



WA.SR.144417 of 2022 &
CMP.No.11746 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 22.01.2026

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR
&
THE HONOURABLE Mr. JUSTICE SHAMIM AHMED

W.A.SR.No.144417 of 2022
&
CMP.No.11746 of 2025

S.Mohamed Rabi
PG Assistant,
A1, Ameen Higher Secondary School,
2/763, G.R. Nagar
5th Street (Prasanna Bhavanam)
Kannanathangal
Madurai 625 007
presently at
No.6/164 (2) Thiruvalluvar Street,
Athikulam, Madurai 625 007

... Appellant

Vs.

1. The Director of School Education,
College Road, Chennai 600 006.
2. Chief Educational Officer,
Madurai.
3. District Educational Officer,
Madurai North, Melur.
4. The Correspondent,
A1, Ameen Higher Secondary School,
Pudur Post, Madurai 625 008

.. Respondents



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Prayer in Writ Appeal SR.No.144417 of 2022:

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 06.12.2006 made in W.P.No.11493 of 2004 and allow the Writ Petition as prayed for.

Prayer in CMP.No.11746 of 2025:

Civil Miscellaneous Petition filed to condone the delay of 5828 days in filing the above Writ Appeal Sr.No.144417 of 2022.

For Appellant/Petitioner : Mr. H. Mary Sowmi Rexi
for ISAAC Chambers

For Respondents/
Respondents : Mr. J.C. Durairaj,
AGP for R1 to R3

JUDGMENT

(Order of the Court was made by SHAMIM AHMED, J.)

This intra court appeal has been directed against the judgment and order passed by the Writ Court dated 06.12.2006, made in W.P.No.11493 of 2004.

2. The present Civil Miscellaneous Petition is filed under Section 5 of the Limitation Act, 1963 by the petitioner/Appellant to condone the delay of 5828 days in filing the above Writ Appeal against the judgment and order dated 06.12.2006 passed by the learned Single Judge in W.P.No.11493 of 2004.



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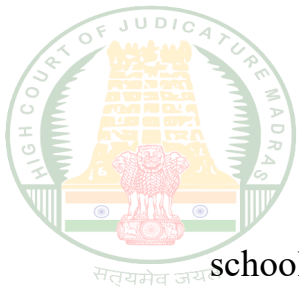
3. Before the Writ Court, the appellant herein has filed writ petition against the respondents herein seeking for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the 1st respondent relating to the order issued in Mu. Mu.No.112091/W6/2001, dated 06.01.2004 and quasht he same and consequently direct the respondents herein to grant approval for appointment to the post of P.G.Assistant (Physics) in which, the petitioner is appointed, with effect from 10.03.2000 with all attended benefits.

4. The facts of the case leading to filing of the present Writ Appeal as per the appellant/writ petitioner is as follows:

(a) The writ petitioner was appointed as P.G. Assistant (physics) in a regular sanctioned post in the fourth respondent school which is a aided minority school on 10.03.2000, in the vacancy arose due to the voluntary retirement of an incumbent.

(b) On 19.12.1996, the 2nd respondent, for the academic year 1996-1997, fixed one post of P.G.Asst. (Physics) as surplus post with teacher, but the teacher working in the said post was continuously paid by the department without any break.

(c) Subsequent to appointment of writ petitioner, the 4th respondent



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school forwarded the proposal for approval of appointment of writ petitioner in the post of PG Assistant (physics) to the 3rd respondent on 06.04.2000, however, the 3rd respondent returned the proposal on 17.04.2000 stating that the post is surplus one.

(d) Since the PG Assistant (physics) which was declared as surplus has not yet been surrendered or transferred to any other school and the same remains with the 4th respondent school itself, the 4th respondent school made representations to the 2nd and 3rd respondents for approval of writ petitioner's appointment indicating the increased strength of students in XI and XII standards and that the writ petitioner is taking 34 periods and the strength of 11th and 12th standards in 1st and 2nd group is 130

(e) On the basis of representations, the 2nd respondent called for report from the 3rd respondent to find out as to whether the one post of P.G.Asst. (physics) in the 4th respondent school still remains surplus and on that basis, the 3rd respondent also inspected the school on 01.08.2001 and submitted his report stating that the students strength has been increased every year and the work load of the teachers have also been correspondingly increased and the petitioner is taking 34 periods every week and hence, the post in which the writ petitioner was appointed cannot be declared as surplus and on that basis, appointment should be



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approved by the department.

