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W.A.No.55 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.02.2024

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN

AND

THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

W.A.No.55 of 2024
and CMP. No. 338 of 2024

1.The Director of Elementary Education
DPI Campus, College Road
Chennai 600 006

2.The District Educational Officer
Tindivanam
Villupuram District

3.The Block Educational Officer
Olakkur at Saram
Tindivanam Taluk
Villupuram District

.. Appellants

Vs.

Sri Maragadambigai Primiary School
Mariamman Koil Street
Tindivanam 604 001
Villupuram District
Rep. by its Correspondent & Secretary
K.Devaraj

.. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent Act, against the order dated 27.06.2023 passed in W.P.No.18630 of 2019.



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For Appellants : Mr.Abishek Murthy
Government Advocate

For Respondent : Mr.S.Nedunchezhiyan

J U D G M E N T

(Judgment of the court was delivered by R. MAHADEVAN, J.)

This Writ Appeal arises from the order dated 27.06.2023 passed by the learned Judge in W.P.No.18630 of 2019.

2.The appellants are the Educational authorities. It is their case that the respondent herein is running an aided Elementary school, which is a non-minority institution governed by the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and the Rules framed thereunder. It is receiving grant-in-aid for the teachers employed in the posts sanctioned by the department. It was upgraded as Middle School and further upgraded into High School in the year 2005-06 with standards 6 to 10. The primary standards i.e., 1 to 5 were separated and is functioning as Sri Maragadambigai Primary School. While so, a vacancy arose in the post of Secondary Grade Teacher on 30.06.2016 consequent to the retirement of one S.Senthamarai and it was converted as Elementary School Headmaster post and it was filled up by promotion of the



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senior most secondary grade teacher K.Sivasundari on 25.07.2017. Her

appointment as Primary School Headmaster by promotion and was approved by the 2nd appellant. Thus, a secondary grade post due to the promotion of the said Sivasundari was kept vacant from 01.08.2017. The respondent school, without following the provisions of the Act and Rules, applied for permission to the appellant authorities on 09.11.2017 to fill up the said vacant post and the same was pending. In the mean while, the respondent addressed the District Employment Officer, Villupuram, to send a list of candidates qualified for appointment to the post of Secondary Grade Teacher. As the District Employment Officer, Villupuram, had stated to send the letter with the endorsement of the educational authorities concerned. However, the respondent published an advertisement calling for the application from the eligible candidates for appointment to the post of Secondary Grade Teacher in its school, appointed one N.Veni on 04.10.2018 from the applications received and applied for approval of that appointment on 17.10.2018. By communication dated 19.11.2018, the third appellant returned the said proposal to the respondent school for pointing out certain defects. Without complying with the same, the respondent preferred WP. No. 18630 of 2019 to quash the said communication dated 19.11.2018 and direct the appellants to approve the appointment of the said N.Veni in the post of Secondary Grade Teacher in the



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respondent school from the date of her appointment on 04.10.2018 with arrears of salary together with interest for the belated payment and other consequential attendant benefit, within a time frame. By order dated 27.06.2023, the learned Judge allowed the said writ petition as prayed for. Aggrieved by the same, the authorities are before this court with the present appeal.

3. According to the learned Special Government Pleader appearing for the appellants, without following the relevant provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and the Rules thereunder, the respondent / writ petitioner has appointed the said N.Veni as Secondary Grade Teacher by direct recruitment and thereafter, made application for approval of the same. Adding further, the learned counsel submitted that the respondent / writ petitioner has preferred the writ petition, without giving response to the communication dated 19.11.2018 calling upon them to produce the necessary documents, such as prior permission obtained from the authority, qualified teachers list from the employment exchange, etc. However, the learned Judge erred in allowing the writ petition filed by the respondent / writ petitioner, by the order impugned herein, which will have to be set aside.



