsed seat category, had admitted 19 students and totally 39 students were admitted.

3. The management is said to have field W.P.No.7828 of 2006 for the purpose of approval of the admission of the said 20 students. This Court by an order dated 24.03.2006 has directed the respondents therein to approve the twenty candidates stated to have been admitted by the fifth respondent institution under the lapsed seat category from the Government quota. According to the fifth respondent institution, out of 20 students admitted, one student left and there are remaining only 19 students. Therefore, according to the petitioners, they are duly admitted by the fifth respondent institution and in fact their admission have been approved by this Court as per the Order of this Court stated above. Subsequently, the petitioners have filed W.P.No.48964 of 2006 for direction against the Director of Teacher Education, Research and Training and the Director, Government of Examination, to approve their admission and consequently permit them to complete the II year Diploma course in Teacher Training by allowing them in participating in the theory practical examination etc., This Court, while ordering the said writ petition by an

order dated 15.12.2006, has arrived at a conclusion that the petitioners were admitted before the cut off date and therefore they were eligible for grant of approval. In view of the same, the respondents were directed to permit the petitioners to write the examinations subject to the fulfilment of other criteria. Pursuant to the said order, the petitioners were directed to write their First Year examination which took place on 18th and 20th December 2006. Since the results were not published, the petitioners have filed W.P.No.29589 of 2007 to publish the result.

4. The petitioners filed W.P.No.32137 of 2007 seeking permission to appear for their second year examination which was to be held on 08.10.2007. However, the learned counsel appearing for the petitioners would state that the respondents 2 and 4 have in fact permitted the petitioners to write the second year examination and therefore nothing survives in the said writ petition. The said submission is recorded.

5. The petitioners filed W.P.No.34843 of 2007 for permission to write the Teaching practice examination for the second year and internal exam for the I and II year which they were not permitted.

6. The second respondent has filed the counter. It is the case of the second respondent that even in the academic year 2001-2002, the fifth respondent management has admitted 35 students as against the permitted intake of 20 students under management quota. In addition, the fifth respondent has also admitted another 13 students in total 48 students as against the sanctioned strength of 40. Further This Court on earlier occasion, in respect of the said admission has taken a sympathetic view and students were admitted during the academic year 2001-2002 were carried forward to the academic year 2002-2003 with direction to seek ratification from the authorities concerned.

7. It is the further case of the second respondent that even during the academic year 2002-2003 no approval was accorded for the students admitted under the management quota and the students were permitted to write their examinations as per the direction of this Court.

8. It is the further case of the second respondent that the fifth respondent management has not adhered to the admission procedure and no permission was granted to admit the students under management quota, but the management has suo motto admitted students and subsequently got approval for the admission from the Court. It is the further case of the second respondent that due to the said disputed position in respect of the fifth respondent management, during the academic year 2005-2006, no single window system counselling candidates were sent to the fifth respondent institution at all. The management has admitted 20 students under the management quota and they have admitted another 19 students from the Government quota treating it as lapsed seat category. The second respondent as per the earlier order of this Court in W.P.No.7826 of 2006 has approved the admission of 39 students. Due to the dispute between the

management and the previous principal, no faculty members were approved. According to the second respondent, the faculty members were functioning without necessary qualification as prescribed by NCTE. According to the second respondent, in the absence of qualified teachers as per the norms prescribed, the fifth respondent institute cannot give proper training to the students. Therefore, it is the case of the second respondent that the petitioners are not entitled for the relief claimed for.

9. It is seen that for the academic year 2005-2006, the petitioners were admitted in the I year Diploma in Teacher Education under the fifth respondent institution which is an aided institution, having been approved by the NCTE. Even though it is the case of the respondents 2 and 4 that there was no approval of teacher for the fifth respondent institution and also the students list were not approved, apart from the other contention that the admission of students by the fifth respondent is against the Rules, it is relevant to point out that all these matters were taken into consideration by this Court at least earlier on two occasions and have come to a conclusion that the petitioners are entitled for approval. It remains a fact that the orders passed earlier by this Court in permitting the students has become final and no one of the respondents have taken steps to question such order passed by this Court.