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(f) It is the grievance of the writ petitioner in the stated circumstances, to his shock and surprise, the 1st respondent issued proceedings dated 06.01.2004 rejecting the proposal sent by the school management for approval of his appointment.

(g) According to the writ petitioner, the impugned order has been passed without taking into consideration the fact that the petitioner was appointed to the post arisen due to the retirement of incumbent on 30.11.1999 and further, there is increased work load due to the increased students strength which warrants sanction of another post, hence on the basis of above two grounds, the petitioner's post has to be approved.

(h) Refuting the averments in the writ petition, a counter has been filed by the 3rd respondent/District Educational Officer stating that for the academic year 1996-1997, due to the fall in students strength, one PG Assistant post of physics became surplus and in the 2nd PG Post, teacher was working continuously and in order to give protection for the incumbent, salary was paid to him. The protection was only for the individual concern till his retirement and as soon as the person retires, the said surplus post ceased to exist. As a matter of fact, since the said post has been declared as surplus, the teacher working in a surplus post when he



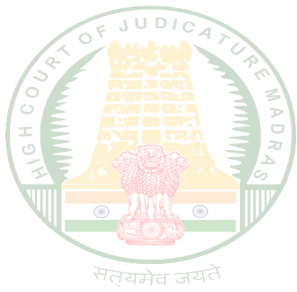
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retires from services voluntarily, or on superannuation, automatically that surplus post becomes vacant and the said vacant surplus post should not be filled by any other means. Hence as per the existing rules, the surplus vacant post cannot be filled up because there is no requisite pupil strength in the said school. As per the existing rule, 50 students are needed for one section in the Higher Secondary Classes for the subjects and 28 period of work load for one PG Assistant, consequently 130 students warrants only 3 sections and accordingly work load comes to total 21 periods still requiring 7 periods of work load for one PG post. So there is no violation of natural justice for having rejected the approval of appointment.

(i) The learned Single Judge, vide Judgment and Order dated 06.12.2006, dismissed the writ petition with certain observations. The operative portion of the order passed in W.P.Nos.11493 of 2004 is extracted hereunder:

‘ 11. It is seen from the counter affidavit filed on behalf of the respondents that at the time of appointment of the petitioner, the students strength was below the required level. The students in the english medium cannot be taken into account because of the fact that it was not under the grant of aid. Later, the english medium sections have been closed and they are not functioning as on date. In such circumstances, the claims of the petitioner cannot be granted. However, the petitioner and the fourth respondent school may make necessary representations to the authorities concerned. It goes without saying that as and when such representations are made, the respondents



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would consider the same on merits and in accordance with law and pass appropriate orders, thereon.

With the above observations, the writ petition is dismissed. Consequently, the connected W.P.M.P. Is closed. No costs."

(j) As against the dismissal of writ petition, the writ petitioner preferred Review Application in Rev.Appln.(Writs) No.51 of 2010 and the same was also dismissed by this Court vide order dated 29.11.2022 by observing as under:

*"5. As far as Review of the order passed by this Court is concerned, as observed by the Honourable Supreme Court in the case of **Lily Thomas v. Union of India, (2000) 6 SC 224**, the power of review can be exercised for correction of a mistake but not to substitute a view. The petitioner herein is trying to reagitate the matter, which is not within a scope of the review. It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. Review is not appeal in disguise. The learned counsel for the Review Petitioner could not point out any error apparent on the face of the record.*

6. In such view of the matter, this Court finds that no grounds of review is made out. Accordingly, the Review Application is dismissed. No costs."

(k) Challenging the Judgment and Order dated 06.12.2006 passed in W.P.No.11493 of 2004, the instant Writ Appeal is sought to be filed by the appellant/writ petitioner

(l) Along with the instant Writ Appeal, the appellant/Writ Petitioner



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has filed present Civil Miscellaneous Petition in C.M.P.No.11746 of 2025

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under section 5 of the Limitation Act, 1963 seeking to condone the delay of 5828 days in preferring the above Appeal.

5. Learned counsel appearing for the appellant/writ petitioner in support of the above Miscellaneous Petition submits that the appellant have got a good case on merits. He further submitted that as the facts were not properly placed on record during writ proceedings, the writ petitioner filed Review Application in Review Application No.51 of 2010 against the order of this Court. At the time of hearing Review Application, this court felt that no grounds were made out for Review Application, dismissed the review application on 29.11.2022 by granting liberty to the writ petitioner to file writ appeal. Thereafter, it took some time to collect the staff fixation orders of the year 1986 etc., and to get the current status of the appellant in the 4th respondent school after the dismissal of the review application, hence the delay in filing the writ appeal is neither wilful, nor wanton, but due to the above said reason. Thus he prayed for condonation of delay in filing the writ appeal.