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4. On the other hand, the learned counsel appearing for the respondent / writ petitioner submitted that the said N.Veni who has been appointed as Secondary Grade Teacher in the respondent school, has passed the TET even as early as in April, 2017 and she is completely qualified for the said post. That apart, it is a settled law that there is no requirement for prior permission from the Department to fill up the sanctioned post. Moreover, as per the annual inspection report of the third appellant dated 26.09.2018, the strength of the school and the number of sanctioned post has been clearly stated. It is also submitted that the appointment has to be made after the issuance of staff fixation order, is arbitrary, particularly when Staff Fixation Order is not issued to the aided Schools, till date. Taking note of these aspects, the learned Judge has rightly passed the order impugned herein, which does not call for any interference by this Court.

5. Heard both sides and perused the materials available on record carefully and meticulously.

6. Admittedly, the respondent herein made appointment of Tmt.N.Veni as secondary grade teacher in respect of a vacancy that arose on account of promotion of incumbent Sivasundari as Headmistress on 01.08.2017, and



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thereafter, applied for approval of the same from the appellant authorities. By letter dated 19.11.2018, the third appellant called upon the respondent to furnish certain documents. Challenging the same, the respondent preferred the writ petition, which was allowed by the order impugned in this appeal.

7.It is seen that by the communication impugned in the writ petition, the appellant authorities pointed out certain defects to be complied with by the respondent. For better appreciation, the relevant passage of the same are extracted below:

கருத்துருவினை ஆய்வு செய்ததில் கீழ்காணும் குறைபாடுகள் காணப்படுகிறது

1) தமிழ்நாடு அங்கீகரிக்கப்பட்ட தனியார் பள்ளிகள் ஒழுங்குபடுத்துதல் விதிகள் 1974 விதி 15(4)(2)(சி) ன்படி நேரடி நியமனம் மூலம் காலிப்பணியிடத்தினை பூர்த்தி செய்ய உரிய அலுவலரிடம் அனுமதி ஆணை பெற வேண்டும். எனவே அனுமதி ஆணையினை பெற்று கருத்துருவினை சமர்ப்பிக்க தெரிவிக்கப்படுகிறது.

2) 01.08.2018-க்கான பணியாளர் நிர்ணயம் செய்ய பின்னர் காலிப்பணியிடத்தினை பூர்த்தி செய்ய அனுமதி கோரும் கருத்துருவினை மாவட்டக் கல்வி அலுவலகத்தில் சமர்ப்பிக்க தக்க வகையில் அனுப்பிட தெரிவிக்கப்படுகிறது.

The respondent / writ petitioner, without rectifying the defects as notified by the third appellant, has straight away approached the writ court, seeking to quash the said communication and direct the appellants to approve the



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appointment of the said N.Veni in the post of secondary grade teacher in the respondent school from the date of her appointment on 04.10.2018 with arrears of salary and other attendant benefits. Such course adopted by the respondent / writ petitioner cannot be countenanced.

8.The learned Judge also, following the earlier orders and having regard to the admitted fact that the said N.Veni, secondary grade teacher, has passed the TET, prior to the filing of the writ petition, has allowed the writ petition as prayed by the respondent school by the order impugned herein. This court is of the view that the respondent / writ petitioner is required to submit the necessary documents as called for by the third appellant and without furnishing the same, they cannot expect the authorities to grant approval for appointment of the said teacher. Therefore, the order impugned herein is liable to be interfered with at the hands of this court.

9.In such view of the matter, the order passed by the learned Judge is set aside and the respondent / writ petitioner is directed to place all the materials and objections, if any, in response to the communication dated 19.11.2018, which was impugned in the writ petition, within a period of two weeks from the date of receipt of a copy of this judgment. On such submission, the appellant



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authorities are directed to consider the same and pass necessary orders on merits and in accordance with law, within a period of four weeks thereafter. It is made clear that this court is not expressing any opinion on the merits of the claim made by the respondent / writ petitioner.

10. Accordingly, the writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D,J.] [M.S.Q, J.]
09.02.2024

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