
(2010) 10 MAD CK 0221

In the Madras High Court

Case No : Writ Petition (MD) No. 12996 of 2010 and M.P. (MD) No. 1 of 2010

S. Veluchamy

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 22-10-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 2 Rule 2
Constitution of India, 1950 — Article 226

Citation : (2010) 10 MAD CK 0221

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : Thirunavukkarasu, for the Appellant; R. Janakiramulu, Spl. G.P., for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—This is a frivolous litigation filed by thePetitioner seeking for one more evaluation of the answer paper written by him while writing examination for selection and appointment to the post of Block Resource Teacher Education (History).

2. It is the third attempt by a candidates who have written the selection examination. When the first set of Writ petitions came, the Respondent State themselves agreed to re-value the papers and that was also permitted without going into the merits of the case. Subsequently, again it was pointed out that some question given were either dubious or erroneous. Therefore, another round of valuation was also permitted by this Court. Not satisfied with that there were serious of litigation both before the Principal Bench and the Madurai Bench. In both Courts there were as many as 200 Writ petitions.

3. Mr. V. Ramasubramaniam, J., setting in Principal Bench in W.P. No. 11120 of 2010 and batch cases, by acommon judgment dated 17.08.2010 gave exhaustive directions with reference to valuation of the answer papers. The entire issue were gone into at the relevant time. Following the judgment passed

by the Principal Bench, batch of litigations pending before the Madurai Bench came to be disposed of by a common order by Mr. R.S. Ramanathan, J., in W.P. (MD) No. 4696 of 2010 and batch cases. The learned Judge followed the judgment of the Principal Bench and disposed of the Writ petitions by giving similar directions. The State did not go on appeal and the order has been implemented.

4. However, the Petitioner has now come forward for the 4th time to contend that the question No. 50, 71, 82 and 103 in the History subject were not proper and hence, the 2nd Respondent must be directed to award 4 marks to the Petitioner's answer paper. This Court is not inclined to entertain such a Writ petition.

5. Though the learned Counsel for the Petitioner submitted that the issue raised in the present Writ petition is entirely different from the issue raised in the earlier batch of litigation. This Court is not willing to entertain the Writ petition on two grounds: The first was that there have been several litigations in the very same selection process and they have been concluded by an exhaustive order passed by this Court. If at all any ground to be urged, it should have been raised at the relevant time and litigations cannot be made on instalment basis.

6. It is needless to state that though 200 persons filed Writ petitions but the direction given by this Court was on a representative basis. The Government had also accepted the order passed by this Court and gave effect to the same. In such circumstances, when a litigation is entertained on a representative basis and if any party is aggrieved they ought to have moved this Court and must have contended whatever the points that are available to them. They cannot wait till the outcome of the litigation and thereafter raise a new grounds.

7. It is precisely for this purpose, Order II Rule 2 was incorporated in the CPC Code. If any party has to raise such issues and did not raise at in the suit, such issues are deemed to have been given up. The said principles of CPC are also applicable to the proceedings under Article 226 of the Constitution. In view of the same, this Court do not propose to go into the merits of the contentions raised by the Petitioner.

8. Under these circumstances, this Court is not inclined to entertain the Writ petition and if done, it will open a Pandoras Box unsettling matters which are already settled. Hence, the Writ petition stands dismissed. No costs. Consequently, connected M.P. is closed.