6. Refuting the same, by filing counter affidavit, the learned counsel

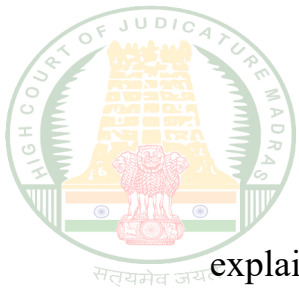


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for the respondents submitted that after the dismissal of writ petition, the writ petitioner approached the 4th respondent school management, appointed the petitioner in an aided post of PG Assistant w.e.f. 16.07.2007 and submitted proposal seeking approval and the same was also approved by the Department and presently, he is working in the aided post and receiving grant-in-aid towards salary. However, as an after thought, on 14.03.2007, the writ petitioner took steps to represent the review application preferred by him in the year 2007 and the representation delay was condoned and review application was numbered as Rev.Appln.(Writ) No.51 of 2010 on 25.03.2010. The reasons for delay in filing Review was not explained. Hence, the appellant/writ petitioner is bound to explain the reasons for delay in filing the writ appeal by showing sufficient cause, even though the Review Application was also dismissed on 29.11.2022.

7. He further submitted that mere filing of review application cannot be a sufficient reason to condone the delay of 5828 days in preferring writ appeal. Review application cannot be used as a substitute for an appeal or as a means to automatically justify the delay in filing the appeal. The writ petitioner must present a separate explanation addressing the delay specifically in the context of the appeal, even if petitioner previously



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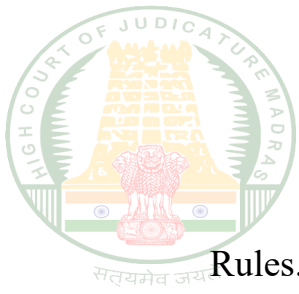
explained the delay in a review application. It is a settled principle of law for condoning delay, there must be sufficient cause and the explanation for such delay must be reasonable. It is also settled principle of law granting liberty in the review application to prefer appeal does not automatically mean that any delay in filing that appeal is condoned. The petitioner is having bounden duty to satisfy the court that there was sufficient cause for the delay, even if liberty to appeal is granted. Therefore, the application seeking to condone the huge and enormous delay of 5828 in preferring the writ appeal needs to be dismissed.

8. We have given our careful and anxious consideration to the contentions put forward by the learned counsel on either side and also perused the entire materials available on record

9. The matter comes up for consideration of Civil Miscellaneous Petition filed under Section 5 of the Limitation Act with a prayer for condoning the delay of 5828 days in filing the Writ Appeal.

10. The standard period of limitation for filing a Writ Appeal is 30 days from the date of the impugned order, as stipulated in the High Court

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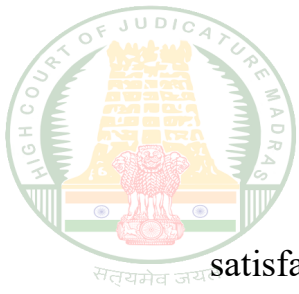


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Rules. In the present case, the Civil Miscellaneous Petition has been filed with a delay of 5828 days. However, under Section 5 of the Limitation Act, 1963, the Court is empowered to condone the delay if the Petitioner is able to demonstrate "sufficient cause" for not preferring the Appeal within the prescribed limitation period. The explanation offered must be reasonable, bona fide, and not indicative of negligence or inaction .

11. As per the averments made in the Petition filed u/s.5 of the Limitation Act, the grounds taken by the Petitioner for condoning the delay is that as the facts were not properly placed on record during writ proceedings, the writ petitioner filed Review Application in Rev.Appln.No.51 of 2010 against the order of this Court and the said review was dismissed on 29.11.2022 by granting liberty to the writ petitioner to file Writ Appeal and thereafter, it took some time to collect the staff fixation orders of the year 1986 etc., and to get the current status of the appellant in the 4th respondent school after the dismissal of the Review Application and during the course of which, there occurred a delay in filing the Writ Appeal.