10. The petitioners filed W.P.No.48964 of 2006 for permission to approve their admission and also to complete the two year Diploma course in Teachers Training in the fifth respondent institution. This Court in detail taking into consideration the fact that the fifth respondent has admitted 20 students under management quota and another 20 students from the Government quota on the basis that the Government has not referred the candidates and therefore treating it as lapsed seat category and therefore 40 students were totally admitted out of whom it is stated that one student has left and therefore 39 writ petitioners were before this Court. In the order passed by this Court, in W.P.No.48964 of 2006, dated 15.12.2006, this Court has also taken note of the earlier order passed by this Court in W.P.No.7828 of 2006 wherein this Court has directed the second respondent to approve the list of 20 candidates forwarded by the fifth respondent management on 20.02.2006 within a period of one week from the said date of the order. Those 20 students are really admitted by the fifth respondent treating them as lapsed seats from the Government Quota. It is not disputed that the second respondent has not passed any order. It was in these circumstances taking note of the conduct of the second respondent, while disposing the writ petition No.48964 of 2006, this Court has categorically held that the petitioners who were admitted are eligible to be approved. The judgment of this Court is as follows;

"3. In respect of 20 students admitted under the lapsed seat category, there is already an order passed by this Court in W.P.No.7828 of 2004 dated 24.03.2006. Admittedly, the students have been admitted to the institution before the cut of dated namely 28.02.2006,

and consequently they have become eligible for grant of approval of their admission. In such circumstances the writ petition is ordered directing the respondents to grant approval of the admission of the petitioners in the fifth respondent institution and permit them to write the examination subject to fulfilment of other criteria. No costs. Consequently, connected M.P. is closed."

11. Therefore, it is clear that as per the decision rendered above, the petitioners admission has been proved to be legal and inasmuch as the said order has become final, I am of the considered view it is not open to the respondents 2 and 4 herein to reject the same stating as if the petitioners were admitted outside the norms and the teachers of the fifth respondent institution have not been approved and so on. Even though it is true that no education institution can conduct classes without teachers who are not approved, on the factual situation which I have enumerated above especially in the circumstances that the order of this Court on two occasions has become final, there is absolutely no scope to go back to say that the petitioners admission in the fifth respondent institution are either illegal or not approved. It is further relevant to point out that it is based on the order passed by this Court, the second and fourth respondents have permitted the petitioners to write examinations which were held on 18.12.2006 and 20.12.2006. That apart, even for the second year examination, the respondents 2 and 4 without any order from this Court have permitted the writ petitioners to write the examination. While so, it is not known as to how the students are prevented from writing the examination in respect of teachers practice which they are eligible in the I and II year which forms part of the curriculum. In these circumstances due to the entire situation as extracted above and the said circumstances are making it clear this shall not form part of the precedent in future, the W.P.Nos.34843 and 29589 of 2007 are necessarily to be allowed. In view of the same, the W.P.Nos.34843 and 29589 of 2007 stand allowed. W.P.No.31137 of 2007 is dismissed as infructuous. It is made clear as far as examination regarding internal and teacher training the respondents 2 and 4 shall conduct the said examinations to the petitioners within a period of eight weeks and thereafter respondents 2 and 4 shall publish the result of the petitioners in respect of two years. No costs. Consequently, connected miscellaneous petitions are closed.

12. The learned counsel appearing for the respondents would vehemently contend that even though the earlier order of this Court has become final, it remains the fact that the teachers list in respect of the fifth respondent institution is yet to be approved by the second and fourth respondents.

13. On the other hand, the learned counsel appearing for the petitioners would submit that the teachers list have been sent to the respondents 2 and 4 and the same is pending and the said respondents are not passing any orders only due to the pendency of these cases. If that be so, the respondents 2 and 4 shall consider the said list of teachers stated to have been sent by the petitioners and pass appropriate orders.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government,
The Government of Tamil Nadu
Education Department, Fort St. George,
Chennai.
- 2.The Director of Teacher Education,
Research and Training, College Road,
Chennai.
- 3.The District Institute of Education
and Training Kalayampoondi,
Kancheepuram District.
- 4.The Director of
Government Examinations
DPI Campus, College Road,
Chennai.

3 cc To Mr.V.Vijay Shankar, Advocate, SR.70938 to 70940.
1 cc To The Government Pleader, SR.71084.

W.P.Nos.29589,34843 & 32137 of 2007

NSM(CO)
RVL 18.12.2007