12. After perusal of the records, this Court finds that there is neither a

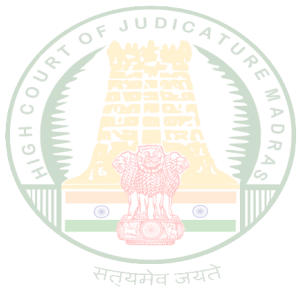


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satisfactory explanation for the inordinate delay of 5828 days in filing the present Civil Miscellaneous Petition, nor are there any documents annexed in support of the averments made in the affidavit seeking condonation of delay. Hence, the petition is time-barred and cannot be sustained on the ground of laches.

13. The expression “sufficient cause” and satisfactory explanation has been held to receive a liberal construction so as to advance substantial justice and generally a delay in preferring a petition/appeal may be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bonafide is imputable to parties, seeking condonation of delay. In the case of *Collector, Land Acquisition Vs. Katiji, reported in 1987(2) SCC 107*, the Honourable Supreme Court said that when substantial justice and technical considerations are taken against each other, cause of substantial justice deserves to be preferred, for, the other side cannot claim to have vested right in injustice being done because of a non deliberate delay. The Court further said that judiciary is respected not on account of its power to legalise injustice on technical grounds, but because it is capable of removing injustice and is expected to do so.



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14. In the case of ***P.K. Ramachandran Vs. State of Kerala***, reported in ***AIR 1998 SC 2276***, the Honourable Supreme Court was pleased to observe as under:

“Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds.”

15. The Rules of limitation are not meant to destroy rights of parties. They virtually take away the remedy. They are meant with the objective that parties should not resort to dilatory tactics and sleep over their rights. They must seek remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The statute relating to limitation determines a life span for such legal remedy for redress of the legal injury, one has suffered. Time is precious and the wasted time would never revisit. During efflux of time, newer causes would come up, necessitating newer persons to seek legal remedy by approaching the Courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The statute providing limitation is founded on public policy. It is enshrined in the maxim ***Interest reipublicae up sit finis litium*** (it is for the



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general welfare that a period be put to litigation). It is for this reason that when an action becomes barred by time, the Court should be slow to ignore delay for the reason that once limitation expires, other party matures his rights on the subject with attainment of finality. Though it cannot be doubted that refusal to condone delay would result in foreclosing the suiter from putting forth his cause but simultaneously the party on the other hand is also entitled to sit and feel carefree after a particular length of time, getting relieved from persistent and continued litigation.

16. There is no presumption that delay in approaching the Court is always deliberate. No person gains from deliberate delaying a matter by not resorting to take appropriate legal remedy within time but then the words “sufficient cause“ show that delay, if any, occurred, should not be deliberate, negligent and due to casual approach of concerned litigant, but, it should be bona fide, and, for the reasons beyond his control, and, in any case should not lack bona fide. If the explanation does not smack of lack of bona fide, the Court should show due consideration to the suiter, but, when there is apparent casual approach on the part of suiter, the approach of Court is also bound to change. Lapse on the part of litigant in approaching Court within time is understandable but a total inaction for long period of 14/20



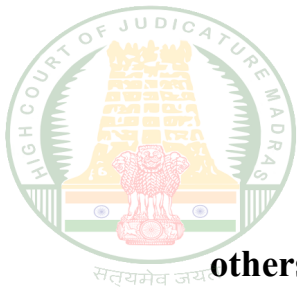
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delay without any explanation whatsoever and that too in absence of showing any sincere attempt on the part of suiter, would add to his negligence, and would be relevant factor going against him.

17. We need not to burden this judgment with a catena of decisions explaining and laying down as to what should be the approach of Court on construing “sufficient cause“ and it would be suffice to refer a very few of them besides those already referred.

18. In the case of **Shakuntala Devi Jain Vs. Kuntal Kumari, reported, AIR 1969 SC 575**, a three Judge Bench of the Court said that unless want of bona fide of such inaction or negligence as would deprive a party of the protection, the application must not be thrown out or any delay cannot be refused to be condoned.

19. The Privy Council, in the case of **Brij Indar Singh Vs. Kanshi Ram reported in ILR (1918) 45 Cal 94**, observed that true guide for a court to exercise the discretion is whether the appellants acted with reasonable diligence in prosecuting the appeals. This principle still holds good inasmuch as the aforesaid decision of Privy Council as repeatedly been referred to, and, recently in **State of Nagaland Vs. Lipok AO and**



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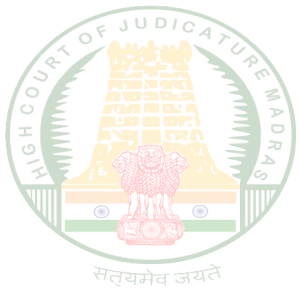
others, AIR 2005 SC 2191.

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20. In the case of **Vedabai @ Vijayanatabai Baburao Vs. Shantaram Baburao Patil and others**, reported in **JT 2001 (5) SC 608**, the Court said that under Section 5 of the Act, 1963, it should adopt a pragmatic approach. A distinction must be made between a case where the delay is inordinate and a case where the delay is of a few days. In the former case consideration of prejudice to the other side will be a relevant factor so the case calls for a more cautious approach but in the latter case no such consideration may arise and such a case deserves a liberal approach. No hard and fast rule can be laid down in this regard and the basic guiding factor is advancement of substantial justice.

21. In the case of **Pundlik Jalam Patil (dead) by LRS. Vs. Executive Engineer, Jalgaon Medium Project and Another**, reported in **(2008) 17 SCC 448**, in para 17 of the judgment, the Court said :-

“...The evidence on record suggests neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and state claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and “do not slumber over their rights.”



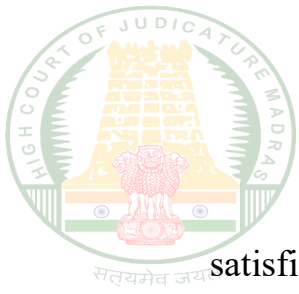
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22. In the case of **Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai**, reported in **2012 (5) SCC 157**, in para 18 of the judgment, the Court said as under:-

“What needs to be emphasized is that even though a liberal and justice oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the Courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost. What colour the expression “sufficient cause” would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the Court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bonafides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay. In cases involving the State and its agencies/instrumentalities, the Court can take note of the fact that sufficient time is taken in the decision making process but no premium can be given for total lethargy or utter negligence on the part of the officers of the State and / or its agencies/instrumentalities and the applications filed by them for condonation of delay cannot be allowed as a matter of course by accepting the plea that dismissal of the matter on the ground of bar of limitation will cause injury to the public interest.”

23. After taking into consideration the averments made in the Civil Miscellaneous Petition filed under Section 5 of the Limitation Act and after hearing the learned counsel for the Petitioner/appellant, this Court is not



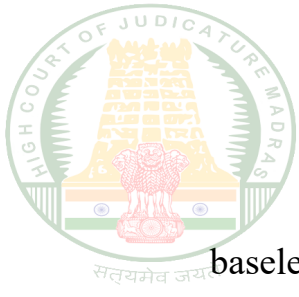
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satisfied that the Petitioner/appellant has explained the delay properly in filing the present Writ Appeal.

24. In our view, the kind of explanation rendered herein does not satisfy the observations of the Honourable Supreme Court that if delay has occurred for reasons, which does not smack of mala fide, the Court should be reluctant to refuse condonation. On the contrary, We find that here is a case, which shows complete careless and reckless long delay on the part of the Petitioner/appellant, which has remain virtually unexplained at all. Therefore, We do not find any reason to exercise our judicial discretion exercising judiciously so as to justify the condonation of delay in the present case.

25. In view of the above, the present Civil Miscellaneous Petition is liable to be dismissed.

26. In the result, in the light of the said observations and discussions made above and in the light of the decisions referred to above, this Civil Miscellaneous Petition filed under section 5 of the Limitation Act with a prayer for condoning the delay of 5828 days in filing the Writ Appeal is



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baseless and the same is hereby dismissed.

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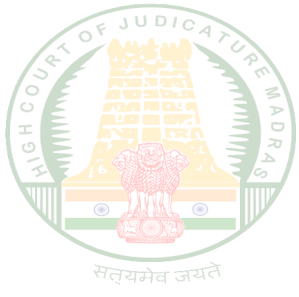
27. In view of the dismissal of Civil Miscellaneous Petition, the Writ Appeal is dismissed on the ground of delay and latches. There shall be no order as to cost.

[R.S.K.,J.] [S.S.A.,J.]
22.01.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
msr

To

- 1.The Director of School Education,
College Road, Chennai 600 006.
2. Chief Educational Officer,
Madurai.
3. District Educational Officer,
Madurai North, Melur.
4. The Correspondent,
A1, Ameen Higher Secondary School,
Pudur Post, Madurai 625 008



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**R. SURESH KUMAR, J.
&
SHAMIM AHMED, J.**

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